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To: [Martinez, Jacquelynn](#)
Subject: FW: Comment re proposed changes to CrR 4.7 and CrRLJ 4.7
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From: Guthrie, Stephanie <Stephanie.Guthrie@kingcounty.gov>
Sent: Tuesday, April 23, 2024 1:27 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment re proposed changes to CrR 4.7 and CrRLJ 4.7

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I am writing to oppose the proposed changes to CrR 4.7 and CrRLJ 4.7. The proposal is flawed and should not be adopted for numerous reasons. First, **the proposed amendments allow defense counsel to provide discovery to the defendant after redacting pursuant to local rules.** The rule does not establish a procedure that applies before each local court adopts redaction rules. Second, **under the proposed rule, the defense attorney does not provide a copy of the redacted discovery to the court or the prosecutor.** As a result, no errors in the redaction can be identified and no disagreement with how the redaction rules are being applied can be identified. The existence of unique local redaction rules increases the probability that there will be errors in compliance with the local rules. Third, **under the proposed rule, defense counsel may provide a copy of discovery to the defendant before the State has an opportunity to address additional redactions that may be necessary.** Fourth, **while the proponent of the rule refers to the thorough redaction guidelines provided in the King County Prosecutor's Office redaction guidelines, there is no reason to believe that rules adopted by each local court will be as thorough.** If such a rule is adopted, the thorough redaction guidelines referenced in the proposal should be included in the state-wide rule. In the alternative, the rule could require compliance with the redaction guidelines of the prosecuting authority in that jurisdiction. Fifth, **the prosecutor's office will be required to set hearings in virtually all cases to assure that guidelines that it believes are necessary will be applied. The rule anticipates 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 attorney could limit its motions to modify redaction requirements to those cases. Sixth, **the rule would obligate the prosecutor to delay providing discovery in any case in which a motion to modify the redaction guidelines is required.** If discovery is provided sooner, defense counsel could provide discovery to the defendant before that hearing. **Seventh, the prosecutor should be provided a copy of the redacted discovery that is provided to the defendant, in order to assure that all appropriate redactions have been made.** Keeping a copy of the redacted discovery in defense counsel's file is inadequate, as any errors in redaction that reveal the location or contact information

of victims/ witnesses will be discovered only after the victims/ witnesses have been contacted by the defendant or their associates.

Proper redaction of discovery is often critical to protecting victims and witnesses from tampering and intimidation, as well as violence or death in some cases. This Court should not adopt a rule that poses so high a risk to the very people who most need the court's protection after reporting crimes in an effort to obtain protection and justice.

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