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January 30, 2012

Please reply to: Adult Criminal & Administrative Divisions

Clerk of the Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
12 FEB - 1 AM 8:15
BY RONALD R. CARPENTER
CLERK

Dear Justices of the Supreme Court:

The following comments are regarding the amendment of CrR 4.6, which would allow "good cause" justification for ordering victims or witnesses to submit to a deposition.

As you know, crime victims are involuntary participants in the criminal justice system. According to the Washington State Constitution, Article 1, Section 35, "Effective law enforcement depends on cooperation from victims of crime." By authorizing a rule that would require a victim or witness to submit to a deposition, even when that victim or witness had agreed to a defense interview is essentially authorizing the use of bullying tactics. You have already rejected the previous request to amend this rule to allow audio and video recordings of crime victims—this new proposal is simply another way to try to get those in, and erodes our current public policy regarding privacy.

Victims of crime did not ask to become victims—by their very definition they are involuntary participants in a process that can be confusing, intimidating and traumatic. While civil litigants are parties to their actions and take proactive steps to initiate or participate, crime victims do not even have standing in those cases that involve their very lives. While they have some statutory rights under the Crime Victims Bill of Rights (RCW 7.69.030), they have no recourse if those rights are not upheld.

Audio or videotaped recordings capture more than just the factual content of the victims' statement, they also record the emotional content. These interviews are already difficult as they often require the victim to relive the trauma experienced in the actual crime. The victims' sense of vulnerability is heightened even further knowing that those recordings will then be provided to both the defendant and potentially aired in a public trial.

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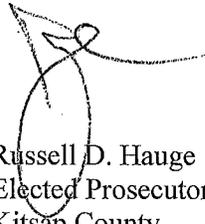
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Under the existing rules, prosecutors and defense attorneys are free to request the permission of victims and witnesses to record their pre-trial interviews, and while many refuse, some do agree. It is redundant and an abuse of power to allow a defense attorney to require a cooperative witness submit to an audio or video recorded interview.

We urge you to finally and unequivocally reject these proposed changes.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Russell D. Hauge". The signature is stylized with a large, looping initial "R" and a long horizontal stroke extending to the right.

Russell D. Hauge
Elected Prosecutor
Kitsap County

A handwritten signature in black ink, appearing to read "Kelly E. Pelland". The signature is written in a cursive style with a large, flowing "K" and "P".

Kelly E. Pelland
Victim Witness Coordinator
Kitsap County