Seattle
City Attorney's Office
Ann Davison, City Attorney

April 30, 2025

Via Email

RE: Comment on Proposed Amendment to CrRLJ 3.2

Dear Members of the Washington Supreme Court and Rules Committee,

I write to express my objection to the proposed changes to CrRLJ 3.2. Although the proposal purports to "clarify" what it means to "unlawfully interfere with the administration of justice," it does nothing of the sort. Instead, the proponents propose striking the term altogether.

The true aim of the proponents' modified Rule is clear. They believe that someone accused of a nonviolent offense should never be subject to pretrial bail or *any* other release conditions such as stay-away orders, no new criminal law violations, or no consumption of drugs or alcohol. That leads to a result where defendants could be arrested repeatedly for the same nonviolent offense at the same location and courts would be left powerless to act at the pretrial stage. That outcome is harmful to the community and will diminish trust in our public institutions.

My office files approximately 6,000 misdemeanor cases each year. In each of these cases, the municipal court sets pretrial conditions after an individualized assessment of the defendant and the factual allegations supporting the charge. Setting the least restrictive conditions in each case demands that the court be afforded some flexibility in crafting them to ensure they are appropriately tailored to the individual case at bar. In many cases involving nonviolent offenses, city prosecutors do not request bail but do request other conditions such as "no entry to the victim business" and "no new criminal law violations." These types of conditions allow the court to strike a reasonable balance between the presumption of release and harm reduction in the community.

The proponents' Rule would not permit trial courts to impose conditions like these in nonviolent cases. In practice, the strictures of the proposed Rule would require release of the accused without any conditions in the following scenarios:

- "Sally" is arrested and charged with theft after stealing electronics from a local retail establishment. Under the modified Rule, the court could not order her to stay away from the store or to not commit any more thefts while this case is pending. If Sally returned to the same store and engaged in the same conduct, the court would

not only be powerless to revoke her release on the original charge, but would also be without authority to order stay-away and law-abiding behavior conditions on the new charge.

- "Randall" is arrested and charged with indecent exposure after publicly masturbating at a neighborhood park. Fixated primarily on himself, Randall was not violent or overtly threatening towards anyone in particular. Regardless, the parkgoers and passersby were disturbed. However, because the conduct was nonviolent, and because there is no basis to believe similar conduct would intimidate or threaten a witness, the court could not order him to stay-away from that park. Indeed, the court could not even order Randall to abstain from engaging in similar lewd conduct in public. If Randall were subsequently arrested again for the same behavior, the court would have no authority under the proposed Rule to do anything other than order his release on his own recognizance.

- "David" is accused of vehicle prowling in the second degree after being caught breaking into a car. David is released on his own recognizance. Later that same day, he is arrested for vehicle prowling after breaking into a different car parked on the same block. Despite the clear signs that David is likely to commit another nonviolent offense if released again without conditions – and may in fact commit the same crime on the same residential block as the previous two incidents – the proposed Rule would prohibit the court from doing anything other than releasing David again on his own recognizance.

- "Charlie" is accused of domestic violence assault. Concerned that he may commit another assault, the court imposes $5,000 in bail and a no-contact order. Charlie posts bail and then repeatedly violates the no-contact order by using their children in common to communicate messages of love and remorse to the protected party (e.g., "tell your mother how much I love her and how sorry I am"). Absent a finding that this apologetic love-bombing constitutes witness intimidation or tampering, the court could not revoke Charlie's release on the original assault charge, nor could the court impose bail on any new charges for violating the no-contact order.

Like many of the other commenters who oppose the proposed Rule, I wholeheartedly agree that we must continually strive to make our criminal justice system fairer and more equitable for everyone who is charged with a criminal offense. But marginalizing the impact of "nonviolent" offenses on victims and the public, and using procedural rules as a backdoor to advance a substantive agenda, is not the right way to proceed.

I respectfully urge the Rules Committee and this Court to reject the proposed change to CrRLJ 3.2.

Sincerely,

Ann Davison
Seattle City Attorney

From:	OFFICE RECEPTIONIST, CLERK
To:	Farino, Amber
Cc:	Ward, David
Subject:	FW: Comment on Proposed Amendment to CrRLJ 3.2
Date:	Wednesday, April 30, 2025 3:17:14 PM
Attachments:	image001.png Comment on Proposed Amendment to CrRLJ 3.2.pdf

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From: Landino, Gina T <Gina.Landino@seattle.gov>
Sent: Wednesday, April 30, 2025 2:49 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Amendment to CrRLJ 3.2

Good afternoon,

I am sending this email and attachment titled Comment on Proposed Amendment to CrRLJ 3.2 on behalf of Seattle City Attorney Ann Davison.

Thank you.

Gina T. Landino
Executive Assistant
she / her / hers

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