From:	OFFICE RECEPTIONIST, CLERK
To:	Linford, Tera
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Subject:	FW: Comment on proposed change to CrRLJ 3.1
Date:	Wednesday, September 23, 2020 10:53:15 AM

From: Moses Garcia [mailto:mgarcia@mrsc.org]
Sent: Wednesday, September 23, 2020 10:49 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on proposed change to CrRLJ 3.1

I recommend against the proposed rule change to CrRLJ 3.1. The purported problem the rule-change addresses is "it allows opposing counsel a preview of the defense's trial strategy." But revealing the evidence a party may present at trial is not a glitch to be fixed, it is an important feature of our discovery process. Playing hide-the-ball in criminal cases is unacceptable. We have rejected trial-by-surprise because it is the opposite of fairness or justice.

The decision to grant expert funding affects many other aspects of a criminal trial. What the defense proposes is more than an information black-out on expert funding. It is also an information black-out on the direct consequences of such funding: speedy-trial issues, continuance requests, interviews, rebuttal witnesses, and the host of other procedural issues.

I have participated in many CrRLJ 3.1 hearings for funds, ranging from requests for a few hundred dollars to demands for over $100,000 to cover defense experts. As generalists, trial court judges are not intimate with the legal standards, the legal analysis, or case-law on this issue. In my experience, if the defense provides any briefing at all, it is one-sided advocacy designed solely to persuade the court to grant the requested funds. In the absence of a full debate, the trial judge may not fully appreciate important facts of the case or law guiding and governing funding. The trial court's decision-making and the criminal justice system are improved by hearing both sides of the debate.
Regards,

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