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Subject: FW: Opposition to Proposed Rule Change to CrR 4.7 and CrRLJ 4.7
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From: Benjamin Pratt <BPratt@co.whatcom.wa.us>
Sent: Monday, April 29, 2024 9:12 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
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The Washington State Defense Bar has proposed that the Court adopt revisions to CrR 4.7 and CrRLJ 4.7 that removes oversight by the Court and the State. This will place victims and witnesses of crime at substantial risk of harm or retaliation.

The proposed changes to CrR and CrRLJ 4.7 are aimed at removing the requirement that the Defense get approval from either the Court or the State before providing discovery to their client. The current provisions ensure that all appropriate redactions to confidential identifying information in discovery are made prior to sharing the discovery with their clients. In my experience, more often than not, when the Defense submits redacted discovery for the State to review, they often miss redactions that the State believes are mandatory prior to any dissemination to a Defendant. These mistakes are rarely, if ever, deliberate, but are becoming more common with the advent of new technologies and more voluminous discovery. Unfortunately, these mistakes can include identifying the names of victims or witnesses and can include failing to redact contact information such as phone numbers, addresses and e-mail addresses.

The rule changes also propose that failures to make appropriate redactions can be addressed after the fact by motion. That assumption is erroneous. If confidential information isn't caught prior to dissemination, there is substantial risk of harm with no remedy. For example, if a Defendant is accused of Stalking and is provided discovery that includes a housing address or phone number for the victim, a redaction of that information after it has been disclosed does that victim no good. The Defendant will still know where they live and will still know how to contact them.

The idea of lessening oversight and victim protections, in 2024, for the sake of convenience, is something I ask this Court to not adopt.

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