

WASHINGTON STATE BAR ASSOCIATION

Court Rules and Procedures Committee

Meeting Minutes

August 25, 2026

Members Present: Chair Andrew Yi, Charles Adams, Jonathan Bussey, Stephanie Dikeakos, William Elsinger, Eileen Farley, Cade Jones, Samantha Kanner, Kellen Kooistra, Margo Martin, Kevin McCrae, Martin Mooney Jr., Christine Olson, Jill Reuter, Nathaniel Sugg, Karrissa Taylor, Judge Brian Tollefson, Mark Trivett

Members Excused: Jessica Fleming, Rachel Forde, Devon McCurdy, Craig Moore, Matthew O’Laughlin, Robin Olson, Rachel Reynolds, Justin Steiner

Also Attending: Judge Paul Crisalli (Judicial Liaison), Judge Wade Samuelson (Judicial Liaison), Judge Catherine McDowall (Judicial Liaison), David Ward (AOC Liaison), Nicole Gustine (WSBA Staff Liaison), Emily Crane (WSBA Staff Liaison)

The meeting was called to order at 12:05 p.m. once a quorum was established.

1. Approval of Minutes
 - A motion was made and seconded to approve the June 30, 2026 meeting minutes. The motion passed by majority with two abstentions.
2. Suggested Rule Amendments to CrRLJ 4.1 – Judge Samuelson and Judge McDowall advised against the change proposed by the CrRLJ subcommittee. The rule amendment will undergo further discussion and review by the subcommittee once the stakeholder comment period has concluded.
3. Chair Announcements
 - Chair Yi reported that review of the Committee’s Charter is on the BOG Consent Calendar and he will be available to present before the BOG at the September meeting.
4. Subcommittee Reports
 - Criminal Rules for Superior Courts: Subcommittee Chair Christine Olson and subcommittee members Kellen Kooistra and Cade Jones explained the proposed rules before the Committee, prompting discussion on various elements and language of the proposed rule changes among the full Committee. A motion was made and seconded to approve the Suggested Amendments to CrR 3.4 and CrR 7.2 and 4.2. The motion passed unanimously.
 - Criminal Rules for Courts of Limited Jurisdiction: Subcommittee Chair Eileen Farley gave an update on the subcommittee’s rule review. There are currently a total of six suggested rule changes in the stakeholder feedback stage, with one more scheduled subcommittee meeting in the fiscal year.

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- Subcommittee X: Subcommittee Chair Nathan Sugg gave an update on the subcommittee's rule review. The suggested rule changes to RAP 2.2 and 2.3 are still in review, with one more scheduled subcommittee meeting in the fiscal year.
 - Supreme Court Comment Subcommittee: Subcommittee Chair Brian Tollefson gave a brief update. The subcommittee did not meet this month as their work has concluded.
5. Other Business for the Good of the Order
- Staff liaison Emily Crane gave a reminder that there is one more scheduled meeting left in the fiscal year.
 - Chair Yi gave a general update for the next fiscal year, with more information to come.

The meeting adjourned at 12:59 p.m.

Eileen Farley
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Andrew Yi, Chair
WSBA Rules Committee

September 8, 2026

Dear Chair Yi:

The CrRLJ subcommittee met Tuesday September 8, 2026 to discuss the feedback from Administrative Office of the Courts (AOC), District and Municipal Court Judges Association (DCMJA), and the Washington Association of Prosecuting Attorneys (WAPA) about the changes proposed by the subcommittee. David Ward, on behalf of AOC and Judge McDowall, on behalf of the DMCJA, attended the meeting.

After discussion, the subcommittee recommends that the Rules Committee advance to the WSBA Board of Governors the proposed changes to CrRLJ 2.2, CrRLJ 2.5 (with changes to the GR9 cover sheet), CrRLJ 3.2 and CrRLJ 4.8.

The subcommittee had previously recommended that the Standards for Indigent Defense (SID) be numbered as CrRLJ 3.1.1. It now recommends that the proposal be referred to subcommittee X to consider whether each of the SIDS, now found in the superior court rules, juvenile rules, and involuntary treatment act rules, should be renumbered or grouped in separate, stand alone rules.

The subcommittee heard from Judge McDowall that CrRLJ 4.1 now allows a court to set an arraignment outside the 14-day period now prescribed by the rule, giving courts of limited jurisdiction which meet infrequently flexibility. The DCMJA objected that the subcommittee's proposal to change the rule, shown in the below, deprived courts of that flexibility.

CrRLJ 4.1(a)(2)(a) Time

(1) Defendant Detained in Jail (Unchanged)

(2) Defendant Not Detained in Jail. The defendant shall be arraigned not later than 14 days after ~~that appearance that next follows~~ the filing of the complaint or citation and notice, if the defendant is not detained in such jail or subject to such conditions of release...

After hearing from Judge McDowall the subcommittee, with one objection, agreed to recommend the proposed change not be sent to the WSBA Board of Governors.

Please let me know if you have any questions or need more information.

Eileen Farley, Chair
CrRLJ subcommittee

GR 9 COVER SHEET

Suggested Amendments Criminal Rules for Courts of Limited Jurisdiction Rules 2.2 – Warrant of Arrest or Summons Upon Complaint

Submitted by the Criminal Rules for Courts of Limited Jurisdiction Subcommittee
(WSBA Court Rules and Procedures Committee)

A. Name of Proponent:

Criminal Rules for Courts of Limited Jurisdiction Subcommittee (WSBA Court Rules and Procedures Committee)

B. Spokesperson:

Andrew Yi, Chair of the WSBA Court Rules and Procedures Committee

C. Purpose:

In December 2025, CrRLJ 3.2 – Release of Accused was amended to remove the phrase “...interfere with the administration of justice...” and to provide more specific risks for courts to consider when addressing possible release conditions and/or bail. The purpose of the proposed amendment is to harmonize CrRLJ 2.2(b)(2)’s current use of “...interfere with witnesses or the administration of justice...” to reflect the more specific considerations set forth in CrRLJ 3.2.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Suggest Rule Amendments to CrRLJ 2.2.

**SUGGESTED AMENDMENTS TO THE CRIMINAL RULES FOR LIMITED
JURISDICTION**

TITLE 2 Procedures Prior to Arrest and Other Special Proceedings

CrRLJ 2.2 WARRANT OF ARREST OR SUMMONS UPON COMPLAINT

(a)(1) – (a)(3) (Unchanged)

(b) Issuance of Summons in Lieu of Warrant.

(1) (Unchanged)

(2) *When Summons Must Issue.* The court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant (i) will not appear in response to a summons, (ii) will commit a violent offense, (iii) will seek to intimidate or threaten a witness, victim, or court employee, or tamper with evidence or violate a civil or criminal protection order, criminal no contact order, or family law restraining order, and/or conditions of release that protect the safety of alleged victims, witnesses, and the community ~~will interfere with witnesses or the administration of justice~~, or (iv) is in custody.

(b)(3) – (b)(5) (Unchanged)

(c) – (g) (Unchanged)

GR 9 COVER SHEET

Suggested Amendments Criminal Rules for Courts of Limited Jurisdiction Rule 2.5 – Procedure on Failure to Obey Citation and Notice

**Submitted by the Criminal Rules for Courts of Limited Jurisdiction Subcommittee
(WSBA Court Rules and Procedures Committee)**

A. Name of Proponent:

Criminal Rules for Courts of Limited Jurisdiction Subcommittee (WSBA Court Rules and Procedures Committee)

B. Spokesperson:

Andrew Yi, Chair of the WSBA Court Rules and Procedures Committee

C. Purpose:

CrRLJ 2.2(c) provides the requisites for pre-arraignment arrest warrants, including “...that the court has found that probable cause exists to believe the defendant has committed the offense charged...”

Reflecting the current state of the law, this proposed change to CrRLJ 2.5 would similarly ensure that a finding of probable cause is made prior to the issuance of post-arraignment arrest warrant(s).

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Suggest Rule Amendments to CrRLJ 2.5.

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TITLE 2 Procedures Prior to Arrest and Other Special Proceedings

CrRLJ 2.5 PROCEDURE ON FAILURE TO OBEY CITATION AND NOTICE

The court, having found that probable cause exists to believe the defendant has committed the offense charged, may order the issuance of a bench warrant for the arrest of any defendant who has failed to appear in answer to a citation and notice, or an order of the court, upon which the defendant has promised in writing to appear, or of which the defendant has been served with or otherwise received notice to appear, if the sentence for the offense charged may include confinement in jail.

GR 9 COVER SHEET

Suggested Amendments Criminal Rules for Courts of Limited Jurisdiction CrRLJ 3.2 Release of Accused

**Submitted by the Criminal Rules for Courts of Limited Jurisdiction Subcommittee
(WSBA Court Rules and Procedures Committee)**

A. Name of Proponent:

Criminal Rules for Courts of Limited Jurisdiction Subcommittee (WSBA Court Rules and Procedures Committee)

B. Spokesperson:

Andrew Yi, Chair of the WSBA Court Rules and Procedures Committee

C. Purpose:

The purpose of the proposed amendment is to remove references to capital cases as Washington State no longer allows capital punishment.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Suggested Rule Amendments to CrRLJ 3.2

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CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION

Title 3. Rights of Defendants

RULE 3.2. Release of Accused

If the court does not find, or the court has not previously found, probable cause, the accused shall be released without conditions.

(a) Presumption of Release in ~~Noncapital Cases~~. Any person, ~~other than a person charged with a capital offense~~, shall at the preliminary appearance or reappearance pursuant to rule 3.2.1 be ordered released on the accused's personal recognizance pending trial unless:

(1) the court determines that such recognizance will not reasonably assure the accused's appearance, when required, or

(2) there is shown a likely danger that the accused:

(i) will commit a violent crime, or

(ii) will seek to intimidate or threaten a witness, victim, or court employee, or tamper with evidence or violate a civil or criminal protection order, criminal no contact order, or family law restraining order, and/or conditions of release that protect the safety of alleged victims, witnesses, and the community.

For the purpose of this rule, “violent crimes” may include misdemeanors and gross misdemeanors and are not limited to crimes defined as violent offenses in RCW 9.94A.030.

In making the determination herein, the court shall, on the available information, consider the relevant facts including, but not limited to, those in subsections (c) and (e) of this rule.

(b) Showing of Likely Failure to Appear—Least Restrictive Conditions of Release. If the court determines that the accused is not likely to appear if released

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on personal recognizance, the court shall impose the least restrictive of the following conditions that will reasonably assure that the accused will be present for later hearings, or, if no single condition gives that assurance, any combination of the following conditions:

(1) Place the accused in the custody of a designated person or organization agreeing to supervise the accused;

(2) Place restrictions on the travel, association, or place of abode of the accused during the period of release;

(3) Require the execution of an unsecured bond in a specified amount;

(4) Require the execution of a bond in a specified amount and the deposit in the registry of the court in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the performance of the conditions of release or forfeited for violation of any condition of release. If this requirement is imposed, the court must also authorize a surety bond under subsection (b)(5);

(5) Require the execution of a bond with sufficient solvent sureties or the deposit of cash in lieu thereof;

(6) Require the accused to return to custody during specified hours or to be placed on electronic monitoring, if available; or

(7) Impose any condition other than detention deemed reasonably necessary to assure appearance as required.

A court of limited jurisdiction may adopt a bail schedule for persons who have been arrested on probable cause but have not yet made a preliminary appearance before a judicial officer. The adoption of such a schedule or whether to adopt a schedule, is in the discretion of each court of limited jurisdiction, and may be

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1 adopted by majority vote. Bail schedules are not subject to GR 7. The supreme
2 court may adopt a uniform bail schedule as an appendix to these rules.

3 If the court determines that the accused must post a secured or unsecured bond,
4 the court shall consider, on the available information, the accused's financial
5 resources for the purposes of setting a bond that will reasonably assure the
6 accused's appearance.

7 **(c) Relevant Factors—Future Appearance.** In determining which conditions of
8 release will reasonably assure the accused's appearance, the court shall, on the
9 available information, consider the relevant facts including but not limited to:

10 (1) The accused's history of response to legal process, particularly court orders to
11 appear;

12 (2) The accused's employment status and history, enrollment in an educational
13 institution or training program, participation in a counseling or treatment
14 program, performance of volunteer work in the community, participation in
15 school or cultural activities or receipt of financial assistance from the
16 government;

17 (3) The accused's family ties and relationships;

18 (4) The accused's reputation, character and mental condition;

19 (5) The length of the accused's residence in the community;

20 (6) The accused's criminal record;

21 (7) The willingness of responsible members of the community to vouch for the
22 accused's reliability and assist the accused in complying with conditions of
23 release;

24 (8) The nature of the charge, if relevant to the risk of nonappearance;

25 (9) Any other factors indicating the accused's ties to the community.

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1 **(d) Showing of Substantial Danger—Conditions of Release.** Upon a showing
2 that there exists a substantial danger that the accused will commit a violent crime
3 or will seek to intimidate or threaten a witness, victim, or court employee, or
4 tamper with evidence or violate a civil or criminal protection order, criminal no
5 contact order, or family law restraining order, and/or conditions of release that
6 protect the safety of alleged victims, witnesses, and the community, the court
7 may impose one or more of the following nonexclusive conditions:

8 (1) Prohibit the accused from approaching or communicating in any manner with
9 particular persons or classes of persons;

10 (2) Prohibit the accused from going to certain geographical areas or premises;

11 (3) Prohibit the accused from possessing any dangerous weapons or firearms, or
12 engaging in certain described activities or possessing or consuming any
13 intoxicating liquors or drugs not prescribed to the accused;

14 (4) Require the accused to report regularly to and remain under the supervision of
15 an officer of the court or other person or agency;

16 (5) Prohibit the accused from committing any violations of criminal law;

17 (6) Require the accused to post a secured or unsecured bond or deposit cash in
18 lieu thereof, conditioned on compliance with all conditions of release. This
19 condition may be imposed only if no less restrictive condition or combination of
20 conditions would reasonably assure the safety of the community. If the court
21 determines under this section that the accused must post a secured or unsecured
22 bond, the court shall consider, on the available information, the accused's
23 financial resources for the purposes of setting a bond that will reasonably assure
24 the safety of the community and prevent the defendant from intimidating or
25 threatening a witness, victim, or court employee, or tampering with evidence or

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1 violating a civil or criminal protection order, criminal no contact order, or family
2 law restraining order, and/or conditions of release that protect the safety of
3 alleged victims, witnesses, and the community;

4 (7) Place the accused in the custody of a designated person or organization
5 agreeing to supervise the accused;

6 (8) Place restrictions on the travel, association, or place of abode of the accused
7 during the period of release;

8 (9) Require the accused to return to custody during specified hours or to be
9 placed on electronic monitoring, if available; or

10 (10) Impose any condition other than detention to assure that the accused will not
11 threaten or intimidate witnesses, victims, or court employees, or tamper with
12 evidence or violate a civil or criminal protection order, criminal no contact order,
13 or family law restraining order, and/or conditions of release that protect the safety
14 of alleged victims, witnesses, and the community, and reduce danger to others or
15 the community.

16 **(e) Relevant Factors—Showing of Substantial Danger.** In determining which
17 conditions of release will reasonably assure that the accused will not threaten or
18 intimidate witnesses, victims, or court employees, or tamper with evidence or
19 violate a civil or criminal protection order, criminal no contact order, or family
20 law restraining order, and/or conditions of release that protect the safety of
21 alleged victims, witnesses, and the community, and reduce danger to others or the
22 community, the court shall, on the available information, consider the relevant
23 facts including but not limited to:

24 (1) The accused's criminal record;

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1 (2) The willingness of responsible members of the community to vouch for the
2 accused's reliability and assist the accused in complying with conditions of
3 release;

4 (3) The nature of the charge;

5 (4) The accused's reputation, character and mental condition;

6 (5) The accused's past record of threats to victims or witnesses, interference with
7 witnesses, victims, or court employees, or tampering with evidence or violating a
8 civil or criminal protection order, criminal no contact order, or family law
9 restraining order, and/or conditions of release that protect the safety of alleged
10 victims, witnesses, and the community;

11 (6) Whether or not there is evidence of present threats or intimidation directed to
12 witnesses;

13 (7) The accused's past record of committing offenses while on pretrial release,
14 probation or parole; and

15 (8) The accused's past record of use of or threatened use of deadly weapons or
16 firearms, especially to victim's or witnesses.

17 **(f) Delay of Release.** The court may delay release of a person in the following
18 circumstances:

19 (1) If the person is intoxicated and release will jeopardize the person's safety or
20 that of others, the court may delay release of the person or have the person
21 transferred to the custody and care of a treatment center.

22 (2) If the person's mental condition is such that the court believes the person
23 should be interviewed by a mental health professional for possible commitment
24 to a mental treatment facility pursuant to RCW 71.05, the court may delay release
25 of the person.

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(3) Unless other grounds exist for continued detention, a person detained pursuant to this section must be released from detention not later than 24 hours after the preliminary appearance.

~~**(g) Release in Capital Cases.** Any person charged with a capital offense shall not be released in accordance with this rule unless the court finds that release on conditions will reasonably assure that the accused will appear for later hearings, will not intimidate or threaten witnesses, victims, or court employees, or tamper with evidence or violate a civil or criminal protection order, criminal no contact order, or family law restraining order, and/or conditions of release that protect the safety of alleged victims, witnesses, and the community and will not pose a substantial danger to another or the community. If a risk of flight, interference or danger is believed to exist, the person may be ordered detained without bail.~~

~~**(h)**~~ **(g) Release After Finding or Plea of Guilty.** After a person has been found or pleaded guilty, the court may revoke, modify, or suspend the terms of release and/or bail previously ordered.

~~**(i)**~~ **(h) Order for Release.** A court authorizing the release of the accused under this rule shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform the accused of the penalties applicable to violations of the conditions of the accused's release and shall advise the accused that a warrant for the accused's arrest may be issued upon any such violation.

~~**(j)**~~ **(i) Amendment or Revocation of Order.**

(1) The court ordering the release of an accused on any condition specified in this rule may at any time on change of circumstances, new information or showing of good cause amend its order to impose additional or different conditions for release.

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(2) Upon a showing that the accused has willfully violated a condition of release, the court may revoke release and may order forfeiture of any bond. Before entering an order revoking release or forfeiting bail, the court shall hold a hearing. Release may be revoked only if the violation is proved by clear and convincing evidence.

~~(h)~~ (j) Arrest for Violation of Conditions.

(1) *Arrest with Warrant.* Upon the courts own motion or a verified application by the prosecuting authority alleging with specificity that an accused has willfully violated a condition of the accused's release, a court shall order the accused to appear for immediate hearing or issue a warrant directing the arrest of the accused for immediate hearing for reconsideration of conditions of release pursuant to section (j).

(2) *Arrest without Warrant.* A law enforcement officer having probable cause to believe that an accused released pending trial for a felony is about to leave the state or has violated a condition of such release under circumstances rendering the securing of a warrant impracticable may arrest the accused and take him forthwith before the court for reconsideration of conditions of release pursuant to section (j).

~~(h)~~ (k) Evidence. Information stated in, or offered in connection with, any order entered pursuant to this rule need not conform to the rules pertaining to the admissibility of evidence in a court of law.

~~(m)~~ (l) [Reserved.]

~~(h)~~ (m) Accused Released on Recognizance or Bail—Absence—Forfeiture. If the accused has been released on the accused's own recognizance, on bail, or has deposited money instead thereof, and does not appear when the accused's

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1 appearance is required or violates conditions of release, the court, in addition to
2 the forfeiture of the recognizance, or of the money deposited, may direct the clerk
3 to issue a bench warrant for the accused's arrest.

4 **~~(e)~~ (n) Bail in Criminal Offense Cases—Mandatory Appearance.**

5 (1) Except as provided in subsection (2) or (3) below, when required to
6 reasonably assure appearance in court, bail for a person arrested for a
7 misdemeanor shall be \$500 and for a gross misdemeanor shall be \$1,000. In an
8 individual case and after hearing the court for good cause recited in a written
9 order may set a different bail amount.

10 (2) A court may adopt a local rule requiring that persons subjected to custodial
11 arrest for a certain class of offenses be held until they have appeared before a
12 judge.

13 (3) Pursuant to [RCW 10.31.100](#), a police officer shall arrest and keep in custody,
14 until release by a judicial officer on bail, personal recognizance, or court order, a
15 person without a warrant when the officer has probable cause to believe that the
16 person has violated [RCW 46.61.502](#) (Driving Under the Influence) or [RCW](#)
17 [46.61.504](#) (Physical Control of a Vehicle Under the Influence) or an equivalent
18 local ordinance and the police officer: (i) has knowledge that the person has a
19 prior offense as defined in [RCW 46.61.5055](#) within 10 years; or (ii) has
20 knowledge, based on a review of the information available to the officer at the
21 time of arrest, that the person is charged with or is awaiting arraignment for an
22 offense that would qualify as a prior offense as defined in [RCW 46.61.5055](#) if it
23 were a conviction.

24 NOTE: A police officer is not required to keep a person in custody if the person
25 requires immediate medical attention and is admitted to a hospital.

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1 ~~(p)~~ (o) [Reserved.]

2 ~~(p)~~ (p) [Reserved.]

3
4 [Adopted effective September 1, 1987. Amended effective November 17, 1989;
5 September 1, 1991; January 1, 1992; September 1, 1992; June 25, 1993; May 1,
6 1994; September 1, 1994; August 15, 1995; September 1, 1995; June 5, 1996;
7 October 31, 2000; September 1, 2002; April 1, 2003; September 1, 2005; July 1,
8 2012; December 8, 2015; February 28, 2017; November 20, 2018; July 9, 2024;
9 December 23, 2025.]

GR 9 COVER SHEET

Suggested Amendments Criminal Rules for Courts of Limited Jurisdiction CrRLJ 4.8

**Submitted by the Criminal Rules for Courts of Limited Jurisdiction Subcommittee
(WSBA Court Rules and Procedure Committee)**

A. Name of Proponent:

Criminal Rules for Courts of Limited Jurisdiction Subcommittee (WSBA Court Rules and Procedures Committee)

B. Spokesperson:

Andrew Yi, Chair of the WSBA Court Rules and Procedures Committee

C. Purpose

Under the current version of CrRLJ 4.8, an attorney must obtain judicial approval before issuing a subpoena to a witness located outside the county where the case is pending or a contiguous county. By contrast, CrR 4.8 allows attorneys practicing in superior court to issue subpoenas throughout Washington without first obtaining a judge's approval.

This requirement creates unnecessary delays and administrative burdens for litigants, attorneys, court staff, and judges working in courts of limited jurisdiction. To issue a subpoena outside the authorized geographic area, counsel must prepare the subpoena, submit it for judicial review, wait for a judge's signature, and then retrieve the signed subpoena before it can be served. These additional steps consume court resources and can delay case preparation without providing a corresponding benefit.

Currently, a licensed attorney practicing in superior court may issue a subpoena without judicial involvement, while the same attorney practicing in a court of limited jurisdiction must first obtain a judge's approval before issuing the same subpoena. This distinction is based solely on the court in which the case is filed. There is no apparent reason why litigants in courts of limited jurisdiction should face additional procedural hurdles or have less efficient access to compulsory process than litigants in superior court.

Removing the judicial-approval requirement would bring CrRLJ 4.8 into alignment with CrR 4.8, promote statewide uniformity, reduce unnecessary administrative

burdens, and improve the efficient administration of justice.

D. **Expedited Consideration:** Expedited consideration is not requested.

E. **Supporting Material:** Suggested Rule Amendment to CrRLJ 4.8.

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CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION

RULE 4.8. SUBPOENAS

(a) For Witnesses at Hearing or Trial. A subpoena commanding a person to appear and give testimony at a hearing or at trial (“a subpoena for testimony”) shall be issued as follows:

(1) Form; Issuance.

(A) A subpoena for testimony shall (i) state the title of the action, the case number, the name of the court in which the action is pending, and, if different, the name of the court from which the subpoena is issued and (ii) command each person to whom it is directed to appear and give testimony at a specified time and place.

(B) (i) The court in which the action is pending or before which appearance is required may issue a subpoena for testimony under the seal of that court, or the clerk may issue the subpoena for testimony in response to a praecipe. (ii) An attorney for a party also may sign and issue a subpoena for testimony. ~~unless subsection (iii) of this rule applies. (iii) The judge must approve a subpoena for a witness outside the county or counties contiguous with it unless the witness is an employee of the Washington State Department of Licensing; a Washington police department or sheriff’s office; or the Washington State Patrol, including the Washington State Patrol Crime Laboratory Division and the Washington State Patrol Toxicology Laboratory Division.~~

(C) A command to a person to produce evidence or to permit inspection may be joined with a subpoena for testimony or may be issued separately under subsection (b) of this rule.

(2) Notice. Notice to each party of the issuance of a subpoena for testimony is not required; provided that, when a subpoena for testimony also commands the person to whom it is directed to produce evidence or to permit inspection of things, the serving party shall give advance notice of such subpoena in the manner described in subsection (b) of this rule.

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1 (3) *Service – How Made.* A subpoena for testimony may be served by any suitable
2 person over 18 years of age, by giving the witness a copy thereof, or by leaving a copy at the
3 witness’s dwelling house or usual place of abode with some person of suitable age and
4 discretion then residing therein. When service is made by any person other than an officer
5 authorized to serve process, proof of service shall be made by affidavit or declaration. A
6 subpoena for testimony may also be served by first-class mail, postage prepaid, together with
7 a waiver of personal service and instructions for returning such waiver to the attorney of
8 record of the party to the action in whose behalf the witness is required to appear. Service by
9 mail shall be deemed complete upon the filing of the returned waiver of personal service,
10 signed in affidavit or declaration form.

11 (4) *When Witness Excused.* A witness subpoenaed to appear at a hearing or trial is
12 excused from further appearance as soon as the witness has given testimony in chief and has
13 been cross examined thereon, unless a party moves in open court that the witness remain and
14 the court so orders. Witness fees will not be allowed any witness after the day on which the
15 witness’s testimony is given, except when the witness has in open court been required to
16 remain, and when so required, the clerk shall note that fact in the minutes.

17 **(b) For Producing Evidence or Permitting Inspection.** A subpoena commanding a
18 person to produce and permit inspection and copying of designated documents, tangible
19 things, or premises in the possession, custody, or control of that person (“a subpoena for
20 production”) shall be issued as follows:

21 (1) *Form Issuance.*

22 (A) A subpoena for production shall (i) state the title of the action, the case number, the
23 name of the court in which the action is pending, and, if different, the name of the court from
24 which the subpoena is issued, (ii) command each person to whom it is directed to produce and
25 permit inspection and copying of documentary evidence, tangible things, or premises in the

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1 possession, custody, or control of that person at a specified time and place, and (iii) set forth
2 the text of subsection (b)(4) of this rule.

3 (B) The court in which the action is pending or before which attendance is required may
4 issue a subpoena for production under the seal of that court or the clerk may issue the
5 subpoena in response to a praecipe. An attorney for a party also may sign and issue a
6 subpoena for production.

7 (C) A subpoena for production may be joined with a subpoena for testimony, or it may
8 be issued separately, provided that a subpoena to inspect premises may not be combined with
9 other subpoenas issued pursuant to this rule.

10 (2) *Notice.* Notice to parties of the issuance of a subpoena for production is not required
11 provided that, whenever a party intends to serve a subpoena for production seeking evidence
12 or inspection of things or premises belonging or pertaining to a defendant who is not the party
13 seeking or issuing the subpoena, the serving party must give all parties advance notice; and
14 provided that whenever any party intends to serve a subpoena for production seeking evidence
15 or inspection of things belonging or pertaining to an alleged victim or complaining witness,
16 the serving party shall provide advance notice to all parties and to the alleged victim or
17 complaining witness; and provided that a subpoena for inspection of premises must be signed
18 by the court and only after good cause is shown and advance notice is provided to all parties
19 and the owner or occupier of the premises.

20 (A) *Time and Manner.* If advance notice is required under this rule, then no fewer than
21 five days prior to service on the person named in the subpoena for production, notice shall be
22 provided in the manner prescribed by CrRLJ 5(b). The parties may agree to shorten the time
23 for advance notice when a subpoena seeks solely evidence or tangible things belonging or
24 pertaining to a defendant. The court may shorten the time for advance notice upon a showing
25 of good cause by a party; provided that, any alleged victim or complaining witness whose

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evidence, tangible things, or premises are sought shall receive notice and an opportunity to be heard on any motion to shorten time.

(B) *Court May Excuse Notice.* A court on ex parte motion may excuse compliance with the advance notice requirement upon the serving party's showing of good cause; any such court order, along with a copy of the subpoena for which notice is excused, shall be filed under seal pursuant to GR 15.

(3) *Service – How Made.* A subpoena for production shall be served in the manner prescribed in CRLJ 5(b); provided that if the subpoena for production is joined with a subpoena for testimony, then subsection (a)(3) of this rule shall govern service.

(4) *Protection of Persons Subject to Subpoena for Production.* On timely motion, the court may quash or modify a subpoena for production if it (A) fails to allow reasonable time for compliance, (B) requires disclosure of privileged or other protected matter and no exception or waiver applies, (C) is unreasonable, oppressive, or unduly burdensome, or (D) exceeds the scope of discovery otherwise permitted under the criminal rules. The court may condition denial of a motion to quash or modify upon the advancement by the party on whose behalf the subpoena for production is issued of the reasonable cost of producing the books, papers, documents, tangible things, or premises.

(5) *Applicability of Other Notice and Privacy Provisions.* The provisions of this rule do not modify or limit privacy protections and notice requirements provided by court rule, statute, regulation, or other applicable law.

(c) Contempt. Failure by any person without adequate excuse to obey a subpoena served on that person may be deemed a contempt of the court from which the subpoena issued. No subpoena shall be the basis for a material witness warrant or a contempt of court citation unless there is proof of personal receipt.

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[Adopted effective September 1, 1987; Amended effective September 1, 2015;
September 1, 2022; July 9, 2024.]