

## Faulk, Camilla

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**From:** titorodriguezlaw@gmail.com on behalf of Tito Rodriguez [tr@titorodriguez.com]  
**Sent:** Friday, April 29, 2011 4:22 PM  
**To:** Faulk, Camilla  
**Subject:** Proposed New Criminal Rule 4.11

Members of the Court,

I am writing to express my support for the proposed Criminal Rule 4.11. If we are truly engaged in a search for truth, the court should insist on an accurate and complete record of pre-trial witness interviews. In civil cases, the discovery process is already much more robust than that used in criminal cases. Criminal litigants are not permitted to conduct depositions except in rare cases or to submit interrogatories, requests for production, or requests for admission.

Allowing witness interviews to be recorded in criminal cases is a simple, cost-effective alternative to the civil deposition process that facilitates the search for truth.

As a practical matter, witness interviews are completed much more quickly and easily when recorded. Absent recording, the attorney or investigator must proceed much more slowly, frequently interrupting witnesses to allow for accurate note-taking. Recording also promotes professionalism as everyone involved tends to be more careful with their words and more respectful toward others.

At trial, disputes about the substance of witness interviews arise frequently. Without a recording, the jury is either left to guess as to what the witness said or did not say, or the attorneys are forced to call additional witnesses (investigators, police officers, witness advocates, etc.) to testify about their recollections of the witness' statement. If the attorneys neglected to have an independent witness present for the interview, they may find themselves mid-trial with no one else available to impeach the witness or clarify his or her statement, possibly resulting in mistrial.

Recording provides an accurate and complete record of what occurs in witness interviews. For better or worse, it makes the truth much easier to ascertain. Neither witnesses nor victims nor defense attorneys nor prosecutors should fear the truth. Thank you for considering my comments.

Francisco "Tito" Rodriguez  
Attorney at Law