

Clerk of the Supreme Court
Temple of Justice
Post Office Box 40929
Olympia, Washington
98504-0929

April 26, 2011

Dear Justices of the Supreme Court;

As Sheriff of Skamania County and current President of the Washington State Sheriffs Association, I would like to express my concerns regarding the creation of proposed CrR 4.11 and CrRLJ 4.11. I am convinced this rule will very directly and negatively impact law enforcement procedures and the well being of crime victims. I am hopeful you give serious consideration to these comments and those of my fellow Sheriffs during the period of public comment.

Law enforcement officers across the State of Washington strive to create an atmosphere of safety for victims of crimes as we work through an investigation. It is critical that we do this in an effort to ensure they do not become victims of the very system that is designed to assist them during a traumatic event such as being criminally violated. Article I, Section 35 of the Washington State Constitution provides that victims be given "due dignity and respect." Our oath of Office requires us to uphold the Constitution of State of Washington. It could be argued that in certain cases such as crimes of sexual assault or domestic violence, a victim who is required to provide a recorded statement could be further victimized through the criminal justice system. With this being a possibility, I believe this proposed rule opens the door to violate our requirement to treat victims with dignity and respect.

A proposal to make recorded statements mandatory creates the reality that victims and witnesses will likely become less willing to fully participate in the investigatory process knowing their statement will first be recorded and second, that it will very quickly become available to all parties, including actual perpetrators.

Again, by mandating a recorded statement we are potentially further traumatizing the victim by allowing the perpetrator to have access to the actual details of the crime from the victim's perspective and from a victim who is in a vulnerable state.

I am unclear as to whether or not these mandatory recordings would fall under the exemptions with regard to public disclosure under RCW 42.56.240. If the statements were considered to be open to public disclosure it will most certainly have a very negative impact on the ability of law enforcement to effectively prepare a case for prosecution. A victim who has already been traumatized would now potentially be subjected to a very open and public scrutiny of an event that undoubtedly has a lifelong impact.

I strongly urge you to not adopt CrR 4.11 and CrRLJ 4.11 as currently drafted.

Sincerely,

David S. Brown
Skamania County Sheriff