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Subject: FW: Comment on Proposed Amendments to CrR 3.4
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From: Bergstrom, Tod [mailto:Tod.Bergstrom@kingcounty.gov]
Sent: Wednesday, September 29, 2021 1:26 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
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Greetings:

I practice in King County, and through pandemic certain online hearings have gone more smoothly than I anticipated, but on other occasions things have been disastrous. I urge the Court to carefully consider how it – in the future – will deal with appeals that will be likely raised by defendants, in the event we go full-in on on-line hearings.

My specific concerns relate to:

1. Felony Judgement and Sentences: These require the defendants fingerprints, and DNA. This cannot be done remotely. The Court Clerks, and FBI can likely shed significant light on the national standards, for data to entered into various databases.
2. In court identifications of the defendants, by witnesses, could easily be compromised based upon a poor internet connection or POOR camera on the defendant's end, or poor monitors/screens on witnesses' end. Forgive my cynicism, but in an ID case, wouldn't a defendant be incentivized to have the poorest possible quality camera on his end? To make an ID even more difficult? And wouldn't the jury be better suited to seeing the defendant in person, to compare his/her actual appearance with other items.
3. Guilty Pleas: We should anticipate motions to unwind pleas, as defendants claim that they were in a room, while they were pleading guilty, with others (off screen) pressuring them.
4. Trials: What's to prevent witnesses (any witnesses) from having materials off screen, that they are using (but the court and jury is not privy to them) during testimony. (As a long-time UW teacher, I can assure you that this is an ongoing concern as it relates to academic integrity).

5. Right to Counsel: We have experienced ongoing, and significant DELAYS, relating to criminal defendants' INABILITY to consult with counsel during hearings. It's simply not possible to do this, expeditiously, during a hearing.

We have seen during the pandemic that technology can sometimes offer solutions, but it is not a panacea. We need to be mindful of the potential problems these reforms may create.

Tod Bergstrom
King County Prosecutor's Office