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Honorable Susan Carlson
Washington State Supreme Court
P. O. Box 40929
Olympia, WA 98504-0929

Re: Comment to proposed amendment to CrR 3.4, and/or CrRLJ 3.4 – Court Video Testimony

Dear Justice Johnson and Honorable Supreme Court Justices,

The Washington Defender Association (WDA) has reservations regarding the proposed amendments to CrR 3.4 and/or CrRLJ 3.4. WDA is a professional association and resource center for public defenders with over 1400 members statewide. The right of confrontation is a critical issue for our clients and, while this rule may provide for greater efficiency in court proceedings, it raises concerns about the erosion of that right in the name of expedience.

The above concerns are magnified because the proposed rule as phrased, applies to all RCW 10.77 competence proceedings, including *Sell* hearings for which WDA believes the Confrontation clause may apply. If the actual intent of the proposal is to limit the applicability of the video testimony amendment to certain types of competence proceedings held under RCW 10.77, the proposal should be amended to so specify.

Additionally, there is a lack of clarity as to what rule or rules are the subject of the proposed change. The GR 9 cover sheet describes the change as applying only to courts of limited jurisdiction, but the rule identified as the subject of the proposal is a Superior Court Rule (CrR3.4). Therefore, it is unclear whether the proposal is intended to impact one or two court levels and, if just one, which one.

Finally, we believe the rule should address matters relative to the video system(s) to be used. There should provisions providing for an opportunity to view documents to which the forensic witness may refer during testimony as well as minimum technical standards re quality and size of visual screens and audio quality.

Thank you for your consideration. Please let us know if you have any questions or if we can provide you with further information.

Sincerely,

Harry Gasnick
Chair, WDA Court Rules Committee

Christie Hedman
Executive Director