

Faulk, Camilla

From: Jeri Costa [senatorjери@aol.com]
Sent: Wednesday, April 27, 2011 7:42 PM
To: Faulk, Camilla
Cc: ed@wccva.org
Subject: Opposition to proposed amendments to CrR 4.11

April 27, 2011

Camillia Faulk, Clerk
Supreme Court
P.O. Box 40929, Olympia, WA 98504-0929

RE: Opposition to proposed amendments to CrR 4.11

Dear Ms. Faulk:

I am writing to express my **very strong opposition** to the proposed amendments to CrR4.11.

In my former capacities as state legislator, chair of the Indeterminate Sentence Review Board and a crime victim advocate for more than 3 decades, I have had the opportunity to see first-hand the significant impacts that crime has on victims. We invite crime victims to participate in the criminal justice process in order to make society safer; however, they are not otherwise obligated to participate in the system – outside of being subpoenaed to attend trial. We should do everything possible to assist them in participating in the criminal justice process, rather than taking rights away from them.

Contrary to the opinion of many defense attorneys (and some prosecutors) in this state, there is no constitutional right – state or federal -- for defendants to “confront their accusers” outside of the courtroom. This has been pointed out in several court cases, including: *State v. Mankin*, — P.3d —, No. 38977-1-II, 2010 WL 4069487 (Wash. Ct. App. Oct. 19, 2010); *State v. Gonzales*, 110 Wn.2d 738, 744,757 P.2d 925 (1988); *Hofstetter*, 75 Wn. App. At 397, 402 (1994); *State v. Clark*, 53 Wn. App. 120, 124, 765 P.2d 916 (1988).

Crime victims are often encouraged to participate in pre-trial interviews with defense; however, they have the right to set the parameters for these interviews if they choose to grant them. One of those rights has thus far included the right to choose whether or not to submit to audio recording of their interview.

Victims did not choose to be victimized. RCW 9.73.030 (1)(b) applies equally to all citizens – whether or not they are victims of crime. It is interesting to note that a defendant cannot be compelled to submit to a recorded interview with a prosecutor.

But, here we have a proposal that would require a victim to submit to a recorded interview with a defense attorney. This is simply ludicrous!

I have personally assisted victims whose personal information has been disclosed to defendants by their defense attorney – even one who's new out of state address was provided! Facing the prospect of a recording of their worst nightmare being provided to the defendant -- notwithstanding the changes to the current amendment – is horrifying and could certainly mean fewer victims would choose to participate in any pre-trial interviews with defense.

The proposed amendments to CrR 4.11 are an affront to crime victims, citizens and justice. I urge the rules committee to turn down this proposal!