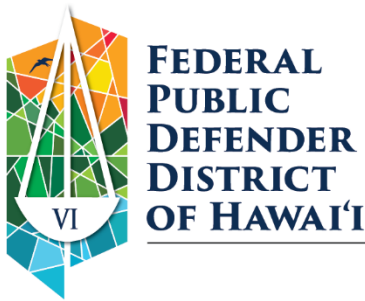




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August 24, 2026

Via email: rulescommittee_secretary@ao.uscourts.gov

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

Re: Proposal to Amend Fed. R. Crim. P. 15

Dear Ms. Dubay and the Committee on Rules of Practice and Procedure:

As the Federal Defender for the District of Hawai'i, I write in strong support of amending Rule 15 to permit depositions of witnesses in criminal cases. While both the government and the defense would benefit, the principal beneficiary would be the fair administration of criminal cases. This is because such an amendment would advance the interests of justice by improving the accuracy of fact-finding, facilitating informed plea negotiations, narrowing disputed issues before trial, and conserving judicial resources.

I'd like to focus on two specific cases we've had in our office that would have been far more efficiently disposed of had depositions been allowed:

1. *Fraud Prosecution*: In this jury trial, there was a witness who would have established the interstate nexus component in a wire fraud count. Based upon the discovery and the summary of the witness's statement via the case agent, it appeared that there may have been a technical element missing in the interstate nexus component; not the type of thing that would amount to a full acquittal, but could serve as a judgment of acquittal argument. At expense to the government and the witness, they ended up bringing the witness in who, once he testified, easily cleaned up the interstate nexus component. Had we known precisely what he would have said prior to trial via a deposition, we would have stipulated to that witness's testimony.

This example is neither here nor there in terms of how the case would have settled, but it would certainly have narrowed the issues and conserved resources.

2. *Sex Assault Prosecution:* In this jury trial on several counts of sex assault, the jury acquitted on the more serious sex assault counts, but convicted on a lesser offense. The mixed verdict demonstrated that both sides faced meaningful litigation risk. Had the parties explored the complainant's testimony through a deposition before trial, there is a substantial likelihood that those risks would have been more accurately assessed by both sides during plea negotiations. This would have potentially led to a resolution comparable to the ultimate verdict while sparing the teenage complainant the emotional burden of testifying before a jury.

Some will view depositions primarily or purely as an additional discovery device that benefits only the defense side. My experience has been the opposite. In the matters described above, depositions would have promoted earlier case resolution, we could have given our clients a more realistic assessment of the evidence expected at trial, we would have made more accurate litigation decisions, and/or there would have been reduced burdens on witnesses and the courts. These are systemic benefits that serve the interests of justice, not just one side or another.

Finally, that several states authorize criminal depositions demonstrates that such procedures can operate fairly and effectively when accompanied by appropriate judicial supervision and protective safeguards.

Thank you for your time and the work that you do on this important committee.

Sincerely,



Salina M. Kanai
Federal Defender
District of Hawaii