Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 10:00 AM
To: Tracy, Mary
Subject: FW: letter in support of proposed rule changes

From: Tiffany Mecca [mailto:tmecca@snocopda.org]
Sent: Tuesday, April 30, 2019 9:59 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: letter in support of proposed rule changes

Good Morning,

I am a staff attorney in the felony unit at the Snohomish County Public Defender Association. I fully support the proposed criminal rules changes, for the following court criminal court rules: CrR 3.7 (recording interrogations), CrR 3.8 (recording eyewitness identification procedures), CrR 3.9 (preventing in court eyewitness identification) and CrR 4.7 (reinforcing the state's Brady obligations and permitting smoother redaction policies for defender offices with respect to discovery to clients).

These rules changes are absolutely necessary to preserving and protecting the integrity and truth-seeking function of our criminal justice system.

Law enforcement officers are human beings just like the rest of us. They make mistakes. They don't always follow best practices and policies. They forget things. And, they sometimes outright lie to cover up a mistake or other misconduct. I have experienced first-hand police officers refusing to be recorded during defense interviews. The reason often given is "personal preference." Or they claim that in the past, an interview was used against them in court. These public officials are basically saying they don't want to be recorded because they don't want a record of what they said in an defense interview to be used to show the jury their inconsistencies or worse lies.

The proposed rules with respect to recording interrogations and recording eyewitness ID procedures address these shortcomings by preserving what ACTUALLY happened instead of relying on law enforcement's memory of what happened. Officers do not always record important details about ID procedures and interrogations in their reports. Accordingly, they are often called upon to rely on a faded memory when recalling these details months and sometimes years later while testifying. In fact, aside from very serious cases, details about interrogations and ID procedures are scant, at best, and often times missing all together. Why put such reliance on an imperfect memory when a recording can preserve exactly what happened, as it happened?

Concerning the amendments to CrR 4.7, all the defense is asking the Court to do is incorporate well-established case law concerning a prosecutors obligations under Brady into the actual Court Rule. We are not asking for an expansion of Brady obligations, merely that the Court rule reflect the years of jurisprudence in this area to serve as a more salient reminder to prosecutors as to what their obligations actually are. This should not be a controversial request.

With respect to the redaction issue, a criminal defendant should have speedy access to the documents and other evidence the state wants to offer as evidence against him/her. The current process can sometimes result in delays, which not only prevent a defendant from speedy access to discovery, but also slows down the speed at which cases can resolve because continuances result while clients are merely waiting for redacted discovery. Often times, clients want to review this prior to a client meeting. When client meetings are delayed, more continuances on the case are necessary

and it delays the commencement of defense investigation, etc. Accordingly, this proposed rule change not only serves to provide speedy access of discovery to criminal defendants, it also serves the interests of judicial economy.

For the reasons cited herein, I hereby respectfully request that those in charge of adopting and amending court rules adopt the proposed new rules and amendments to existing rules.

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