

**WHATCOM COUNTY PROSECUTING ATTORNEY
ERIC J. RICHEY**

CHIEF CRIMINAL DEPUTY
Erik Sigmar

311 Grand Avenue, Suite 201
Bellingham, Washington 98225-4079
(360) 778-5710 /Main Office FAX (360)778-5711
Appellate FAX (360) 778-5712

CHIEF CIVIL DEPUTY
Karen Frakes

ASST. CHIEF CRIMINAL DEPUTY
Dona Bracke

CIVIL DEPUTIES
Royce Buckingham
Christopher Quinn
George Roche
Brandon Waldron

CRIMINAL DEPUTIES
David Graham
Kellen Kooistra
Benjamin Pratt
Gordon Jenkins
Kacie Emerick
Jesse Corkern
Evan Sterk
Maggie Peach
Andrew Bogle
Andrew Heydrich
Ashley Bohnett
Natasha Campbell
Levi Uhrig
Samantha Macintosh
Tom Seguine

ENFORCEMENT DEPUTIES
CIVIL SUPPORT
Janelle Wilson/Lead

APPELLATE DEPUTIES
Kimberly Thulin
Hilary Thomas

OFFICE ADMINISTRATOR
Louise Trapp

April 3, 2023

Clerk of the Washington State Supreme Court
P.O. Box 40929
Olympia, WA 90504

To Whom It May Concern:

The Whatcom County Prosecutor's Office opposes implementation of CrR 4.11. This proposed new rule would place additional strain on our already overburdened criminal justice system. The rule will result in further delay of cases, renders meaningless the previously amended rules that provide more flexibility for defendants to appear at hearings through their attorney, could also result in the unattended consequence of requiring greater pre-trial incarceration in order to secure the presence of a defendant for trial, and will have the effect of requiring Prosecutor Offices and Court Clerk's Offices, to repeatedly and needlessly re-issue summons to secure the defendant's presence in court.

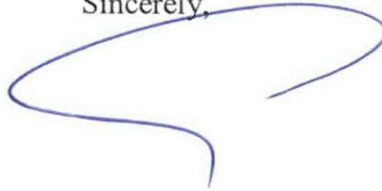
To alleviate the necessity of defendants appearing for every hearing, rules now permit the defendants' attorney to communicate the required trial date to their client with or without a court hearing or signature. See, CrRLJ 3.3(f)(1), CrR 3.3(f)(1), CrRLJ 3.4, CrR 3.4(a). These amended rules already inadvertently result in additional delay, in part because they remove consequences of failing to appear for hearings. This newest rule proposal will compound this problem by insulating defense attorneys from complying with these new provisions set forth in CrR 3.3(f)(1) and 3.4(a).

The practical effect of CrR 4.11 is to reduce proactive communication between the defense attorney and their client, and obfuscate the condition of release requiring the defendant to maintain contact with their attorney. If CrR 4.11 is passed, defendants will effectively, no longer need to stay in touch with their attorney, nor face consequences for failing to appear for required court hearings. The longer cases languish, the more victims suffer, and the community loses trust in the system. Prosecutors throughout the state face increasing delay and crushing backlog; the proposed rule change will exacerbate the problem.

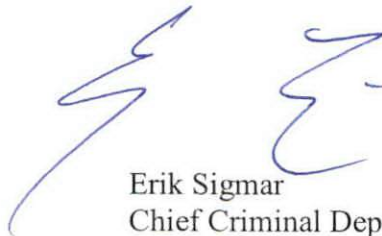
The rule-change contemplates the use of summons in place of attorney communication as contemplated by CrR 3.3 and CrLJ 3.3. The summons process is costly and time consuming for Prosecutor's and the Court clerks Offices alike. Reliance on this proposed procedure ignores that the substantial number of unhoused defendants that are typically not easily reachable via summons. A cell phone is often their only means of communication. The proposed summons process shifts an immense burden from defendants and their counsel to already overburdened courts, clerks, and prosecutors' staff (i.e. the summons process in Whatcom County requires the clerk's office to coordinate with the prosecutor's office to acquire a defendant's most current address, prepare the declaration of mailing, and to mail the summons - the process is both time consuming and labor intensive).

Respectfully, we are asking this Court to reject CrR 4.11, as proposed. Thank you for your time and consideration of our comments.

Sincerely,

A handwritten signature in blue ink, appearing to be "Eric Richey", written over a horizontal line.

Eric Richey
Whatcom County Prosecuting Attorney

A handwritten signature in blue ink, appearing to be "Erik Sigmar", written over a horizontal line.

Erik Sigmar
Chief Criminal Deputy Prosecutor
Whatcom County, Washington

WHATCOM COUNTY
PROSECUTING ATTORNEY

Whatcom County Courthouse
311 Grand Avenue, Suite 201
Bellingham, Washington 98225-4079

RETURN SERVICE REQUESTED

SEATTLE WA 980

3 APR 2023 PM 4 L



US POSTAGE MA PITNEY BOWES



ZIP 98225 \$ 000.60⁰
02 4W
0000375514 APR 03 2023

Clerk of the Washington State Supreme Court
PO Box 40929
Olympia, WA
90504

90504-

