

## Faulk, Camilla

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**From:** Tamara Hanlon [Tamara.Hanlon@co.yakima.wa.us]  
**Sent:** Tuesday, April 26, 2011 2:42 PM  
**To:** Faulk, Camilla  
**Subject:** Proposed CR 4.11 and CRRLJ 4.11

Camilla Faulk, Supreme Court Clerk  
Washington State Supreme Court  
PO Box 40929  
Olympia, Washington

Having worked with crime victims for many years, this rule could be detrimental to public safety. Many victims and witnesses do not want the criminal defendant to have access to their statements out of legitimate safety concerns. Once a recorded interview is done, a transcript is made and will be released to the defendant upon his request. While personal information (such as the date of birth, address, SSN) may be redacted from the defendant's copy, the names of the witnesses and their statements remain.

The transcript can then be a powerful tool for witness tampering and intimidation. Discovery packets have come into the wrong hands. We had one case where a witness was seriously assaulted while his statement was being read to him. Once there is physical proof that a witness has made a statement, the witness can no longer just deny making the statement when confronted by criminals who want to intimidate him or her. In the gang culture, this is very important. Gang members refer to getting discovery as "having paper" on the witness. Once they have "paper" on an individual, the gang allows intimidation of that witness.

Some witnesses may not want to cooperate if they are forced to give a taped statement. In some cases, it is already hard to get witnesses to come in for an interview because of their legitimate fear that retaliation will follow if they cooperate with the prosecutor. As such, some witnesses choose not to be recorded when presented with the option. In addition, a tape-recording is not needed in order for there to be a successful interview. The point of the interview is to learn what happened to the victim or witness. Having a transcript is convenient, but not necessary. The right of a witness to refuse the recording of the interview should prevail. Any advantage of tape-recording is simply outweighed by the need to have witnesses cooperate and be kept safe. This is especially true in the context of gang cases and in cases of sexual assault and domestic violence.

Sincerely,

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