

Faulk, Camilla

From: Mike Hawkins [mikehawkins@hawkinspi.com]
Sent: Thursday, February 24, 2011 9:36 AM
To: Faulk, Camilla
Subject: CrR 4.11 Proposal

Dear Ms Faulk,

I am writing to add my comments on the proposed new rule CrR 4.11. I am writing to you as a licensed Washington Private Investigator who is engaged primarily in conducting criminal defense investigations, as a member of the South Carolina Bar where I practiced law for 15 years, and as a former Agent with the U.S. Naval Criminal Investigative Service.

It is my belief that the intent of proposed rule CrR 4.11 is an excellent idea and strongly urge that the Supreme Court adopt it as it will greatly add to the accuracy of defense investigations. With that being said, I have a concern with the following portion of the proposed rule:

At the commencement of any recorded witness interview, the person conducting the interview shall confirm on the audiotape or recording that the witness has been provided the following information: (1) the name, address, and telephone number of the person conducting the interview; (2) the identity of the party represented by the person conducting the interview; and (3) that the witness may obtain a copy of the recording and transcript, if made.

My concern with this section is the proposed requirement is with section (1) which requires that the person recording the witness confirm that (s)he has provided the witness with his/her name, address and telephone number. Most private investigation agencies in this state are small, one or two person operations which are often operated out of the investigator's home. The very nature of criminal defense investigations makes it extremely likely that some of the witnesses who are interviewed will be of unsavory character and could pose a potential danger to the investigator. Requiring that the witness be provided with the investigator's contact information could result in harm to the investigator or to his/her family.

I humbly suggest that providing the investigator's name and state P.I. license number would be sufficient and would more closely track the requirement imposed on law enforcement only to identify themselves and their agency. As a former law enforcement officer, maintaining the privacy of my personal life from people I interviewed was an important concern which is now mirrored by the concern I have as a private investigator. I have been involved in a number of major felony defense cases where I have had to interview gang members, outlaw bikers, drug

users, etc. and I am fearful that providing them with all of my contact information would greatly heighten the potential danger to both myself and my loved ones.

I encourage the Supreme Court to take the safety of investigators into consideration, just as they take the safety of law enforcement personnel into consideration when deciding if personal information should be released.

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