

March 30, 2023

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

Re: Comment CrRLJ 4.11 and CrR 4.11 proposed rules

I am writing to ask that the Supreme Court not adopt proposed rules CrRLJ 4.11 and CrR 4.11. I concur with the concerns raised by fellow prosecutors Yessenia Manzo and Stephanie Guthrie as well as the issues addressed by Judge Gerel and Judge Rogers.

I have concerns that CrRLJ 4.11 and CrR 4.11 are contrary to the premise of CrR 3.4 and CrR 3.3(f)(1), creates a system where defendants have no incentive to appear for important hearings which can cause unnecessary delays which can cause an undue burden to victims and witnesses, and causes confusing expectations about when a defendant is required to appear.

The premise of CrR 3.4 is that the court can rely on defense counsel to provide adequate notice to the defendant. CrR 3.3(f)(1) allows defense counsel to sign a continuance order when the defendant is not present at court and the court's notice to defense counsel of new hearing dates constitute notice of the hearing to the defendant. CrRLJ 4.11 and CrR 4.11's premise that the court cannot rely on defense counsel to convey court dates to the defendant is in direct conflict with the court's prior rules that defense attorneys are a reliable method of communication between the defendant and the court. If the court no longer believes that defense counsel can be depended upon to convey court dates to defendants, CrR 3.4 should be readdressed.

CrRLJ 4.11 and CrR 4.11 eliminates the incentive (i.e.: avoiding the issuances of a warrant) for defendants to appear at important hearings that require their presence. This is at the expensive of victims and witnesses who must bear the emotional, financial, and physical brunt of the delay. The proposed rule creates extra unnecessary hearings on an already overburdened court operational system that is still recovering from the effects of the pandemic.

Expectations about when a defendant is required to appear in person should be clear. CrRLJ 4.11 and CrR 4.11 essentially provides that a defendant is not required to appear at a hearing at which their physical presence is required until at least the second time the hearing is scheduled. This can create confusion on behalf of the defendants about when their presence is needed. Moreover, it sends a message that following the court's orders are optional, not mandatory, as a defendant would have to violate the court's order twice before a warrant can be issued.

It appears that the purpose of CrRLJ 4.11 and CrR 4.11 is in response to a concern that CrR 3.4 leads defense counsel to reveal attorney-client confidential communications in violation of RPC 1.6 and RPC 3.3. If the Supreme Court is concerned that CrR 3.4 causes defense counsel to be required to reveal privileged information in violation of the Rules of Professional Conduct, the proper remedy would be to revisit the adoption of CrR 3.4.

I urge you to not adopt the proposed rules.

Nicole Lawson

Nicole Lawson, WSBA #54483
Deputy Prosecuting Attorney
King County Prosecuting Attorney's Office

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Comment CrRLJ 4.11 and CrR 4.11 proposed rules
Date: Thursday, March 30, 2023 1:18:28 PM
Attachments: [image001.png](#)
[Re Comment CrRLJ 4.11 and CrR 4.11 proposed rules.pdf](#)

From: Lawson, Nicole <nlawson@kingcounty.gov>
Sent: Thursday, March 30, 2023 1:18 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Re: Comment CrRLJ 4.11 and CrR 4.11 proposed rules

External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, **DO NOT DO SO!** Instead, report the incident.

Hello-

Please see the attached letter regarding the proposed new criminal rules CrRLJ 4.11 and CrR 4.11.
Thank you,



Nicole Lawson (she/her)
Deputy Prosecuting Attorney, Economic Crimes
Unit
King County Prosecuting Attorney's Office
516 3rd Avenue | Seattle | WA | 98104
Office: (206) 263-3435

Cell: (206) 790-5376
Email: NLawson@kingcounty.gov