

March 9, 2026

Carolyn A. Dubay, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544
By email: rulescommittee_secretary@ao.uscourts.gov

Re: Proposed Amendment to Rule 15 of the Federal Rules of Criminal Procedure

Dear Ms. Dubay,

We support amending Rule 15 of the Federal Rules of Criminal Procedure to permit broader use of depositions in federal criminal cases. For more than 30 years, we have represented organizations, public officials, and private citizens in federal criminal matters in Texas and elsewhere, while also maintaining an active civil practice. That experience has made clear how differently the criminal and civil rules operate, and why a measured expansion of Rule 15 would better serve the interests of justice.

We have reviewed many of the letters so far submitted to the Committee. The arguments and case-based accounts of how an amended version of Rule 15 would better serve the goals of truth-finding and accuracy resonate with our own experiences. As others have noted, the fact that civil cases employ depositions and other tools to ensure no party is surprised by evidence before trial is a considerable luxury in cases that are most often only about money. The fact that the same cannot be said for a process that threatens the liberty and reputation of an accused person is a disparity amending Rule 15 could begin to correct.

Voluminous discovery is now routine in federal prosecutions. We regularly receive productions with terabytes of data. At times, the data is not uniformly accessible through a single review platform. For most defendants, processing that material is prohibitively expensive, both in terms of attorney time and technology. Even with substantial effort, deciding where to focus limited time and resources within an immense discovery production creates a serious risk that exculpatory information will be overlooked. Depositions provide a way for the defense to better navigate and focus discovery review.

Under current practice, the accused sees only a flat, incomplete picture of the Government's case. Discovery may include memoranda of witness interviews, but those memoranda are only one person's account of what another person said. They do not cover every

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issue important to the case or the defense, and they reveal little about a witness's temperament, understanding, or credibility. Depositions would give the defense a more nuanced understanding of the Government's theory, help identify which portions of a massive production warrant priority review, and partially correct the current imbalance in witness access, which overwhelmingly favors the Government. Government agents usually speak to witnesses first, backed by the authority of a powerful agency, and they may compel testimony before the grand jury on terms that serve the prosecution's case. Witnesses who have appeared under either scenario are rarely willing to speak with the defense. Amending Rule 15 would not eliminate that reality, but it would give the defense a fairer opportunity to secure access to reluctant or unwilling witnesses whose testimony will aid the defense's understanding of the Government's case and the information on which the case was built.

In our view, amending Rule 15 would not present a one-sided benefit to the defense. Prosecutors identify exculpatory material in discovery based on *their* understanding of a case *they* put together. Allowing the defense to secure pretrial witness testimony through depositions will invariably reveal defense strategy. In this way, both sides benefit from an amendment. Additionally, having the ability to secure witness testimony will enhance the ability of defense counsel and their clients to better assess the Government's case and make truly informed decisions about whether to engage in plea negotiations. In this way, again, both sides benefit.

The integrity of the criminal justice system depends on fair and accurate outcomes. The existing limitations of Rule 15 do not serve these essential goals. Amending the rule to expand the availability and use of depositions is an important and overdue reform. The case for amending the rule is compelling, and the benefits are meaningful. We appreciate the Committee's willingness to consider this and the other letters submitted in support of amending Rule 15.

Sincerely,



Andy Drumheller



Derek S. Hollingsworth



Jeremy T. Monthy