From: OFFICE RECEPTIONIST, CLERK
To: Farino, Amber
Subject: FW: Objections to Proposed Rule Changes to CrR/CrRLJ 8.3, 4.1, 3.2
Date: Monday, April 21, 2025 10:07:51 AM
Attachments: image001.png

From: Anderson, Rhyan <Rhyan.Anderson@kingcounty.gov>
Sent: Monday, April 21, 2025 9:41 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Objections to Proposed Rule Changes to CrR/CrRLJ 8.3, 4.1, 3.2

Hello,

I would like to voice my strong opposition to these proposed rule changes.

CrR 8.3 and CrRLJ 8.3

- **Because the proposed amendment does not require the action or misconduct to prejudice the accused in any manner, it untethers the rule from due process.** As a result, defendants would benefit—and victims and public safety would suffer—even when the State's action has in no way interfered with a defendants' right to a fair trial. This significant broadening of the rule, and trial court's discretion, would lead to unequitable application of the law
- **By allowing dismissal of a prosecution based on policy disagreements with the prosecutor, the proposed amendment violates the separation of powers between the judiciary and the prosecutor.**
- **The proposed amendment is justified by referencing a "New York State Criminal Procedure Law," but fails to include more than half of the factors listed in the rule that New York courts must evaluate when considering dismissal.** Some of the removed factors include the extent of the harm caused by the offense, the evidence of guilt, the history and character of the defendant, the seriousness of the misconduct on the part of the State, and the victim's position regarding dismissal. While the proponents are quick to point out that the New York law deals with the "interests of justice" and not "arbitrary action or governmental misconduct," that distinction actually weighs in favor of Washington's existing approach of requiring that any arbitrary action or misconduct must have materially affected the defendant's right to a fair trial before a dismissal is warranted.
- **The proposed amendment ignores the public interest in the prosecution of crimes and protection of the victim and the community.** Because the proposed amendment would do

away with the need for connection between any misconduct of the State and the defendant's ability to have a fair trial, it does not serve the public interest in punishment of the guilty and public safety.

CrR 4.1 and CrRLJ 4.1

- **The proposed amendment does not provide sufficient time for victim notification.** In many cases, prosecutors must still rely on the postal system to provide victims with notice that a case has been filed and scheduled for arraignment. The proposed three-day window between filing and arraignment is insufficient to generate notice, submit it to the postal service, and have it delivered and received prior to the arraignment date. At best, the notice will arrive the day before arraignment, providing victims of crime with insufficient time to make work, childcare, or transportation arrangements to attend the arraignment and potential bond motion or provide input to an advocate or prosecutor to relay to the court. As a result, the proposed three-day timeline is not trauma-informed for victims on serious cases.
- **The proposed amendment does not provide sufficient time to mail notice to defendants subject to conditions of release.** As drafted, the rule applies to people who are out-of-custody (either because no bail was imposed or because they posted bail), but subject to conditions. In many cases, the courts or prosecutors must still rely on the postal system to provide such defendants with notice that they have been charged with a crime and are scheduled for arraignment. The proposed three-day window between filing and arraignment is insufficient to generate notice, submit it to the postal service, and have it delivered and received prior to the arraignment date. At best, the notice will arrive the day before arraignment, providing defendants with insufficient time to make work, childcare, or transportation arrangements to attend their arraignment.

CrR 3.2 and CrRLJ 3.2

- **The proposed amendment is too narrow and ignores the risk that an accused can tamper with witnesses in ways other than by threats or intimidation.** For example, under the proposed amendment, a court setting bail would not be able to consider a given defendant's attempts to bribe witnesses.
- **The proposed amendment ignores the fact that the rule applies equally to circumstances in which the court is readdressing release based on the accused having violated conditions of release previously imposed by the court.** Courts commonly impose conditions of release that are necessary for the due administration of justice, but are not necessarily tied to the accused attempting to threaten or intimidate anyone. Examples include prohibiting a defendant from having contact with codefendants, victims (especially in domestic violence and sexual assault cases), minors (especially in sexual assault and CSAM cases), and specific locations. Another example is a condition of release prohibiting new law violations. In this context, it is important to remember that violations of these conditions of release also interfere with the administration of justice even if they do not involve behavior that is threatening or intimidating in intent or effect. The proposed amendment would wholly deprive courts of the ability to enforce such conditions of release.

I urge the Court to reject these proposed rule changes.

Thank you,
Rhyan Anderson

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