



April 26, 2012

Supreme Court Rules Committee  
Washington Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504-0929

Re: *Proposed Rules of the Court, CrR 4.6 regarding depositions*

Dear Supreme Court Rules Committee:

This letter is written to express extreme concern with the amendment to CrR.4.6 regarding the “good cause” finding for ordering a victim/witness deposition. We respectfully request the court to *reject* the proposed amendment for the following reasons:

- ***The proposed amendment diminishes the role of complaining witnesses and/or alleged crime victims in the Criminal Justice System, and potentially could have a chilling effect on victim cooperation.***

Allowing an interviewer to seek a deposition of a victim/witness under good cause even when the victim/witness has agreed to an interview is highly inappropriate. It serves to intimidate victim/witnesses and allows the interviewer to proceed with intimidation rather than resorting to more common and practical practices such as note taking. This proposed rule forces cooperative victims who simply do not wish to be recorded into the same category as a victim or witness who is not cooperating. The wish to not be recorded often has no bearing on whether or not a victim/ witness cooperates or is available. This proposed amendment is implicitly coercive. It is telling a crime victim that even though the victims is being cooperative and is willing to participate in being interviewed, if the victim does not agree to be recorded, a court order will be sought to order the interview to be recorded. The court rules committee has already rejected two similar proposals; this current amendment is yet another approach to achieve the same forced recordings.

- ***The current court rule CrR 4.6 is sufficient with respect to depositions. Recording is not needed for a successful interview and is dismissive of victim privacy rights and ramifications for victims.***

We encourage the court to take a moment and consider that the participation of complaining witnesses and/or alleged crime victims is integral to the criminal justice



system. And yet, as we provide protections to criminal defendants; recognize that prosecutors do not represent complaining witnesses nor alleged crime victims and we must also seek to make our legal system more efficient. We continually diminish the role of the victim/witness by ignoring the impact these rules have upon them. By adopting this amendment, the court is implicitly stating that the role of the alleged victim/witness in the criminal justice system is insignificant.

The amendment fails to provide crime victims with a meaningful role in the criminal justice system because it fails to respect their right to privacy. Our State Constitution, Article 1, Section 35, requires that crime victims be treated with dignity and respect. This amendment affords them neither and is dismissive of victim choice and ramifications for victims. Requiring a victim to be recorded is harmful. Interview videos which capture the very personal, emotional, and traumatic experience (much of which would be found irrelevant and/or inadmissible in court), jeopardizes victim privacy rights particularly in terms of discovery and the potential for abuse by pro se defendants.

For the above stated reasons, we respectfully request that the court reject the proposed good cause amendment. On behalf of concerned sexual assault crisis centers throughout the State of Washington and victims of sexual assault, we appreciate your consideration of our comments.

Sincerely,

Andrea Piper-Wentland  
Executive Director