

From: [Raz, Don](#)
To: [OFFICE RECEPTIONIST, CLERK](#); [Linford, Tera](#)
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Subject: Comment re: Proposed CrR 3.2/CrRLJ 3.2 Amendment
Date: Sunday, April 11, 2021 10:10:32 AM

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To whom it may concern,

I have 33 years of experience as a deputy prosecutor for King County. I wish to respectfully express significant concerns regarding the pending proposed amendment to CrR 3.2 and CrRLJ 3.2.

I agree with the core premise of the proposed amendment that most individuals charged with non-violent offenses should be released on personal recognizance. That is the assumption under the current rule. I believe, however, the proposed amendment to the rule ignores a legitimate exception to the presumption of release and inappropriately narrows trial courts' discretion as to release. Under the proposed amendment, the only exceptions to the presumption of release are for those individuals who: 1) have failed to appear (FTA) on the current offense, 2) are currently on probation or supervision, or 3) are not on **pretrial** release for an older crime. The amendment eliminates the trial court's consideration, allowed under the current rule, of an individual's prior criminal history, that individual's FTA history on non-pending cases, the length of sentence faced by the individual, and the strength of the individual's connections to and/or resources available to flee the jurisdiction.

Elimination of these considerations by the trial court will lead to extremely concerning results in certain cases. For example, under the proposed amendment, if an individual accused of a non-violent offense has failed to appear on 25 or more occasions on prior resolved cases but does not meet one of the three proposed exceptions, the trial court must release said individual. Under the proposed amendment, if an individual accused of a non-violent offense has 15 prior convictions and thus is a candidate for a high standard range or an exceptional sentence but does not meet one of the three proposed exceptions, the trial court must release said individual. Under the proposed amendment, individuals who are chronic failures to appear, have extensive criminal history, and/or faced significant jail time but do not meet the three proposed exceptions, will be released without any conditions.

The proposed amendment to the rule goes too far and fails to include an exception for chronic offenders and offenders who repeatedly fail to appear. There is a legitimate public interest in not automatically releasing these individuals. Washington trial courts must have discretion to determine which of this extreme non-violent repeat offenders must be held on bail and/or with conditions.

Thanks you for your consideration

Don Raz
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