

**Tracy, Mary**

---

**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Thursday, February 28, 2019 12:43 PM  
**To:** Tracy, Mary  
**Subject:** FW: Objection to Proposed CrR 4.7 (4)

-----Original Message-----

From: Tod Bergstrom [mailto:[tod2@uw.edu](mailto:tod2@uw.edu)]  
Sent: Thursday, February 28, 2019 12:42 PM  
To: OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
Subject: Objection to Proposed CrR 4.7 (4)

I write to object to proposed CrR 4.7(4).

My specific objection relates to the Prosecutor's obligation to find, and disseminate to defense council, "favorable evidence known to others acting on the State's behalf, including the police" including IMPEACHMENT evidence.

This may seem structurally easy, but it will be impossible to fulfill.

Consider a case in which the Seattle, or King County Police departments are the lead police agencies. Each employs upwards of 700 commissioned officers. Assume that SPD is investigating a homicide, and interviews 30 witnesses, one of which has valuable information.

Is SPD and the King County Prosecutor going to be required to send out a bulletin to everyone in SPD seeking information on that witness that defense counsel might find useful for impeachment? If an entirely unrelated officer had contact with the witness 6 months earlier, and the witness lied to the officer, but the officer (using her discretion) chose not to charge the witness with obstructing... is SPD required to find and product that information for defense council? Is the homicide detective and the prosecutor suddenly going to have the responsibility to pull all information SPD has ever collected about the witness? If so, consider the costs....

I also object to police reports being provided wholesale to the defendant in a criminal case WITHOUT a clear statement limiting the defendant's dissemination of the reports. The World Wide Web is a sometimes dangerous place, and the likelihood that a defendant will simply upload the entire case file to the web, or have others do so, is an entirely realistic scenario. Why doesn't the proposed rule preclude the defendant from giving discovery to others?

Tod Bergstrom  
Washington State Bar Association Number 17973