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Subject: FW: Proposed CrRLJ 3.3 and 3.4 rule changes
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From: Wallis, Rik [mailto:rwallis@spokanecity.org]
Sent: Friday, February 25, 2022 11:02 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed CrRLJ 3.3 and 3.4 rule changes

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Honorable Justices of the Supreme Court –

I am writing in opposition to the proposed rule changes in CrRLJ 3.3 and 3.4. These proposals are attempting to undo the protections of the current version of CrRLJ 3.4, which went into effect barely one year ago, on February 1, 2021, as well as circumventing the appellate court rule in *State v. Gelinis*, 15 Wn.App.2d 484 (2020).

Altering CrRLJ 3.3(f) to make it the defense attorney's responsibility to notify clients of new court dates eliminates the court's responsibility to send notice and/or summons the defendant to court. It further creates a conflict of interest between defense counsel and their clients. This adds an undue burden on defense counsel, particularly overworked public defenders. It would also potentially damage relationships between defense counsel and their clients, most importantly public defender clients, who see their lawyers as part of the system that is against them already.

Requiring defense counsel in CrRLJ 3.4 to affirmatively advise the court that they have communicated or consulted with their client since the last court appearance, if the client chooses to appear through counsel, forces defense lawyers to violate RPC 1.6. This also creates a unique and frightening scenario where a defense lawyer could ultimately become a witness AGAINST their client and for the government in a Bail Jumping prosecution.

The proposed changes to CrRLJ 3.4 eliminate the presumption in the current rule that allows for defendants to appear remotely or through counsel by reversing that presumption to require a defendant's presence at ALL hearings. In my experience, it is not necessary to have clients present at most pre-resolution or pre-trial hearings. It is an inordinate amount of wasted time for our clients. Issuing warrants for non-attendance at a hearing where nothing would have happened anyway does nothing more than fill up our jails with people who have difficulty getting places, remembering

appointments and who are too poor to be able to post bond. Not to mention the clients who actually are employed and are forced to miss work for every single court appearance. I have had many clients lose their jobs because of this pre-2021 requirement.

Cases still get resolved. Under the current version of CrRLJ 3.4, we have fewer clients in custody, which generally means better outcomes for all involved. The current version of CrRLJ 3.4 works well in Spokane Municipal Court. Please keep the rule in its present form.

Sincerely,

Rik Wallis
WSBA #27146
Asst. Public Defender