

Faulk, Camilla

From: Robert Perez [Robert@RobertPerezLaw.Com]
Sent: Monday, March 07, 2011 2:12 PM
To: Faulk, Camilla
Subject: Comment on Proposed CrR 4.11

As a trial lawyer who focuses exclusively on criminal trials, I cannot understand the opposition to the proposed CrR 4.11 that would allow the accurate recording of witness interviews in criminal cases. Failure to conduct pretrial witness interviews is de-facto ineffective assistance of counsel, making the event essentially mandatory. That anyone would argue to keep such an interview that is being conducted with the explicit knowledge that it will be used in litigation not fully memorialized for accuracy, is astonishing.

Civil lawyers have enjoyed the benefits of enforced depositions for years in cases where simple monetary interests are at stake. In a criminal trial that is Constitutionally mandated to be public and where liberty interests are on the line, it cannot be seriously argued that the Washington Privacy Act applies. Any other attempt to limit the accuracy of such memorializations is wholly unjustified.

It cannot be seriously argued that it is the ***recording*** of an interview that is intimidating to witnesses. Rather, it is likely the interview itself that is intimidating to witnesses. Like it or not, that potential intimidation factor is at the heart of the power of the Confrontation Clause. Accusers are required to stand ready to face the accused and have their accusations tested in the "crucible of cross-examination" that is built upon the foundation acquired during the witness interview. Given the inevitability of these interviews, it simply makes sense to accurately preserve the content of these interviews in the interests of justice in the search for truth.

I strongly urge the Court to adopt this proposed rule.

Robert Perez

Law Office of Robert Perez
1520 140th Avenue NE Suite 200
Bellevue WA 98005
(425) 748-5005 Voice
(425) 748-5007 Fax

This correspondence is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, and may contain confidential information protected by Attorney-Client privilege. If you are not a person for whom this message was intended, please delete it from your system immediately, refrain from copying or forwarding any part of the message, and kindly notify me at (425) 748-5005. Thank you.