

Faulk, Camilla

From: Scott Leist [Scott@WashingtonTrafficDefense.com]
Sent: Wednesday, April 27, 2011 9:27 PM
To: Faulk, Camilla
Subject: Witness Interview Rule

I am a former police officer (7 years with Seattle Police) a former prosecutor (5+ years with King County), a former large-firm civil attorney and presently private defense counsel. I am writing in support of the proposed rule allowing the recording of witness interviews in criminal cases.

In the course of my involvement with the legal system, I have seen this matter from many sides. I have seen defense attorneys attack (with great success) police officers who failed to record witness or suspect statements. I have seen legion civil suits resolved as a result of exactly transcribed or recorded statements of witnesses. I have watched reluctant criminal witnesses (on both sides) obfuscate issues and slow the progress of cases because nobody can get a consistent documented version of events or recollections. Finally, I have seen exasperated criminal judges resort to depositions – an incredibly expensive, time consuming and obtrusive measure – for reluctant criminal witnesses.

In the end, I am left with a couple of unshakable conclusions. First, recorded witness interviews are simply better than the current system of note-taking and swearing contests between investigators and witnesses. They are more accurate, which is the ultimate goal of the justice system. Second, (and as a result) recorded witness interviews enable fact-finders to more intelligently judge credibility. Finally, recorded witness interviews subject witnesses to LESS likely abuse. When an interview is recorded, any abuse by counsel is also memorialized, as are witness responses.

My understanding is that you have received many comments comparing the rights of innocent victims and witnesses to the rights of defendants and concluding that this is simply an opportunity for defendants to revictimize and abuse witnesses. That is nonsense. Recorded witness interviews actually decrease the likelihood that criminal matters with go to trial – a forum where witnesses are forced to recount all relevant facts before the judge, jurors, all counsel and any members of the public who happen to wander in. Getting an accurate and documented version of each witness' testimony untainted by nuance, interviewer recollection or bias helps the parties resolve cases short of trial, often by defense plea.

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