

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Thursday, August 30, 2018 10:59 AM
To: Tracy, Mary
Subject: FW: Proposed CrR 4.7, comment.

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From: Christopher Taylor [mailto:taylor@crtaylorlaw.com]
Sent: Thursday, August 30, 2018 10:57 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed CrR 4.7, comment.

I am pleased with the intent behind the proposed changes to CrR 4.7(h)(3) to eliminate the prosecuting authority's role, and limits the court's role, in enabling criminal defense attorneys in providing materials obtained in discovery to clients. The proposed rule is more streamlined, and removes any ambiguity about what sorts of information needs to be redacted.

However, I am concerned about the inflexibility of proposed CrR 4.7(h)(3). For example, although ordinarily a home address of a witness--which must be redacted to "City and State" only under proposed CrR 4.7(h)(3)(vi)--would not properly be the concern of a defendant, I can envision a circumstance in which providing materials containing a complete home address would be important to the defense investigation. More specifically, an individual accused of residential burglary who is pursuing an alibi defense may find it useful to present evidence of an alternate suspect. When an accused was simply not at the residence at issue, he cannot know the location of that residence from his own memory of the alleged burglary. But he *may* nevertheless know the location. And he may know that his brother--who bears a remarkable resemblance to him--resides two blocks away. This information may allow a jury to conclude an eyewitness who identified him as leaving the residence was mistaken about the identity of the alleged burglar. Without the accused knowing with more precision the exact location of the residence, the jury may have less evidence by which to assess the weight and credibility of the eyewitness.

What I believe would mitigate this potential problem is to allow, on a case-by-case basis, the court to allow for copying of materials in a less-redacted form.

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Regards,

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