

WSR 23-09-016
RULES OF COURT
STATE SUPREME COURT
[April 6, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1496
CrRLJ 4.7—DISCOVERY)

The Washington State Bar Association, having recommended the adoption of the suggested amendments to CrRLJ 4.7—Discovery, and the Court having considered the suggested amendments, and having determined that the suggested amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the suggested amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j) (1), the suggested amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 6th day of April, 2023.

Johnson, J.
Madsen, J.
Owens, J.
Stephens, J.
Gonzalez, C.J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.

GR 9 Cover Sheet
Suggested Changes to CrRLJ 4.7

- (A) Name of Proponent: Washington State Bar Association
(B) Spokesperson: Paul Crisalli, Chair Court Rules and Procedures Committee paul.crisalli@atg.wa.gov
(C) Purpose: The proposed amendments make the rule gender neutral.
(D) Hearing: None recommended.
(E) Expedited Consideration: Expedited consideration is not requested.

CrRLJ 4.7
DISCOVERY

(a) Prosecuting Authority's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the prosecuting authority shall, upon written demand, disclose to the defendant or the defendant's counsel the following material and information within his or her the prosecuting authority's possession or control concerning:

- (i) - (xi) [Unchanged.]
(2) [Unchanged.]

(3) Except as otherwise provided by protective orders, the prosecuting authority shall disclose to defendant's lawyer any material or information within his or her the prosecuting authority's knowledge which tends to negate defendant's guilt as to the offense charged.

(4) The prosecuting authority's obligation under this section is limited to material and information within the actual knowledge, possession, or control of members of ~~his or her~~ the prosecuting authority's staff.

(b) Defendant's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the defendant shall disclose to the prosecuting authority the following material and information within ~~his or her~~ defendant's possession or control concerning:

(i) - (iv) [Unchanged.]

(v) whether ~~his or her~~ the defendant's prior convictions will be stipulated or need to be proved;

(vi) whether or not ~~he or she~~ the defendant will rely on a defense of insanity at the time of the offense; and

(vii) the general nature of ~~his or her~~ the defendant's defense.

(2) - (3) [Unchanged.]

(c) Physical and Demonstrative Evidence.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, the court on motion of the prosecuting authority or the defendant may require or allow the defendant to:

(i) - (v) [Unchanged.]

(vi) permit the taking of samples of or from ~~his or her~~ the defendant's blood, hair, and other materials of ~~his or her~~ the defendant's body including materials under ~~his or her~~ the defendant's fingernails which involve no unreasonable intrusion thereof;

(vii) provide specimens of ~~his or her~~ the defendant's handwriting; and

(viii) submit to a reasonable physical, medical, or psychiatric inspection or examination.

(2) [Unchanged.]

(d) - (e) [Unchanged.]

(f) Matters Not Subject to Disclosure.

(1) [Unchanged.]

(2) *Informants.* Disclosure of an ~~informants~~ informant's identity shall not be required when ~~his or her~~ the informant's identity is a prosecution secret and a failure to disclose will not infringe upon the constitutional rights of the defendant. Disclosure of the identity of witnesses to be produced at a hearing or trial shall not be denied.

(g) Regulation of Discovery.

(1) [Unchanged.]

(2) *Continuing Duty To Disclose.* If, after compliance with this rule or orders pursuant to it, a party discovers additional material or information which is subject to disclosure, ~~he or she~~ that party shall promptly notify the other party or ~~his or her~~ lawyer counsel of the existence of such additional material. If the additional material or information is discovered during trial, the court shall also be notified.

(3) [Unchanged.]

(4) *Protective Orders.* Upon a showing of cause, the court may at any time order that specified disclosure be restricted or deferred or make such other order as is appropriate, provided that all material and information to which a party is entitled must be disclosed in time to permit ~~his or her~~ the party's lawyer to make beneficial use of it.

(5) - (7) [Unchanged.]