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To: [Martinez, Jacquelynn](#)
Subject: FW: Comment on Proposed Amendment to CrR 4.7 and CrRLJ 4.7
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From: Hinds, Patrick <Patrick.Hinds@kingcounty.gov>
Sent: Tuesday, April 30, 2024 8:32 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Amendment to CrR 4.7 and CrRLJ 4.7

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Attention: Clerk of the Washington State Supreme Court

I am writing to urge the Court to reject the proposed amendments to CrR 4.7 and CrRLJ 4.7. The many problems with these proposed amendments have been described at length in the comments submitted by prosecutors and judges from around the state and I share in their concerns.

First, the proposed amendments do not establish the procedure that would apply between the effective date of the amendments and the point in time that a local court adopts its own specific redaction rules. This will create period of complete uncertainty as to which rules—if any—apply in the meantime.

Second, the proposed amendments allow defense counsel to provide discovery to the defendant after making the redactions they believe are required by local rule, but does not require that a copy of the redacted discovery be provided to the court or prosecutor. As a result, no errors in the redaction can be identified and no disagreement with how the redaction rules are being applied can effectively be raised. In this context, the existence of unique local redaction rules increases the probability that there will be errors in compliance with the local rules. While the proposed amendments require that defense counsel keep a copy of the redacted discovery in their files, this is inadequate, as any errors in redaction will, therefore, only be discovered after some problematic issue has arisen. For example, after it is discovered that the redacted discovery revealed the location or contact information of victims/witnesses who were then inappropriately contacted by the defendant or their associates.

Third, under the proposed rule, defense counsel may provide a copy of discovery to the defendant before the State has an opportunity to determine whether it believes additional redactions may be necessary. As a result, prosecutors' offices will be forced to either set hearings in virtually all cases to assure that the additional redactions they believe are necessary will be applied or to delay

providing discovery in any case in which they believe that a motion to modify the redaction guidelines is required. (Note: The amendments appear to anticipate that any local rule will be inconsistent with the redaction policy of the prosecuting authority. If the rule provided that defense counsel must notify the prosecutor that defense counsel intended to provide a copy of the discovery to the defendant, the prosecuting authority could limit its motions to modify redaction requirements to only those cases.)

Finally, while the proponents of the rule refer to the thorough redaction guidelines disseminated by certain prosecutorial authorities (including the King County Prosecuting Attorney's Office), there is no reason to believe that the rules adopted by each local court will necessarily be as thorough. If CrR/CrRLJ 4.7 are to be amended, the thorough redaction guidelines referenced in the proposal should be included in the state-wide rule. In the alternative, the amendment should specify that local rules should require compliance with the redaction guidelines of the prosecuting authority in that jurisdiction.

For all of the above reasons – as well as those stated in other comments to the Court on this proposed rule change – I respectfully request that the proposed amendment to CrR 4.7 and CrRLJ 4.7 be rejected.

Sincerely,
Patrick Hinds



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