

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Tracy, Mary](#)
Subject: FW: Proposed Amendments to CrR 3.4 & CrRLJ 3.4
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From: Jodi Hammond [mailto:jodi.hammond@co.kittitas.wa.us]
Sent: Wednesday, April 15, 2020 5:09 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Greg Zempel <greg.zempel@co.kittitas.wa.us>; 'Pam Loginsky (Pamloginsky@waprosecutors.org)' <Pamloginsky@waprosecutors.org>
Subject: Proposed Amendments to CrR 3.4 & CrRLJ 3.4

Dear Supreme Court Rules Committee,

Thank you for the opportunity to comment on the proposed rule change. I am writing to voice concern of the proposed rule change to CrR 3.4, Presence of the Defendant. The concerns I would like to bring to the Committee's attention are three-fold – accountability, timeliness in resolving cases, and communication.

First, one of the goals of the criminal justice system is accountability. I understand that not everyone who is accused of a crime is convicted, but the criminal justice system has a role to play in society for holding people accountable for their decisions – attendance at court hearings is part of that accountability. It is something the public has access to, the media can report on, and the victims can rely upon.

Victims have statutory and constitutional rights to participate in court hearings. All participants in the criminal justice system (victims, attorneys, judges, court staff, defendants) have an interest in justice proceeding in a timely fashion. The Supreme Court has exercised oversight on trial courts to attempt to guarantee that cases proceed in a timely fashion so that both defendants and victims' lives are not placed on indeterminate hold. Cases do not move to resolution if defendants are not required to attend hearings. Scheduling hearings and requiring attendance keeps both sides of the case accountable for their actions in resolving cases, which in turn assists both defendants and victims who want cases concluded.

My last concern is communication. In fifteen years as a prosecuting attorney, I have seen hundreds of criminal defense attorneys and their clients who seem to only be able to communicate effectively, in person, at court. I have had many defense attorneys comment to me about difficulties in communicating with their clients, but everyone involved can count on the court hearing – the defendant and the defense attorneys will be there. When negotiating a plea agreement or other details of a case, attorneys often indicate to me that the communication they will have with their client will be in court. Additionally, there are, at times, conflicts between a defendant and the attorney; without defendants being required to appear in court, conflicts would not be readily apparent to the court who helps facilitate that relationship. If a defendant does not agree to a continuance date, how would the court know? How can the court be assured defendants are

keeping in contact with their attorneys? How can the court be assured the defendant is aware of the new court dates? This is not to suggest that defense attorneys would not take their duty of candor to the court seriously, but instead in times when the attorney/client relationship has broken down, without defendants in court it would be difficult for the court to intervene when appropriate.

The current court rules do allow for minimizing court hearings – there are local and state rules that facilitate this process; judges can and do exercise discretion about mandatory appearances. These processes are available and should be used by litigants. The court should not relieve the defendant from the obligation to appear in court and face the charges that have been filed against them as it will lead to lengthy delays in case, poor accountability for the community, and a breakdown in communication between defendants, their attorneys, and the courts. Thank you for considering these concerns as you discuss the rule change.

Sincerely,

Jodi Hammond

Chief Criminal Deputy

Kittitas County Prosecuting Attorney's Office

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