

April 25, 2024

Chief Justice Steven González  
P.O. Box 40929  
Olympia, WA 98504-0929

Re: Proposed Changes to CrR 4.7/CrRLJ 4.7

Dear Chief Justice González,

The criminal legal system is adversarial. Requiring defense counsel to beg permission and approval of opposing counsel to disclose discovery to their own clients puts the fox in charge of the hen house. Establishing clear and neutral rules governing this process is in the best interest of all.

#### Civil Cases c.f. Criminal Cases

There is already great precedent for unhampered flow of discovery to represented parties. Civil cases have lower burdens of proof than criminal cases. Civil cases resolve issues of money, property etc. Civil cases have clear discovery rules that allow discovery to freely flow to represented parties in litigation.

Criminal cases are held to the highest burden of proof the law allows. Criminal cases litigate the course of an accused person's life. Criminal cases in the State of Washington embarrassingly require the Accused's counsel to beg the government, their opposing counsel, for permission to share discovery with the represented party. Each individual case requires negotiating with each individual prosecutor what she or he wishes to have redacted. The process is time-consuming, is a hurdle in the representation of the Accused and an unnecessary barrier between the Accused and their counsel.

This absurd disparity evidences the unquestioned and unchecked power the State of Washington lavishes upon its prosecutorial branch as well as the disdain and disrespect it holds for Defenders in this criminal punishment bureaucracy. This disparity also highlights a disregard for the right to be presumed innocent, a principle upon which this country was founded.

#### Democracy.

Providing a copy of what the government intends to rely upon to prove their own case should not offend the government. Transparency is a bedrock upon which modern democracies, this one in particular, are founded.

Accused persons often belong to classes of persons disfavored by government-e.g. persons of color, the poor, the marginalized, etc. In order to circumvent their burden to prove their case beyond a reasonable doubt, prosecutors can

easily circumvent this standard by forcing a plea upon a scared, indigent, accused person thereby forever altering that person's life. The tragedies perpetrated upon these populations have perpetuated generations of harm. Providing the Accused discovery at the earliest opportunity combats abuses of power whether they be intentional or unintentional.

Notably in the modern electronic age, mere accusations are sufficient to destroy the Accused's relationships, family, career, social standing, etc. The ability for the Accused to access and review discovery materials early is essential to criminal defense. Allowing timely and access to the government's accusations and supporting documentation, allows the Accused-already grotesquely disadvantaged in this system- to combat governmental abuse, combat false accusations, gather disappearing exculpatory evidence, plan how best to proceed, associate in a meaningful way with counsel, and to simply review and understand the case against them.

#### Efficiency

Establishing set discovery rules is efficient. Negotiating with individual DPAs about nuances based on personal proclivities is tedious and time consuming. Established rules alleviate an unnecessary barrier between defense counsel and the Accused while also preventing unnecessary quibbling with individual DPAs and their offices.

The proposed changes to CrR 4.7/CrRLJ 4.7 would end impediments to adequate representation and coercive plea-bargaining practices. The Court should adopt the proposed changes to allow accused persons less complicated access to the same materials they would have if the litigation against them involved only their money and not their life.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly S. Sloan". The signature is written in dark ink and is positioned above the typed name.

Kimberly S Sloan  
Public Defender

Wa Bar No. 47651, FL Bar No. 36547