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**To:** [Linford, Tera](#)  
**Subject:** FW: Proposed amendments to CrR/CrRLJ 3.2  
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**From:** Guthrie, Stephanie [mailto:Stephanie.Guthrie@kingcounty.gov]  
**Sent:** Tuesday, April 27, 2021 6:12 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Proposed amendments to CrR/CrRLJ 3.2

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I am writing to express my concern about the proposed amendments to CrR/CrRLJ 3.2. I support the goal of the amendments, which is to reduce pre-trial incarceration of non-violent offenders, but I have serious concerns that its strict requirement of release absent certain circumstances will endanger victims and the community, particularly in situations involving domestic violence and sexual abuse. First and most importantly, the published amendment leaves it unclear whether language in the current rule that “For the purpose of this rule, ‘violent crimes’ are not limited to crimes defined as violent offenses in [RCW 9.94A.030](#)” would remain in the amended rule. (It seems to indicate, albeit confusingly, current subsections (a)(1) and (a)(2) would remain “unchanged,” but the language about violent crimes not being limited to crimes defined as violent offenses is not in (a)(1) or (a)(2), it is just part of section (a).) Without that language, a multitude of offenses not classified as violent offenses would require pretrial release, even where release posed an imminent danger of harm to the victim or the community. (E.g. a defendant with a documented history of domestic violence against their significant other who is charged with Assault 3 and Felony Harassment/Threats to Kill would have to be immediately released.)

Even if that language remains, there are a whole host of crimes that judges might reasonable believe do not classify as “violent crimes” (though reasonable minds might differ about that) and that therefore require immediate release even though immediate release poses significant danger to the victim or community. Most child molestations and child rapes, for example, do not involve violence as that term is commonly used, though they are profound violations of particularly vulnerable victims. Under the proposed rule, a judge might be faced with a defendant who has repeatedly molested and raped multiple children in his household, who has engaged in witness tampering and will likely continue to do so, who has a history of violating no-contact orders, and where the other adults in the household have manifestly demonstrated that they will not protect the victims and will not report violations of no-contact orders by the defendant. Even where release would seem guaranteed to result in further sexual abuse of the victims and/or witness tampering, a judge might

reasonably believe that child molestation committed without force is not a violent crime and would therefore feel powerless to keep the defendant in custody if the defendant has not failed to appear on that case, is not on probation, and was not on conditions of release at the time of the crime.

Similarly, a DV or Stalking defendant with a long history of violent offenses, threats and attempts to kill, and violations of no-contact orders all involving the same victim, might have just been released from prison in another state without supervision, and have immediately been caught coming to WA and attempting to contact the victim in violation of a no-contact order. Even if the circumstances make the judge convinced that the defendant will assault or kill the victim at the first opportunity, if the defendant is only charged with a felony violation of a court order based on priors at that point, an offense almost all judges would classify as nonviolent, the judge would be powerless to do anything other than release the defendant. The likelihood/possibility of immediate release would also further chill reporting of domestic violence when domestic violence is already a vastly underreported crime.

These are extreme situations, but they are not more extreme than some cases I have seen as a King County prosecutor, and they demonstrate the absurd results that the proposed amendments will lead to. Our release rules must not strip judges of the power to protect victims and the community from foreseeable harms.



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