

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Tracy, Mary](#)
Subject: FW: Comment on proposed changes to CrR 3.4 and CrRLJ 3.4
Date: Monday, June 15, 2020 9:35:40 AM

From: Aull, Elbert [mailto:eaull@kingcounty.gov]
Sent: Saturday, June 13, 2020 11:17 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on proposed changes to CrR 3.4 and CrRLJ 3.4

I write to express my support for the proposed changes to CrR 3.4 and CrRLJ 3.4. The changes would grant necessary relief to the accused as they await trial or resolution of their cases and help standardize the burden of a criminal charge regardless of residence, court congestion, or attorney schedules.

A comparison of the time to trial figures from county to county reveals the difficulties citizens in certain parts of this state face getting their cases to trial in a timely fashion. A person who lives in a county with a slower court system should not be at greater risk of losing their job and housing due to additional mandatory court appearances than a citizen in another part of the state. An accused person assigned to an aggressive public defender—who spends additional time litigating every angle of the case—should not suffer collateral consequences because of their attorney’s zealous advocacy.

I am taken aback by the paternalism at the core of many of the arguments against this rule change. Inherent in these comments is the idea that without judges and prosecutors to explain the process to them in person, or a mandatory court appearance forcing them to speak to their attorney, those accused will either ignore their cases entirely or be left adrift in a sea of unfamiliar procedure and legal jargon. These comments are a slap in the face to the cadre of dedicated public defenders and private defense attorneys who work tirelessly on behalf of their clients—work that includes explaining this system to those caught in its web.

A signed waiver is not something defense attorneys or their clients take lightly. Nor is a written order from a judge mandating an accused person’s appearance in Court for a status update, which is precisely what is proposed here should a judge find good cause warranting an explanation for delays.

In an ideal world, the Criminal Rules would help safeguard the rights of the innocent. To that point, a false allegation should not cost someone their job. Tainted evidence should not force someone to skip or reschedule medical appointments, conferences with schoolteachers, or volunteer activities with civic groups or churches. The extended suspension of jury trials due to Covid-19, and the resulting backlog of trial cases that will undoubtedly slow our criminal system for years to come, should not deprive citizens of valuable time with family and friends. This rule should change.

Thank you for your consideration,

Elbert Aull, WSBA No. 49638
King County Department of Public Defense/The Defender Association Division