## King County Department of PUBLIC DEFENSE

April 30, 2025

Clerk of the Supreme Court P.O. Box 40929 Olympia, WA 98504-0929

Dear Justices of the Washington State Supreme Court,

I'm writing to address some of the comments to the proposed amendments to CrR/CrRLJ 3.2 (Release of Accused). Some judges and prosecutors have expressed concern that changes to clarify the broad, ill-defined "administration of justice" prong of CrR 3.2(a)(b) would make courts unable to impose bail or release conditions in cases where there is a risk of no-contact order violations, rendering courts unable to address pressure on alleged victims in domestic violence cases.

The systemic problem of gender-based violence that the prosecutors address does not require maintaining the overbroad and often misused "administration of justice" prong in CrR 3.2(a)(1)(b). Concerns related to possible civil and protection orders violations can easily be addressed by the other provisions of the rule.

CrR 3.2(a)(2)(b) would maintain the court's consideration of witness intimidation and a likelihood the accused will commit a "violent crime" that would encompass these concerns. CrR 3.2(a)(2)(a) does not limit "violent crimes" to those offenses listed in RCW 9.94A.030 and courts consider the factors in subsections (c) and (e) of the rule to assess "likely danger" of committing a violent crime and witness intimidation. These factors allow a court to consider "[t]he accused's history of response to legal process," which could include compliance with no-contact orders. CrR 3.2(c)(1). The court can also consider past civil or criminal protection order violations under the "accused's criminal record." CrR 3.2(2)(c)(6). Most importantly, the court can consider "[t]he accused's past record of threats to victims or witnesses or interference with witnesses." CrR 3.2(e)(5). And, of course, it constitutes a new charge if there is evidence of a protection order violation. In sum, CrR 3.2 is capable of addressing concerns about no-contact order violations without the vague and poorly defined "administration of justice" prong.

However, if this Court disagreed, it could replace consideration of "administration of justice" with the following additional language in bold:

intimidate or threaten a witness, victim, or court employee, or tamper with evidence or violate a civil or criminal protection order.

Sincerely,

Katie Hurley, Special Counsel for Criminal Practice and Policy King County Department of Public Defense From: OFFICE RECEPTIONIST, CLERK

To: <u>Farino, Amber</u>
Cc: <u>Ward, David</u>

**Subject:** FW: Comments regarding proposed amendments to CrR/CrRLJ 3.2 and 4.1/3.2.1

**Date:** Wednesday, April 30, 2025 3:12:39 PM

Attachments: Comment from Katherine Hurley on Proposed CrR 4.1 and CrRLJ 3.2.1 (Arraignment and Preliminary Appearance)

Amendments.pdf

Comment from Katherine Hurley on Proposed CrR and CrRLJ 3.2 (Release of Accused) Amendments.pdf

**From:** Hurley, Katherine <Katherine.Hurley@kingcounty.gov>

Sent: Wednesday, April 30, 2025 2:29 PM

To: OFFICE RECEPTIONIST, CLERK < SUPREME@COURTS.WA.GOV>

Cc: Ward, David < David. Ward@courts.wa.gov>

Subject: Comments regarding proposed amendments to CrR/CrRLJ 3.2 and 4.1/3.2.1

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Hello,

Attached please find comments regarding proposed amendments to:

- CrR/CrRLJ 4.1 and CrRLJ 3.2.1;
- CrR/CrRLJ 3.2.

Please let me know if there are any questions.

Thank you, Katie

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