

February 28, 2022

Justices of the Washington Supreme Court
P.O. Box 40929
Olympia, Washington 98504-0929
VIA E-MAIL: supreme@courts.wa.gov

RE: Letter Opposing Proposed Changes to Criminal Rule for Courts of Limited Jurisdiction (CrRLJ) 3.4

Dear Justices:

We, the undersigned organizations, urge you to reject the District and Municipal Court Judges' Association's (DMCJA) proposal to amend CrRLJ 3.4. The proposal would replace the presumption that people accused of misdemeanors may appear through counsel with a presumption that they must physically attend all hearings in their cases. It would also allow judges in courts of limited jurisdiction to issue warrants for people who miss hearings, even if their attendance would not have helped move their cases forward.

If adopted, the proposal will limit the ability of people accused of misdemeanors to both raise legal issues in their cases and take care of other important responsibilities, such as work, school or childcare. They will have to pick between attending multiple routine hearings or pleading guilty to avoid numerous trips to court. Some will face arrest on bench warrants because they could not be in court at a specific time. If unable to post bail, they will either wait in jail for motion and trial dates or plead guilty in exchange for credit for time served and release from custody.

If adopted, the proposal will disproportionately harm Black people, Indigenous people and People of Color (BIPOC). BIPOC in Washington are disparately arrested and charged with crimes.¹ For example, BIPOC are charged with the misdemeanor of third degree driving while license suspended (DWLS 3)² at rates that far exceed their presence in Washington's population. In some jurisdictions,

¹Race and the Criminal Justice System, Task Force 2.0: "Race and Washington's Criminal Justice System: 2021 Report to the Washington Supreme Court" (2021). Fred T. Korematsu Center for Law and Equality. 116, at pages 9-25.

https://digitalcommons.law.seattleu.edu/korematsu_center/116

² RCW 46.20.342(c).

the percentage of Black people charged with DWLS 3 is double or triple the percentage of Black people in the county's total population.³ Indigenous, Latinx and Asian people are also disproportionately charged with DWLS 3.⁴ Once charged, the inequities BIPOC face can increase difficulties getting to court. As one example, Black, non-Hispanic families have been the American racial demographic least likely to own a private vehicle,⁵ which can be essential to getting to many courts.

There is a growing awareness that courts are often better situated to bear the burdens of their operation than are BIPOC and poor people accused of crimes.⁶ We ask that courts of limited jurisdiction bear the administrative burdens that may result from reduced in-person court appearances and decreased warrants rather than requiring people accused of misdemeanors to attend multiple routine hearings and risk warrants in order to litigate their cases.

Sincerely,

King County Department of Public Defense

Civil Survival Project

The Way to Justice

Public Defender Association

Northwest Community Bail Fund

³ Race and the Criminal Justice System, Task Force 2.0, *supra*, at page 23.

⁴ *Id.* at page 23.

⁵ WASHINGTON STATE SUPREME COURT GENDER AND JUSTICE COMMISSION, 2021 GENDER JUSTICE STUDY (2021), at page 48.

<https://www.courts.wa.gov/?fa=home.sub&org=gjc&page=studyReport&layout=2&parent=study>

⁶As an example, Washington courts and the Washington Legislature have limited the practice of imposing sentences that require people to pay costs related to their prosecutions. *See, e.g., State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015); RCW 10.01.160(3) (amended in 2018).

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: comment opposing proposed changes to CrRLJ 3.4
Date: Tuesday, March 1, 2022 8:13:14 AM
Attachments: [02.28.22 organizations opposing changes to CrRLJ 3.4.pdf](#)

From: Magda Baker [mailto:Magda@defensenet.org]
Sent: Monday, February 28, 2022 5:04 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: comment opposing proposed changes to CrRLJ 3.4

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I submit the attached comment opposing proposed changes to CrRLJ 3.4 on behalf of the following organizations:

Public Defender Association
Civil Survival Project
King County Department of Public Defense
The Way to Justice
Northwest Community Bail Fund

Thank you for your time.

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