

## Tracy, Mary

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**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Wednesday, April 27, 2016 1:25 PM  
**To:** Tracy, Mary  
**Subject:** FW: Comment re Proposed CrR 8.10/CrRLJ 8.13

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**From:** Teresa Chen [mailto:tchen@co.franklin.wa.us]  
**Sent:** Wednesday, April 27, 2016 1:23 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment re Proposed CrR 8.10/CrRLJ 8.13

Proposed rules CrR 8.10 and CrRLJ 8.13 are neither necessary nor in the public interest. "The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know." RCW 42.56.030.

The proposed rules would violate attorneys' freedom of speech and chill informed speech without an appropriate analysis of the particular speech. Public servants and private citizens alike have a right to comment on public processes. Insofar as any attorney's speech "prejudices the administration of justice," RPC 8.4(d) already addresses this concern. Other RPC's address related concerns, e.g. at RPC 3.4(e), RPC 3.6, RPC 8.4(d). And RPC 3.8 already addresses the special responsibilities of a prosecutor.

The proposed court rules run counter to the important public interest in and constitutional right to the open administration of justice. *State v. Momah*, 167 Wn.2d 140, 148, 217 P.3d 321, 325 (2009) ("article I, section 10 secures the public's free and open access to judicial proceedings.") The public has a valid interest in viewing every aspect of court administration that is not subject to sealing or protection orders. *State v. Sublett*, 176 Wn.2d 58, 110, 292 P.3d 715, 741 (2012) (the public has a right to be informed about court procedures). The public has a valid interest and right to know about the details of a trial including suppression rulings and motions in limine. *State v. Bone-Club*, 128 Wn.2d 254, 257, 906 P.2d 325 (1995) (the public trial right extends to pretrial suppression hearings). Before the court protects or seals any information, it must go through a rigorous analysis under both the GR 15 and *Bone-Club*. But these proposed rules disregard these rights and legally required procedures.

The jury represents the public at trial. After a jury has served its purpose, a juror is only a member of the public who is more informed as to the particular case. Any juror has a right to inquire as might any member of the public. It does not serve a public purpose to constrain the knowledge of those citizens who are most invested in the learning the information.

The apparent goal of these proposed rules is to hide the judicial process from the invested public without any consideration of the public's constitutional right to a public trial or without any case-by-case analysis. Insofar as the rule intends to promote public confidence in the fairness of our trial system, **it does the opposite**. A court's rulings

should stand up to public scrutiny. An open discussion of the process promotes confidence in the system; where a rule gagging discussion undermines public confidence.

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