

## Tracy, Mary

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**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Wednesday, April 3, 2019 1:55 PM  
**To:** Tracy, Mary  
**Subject:** FW: Comment on proposed changes to CrR 3.9

Does this go to you?

**From:** Taguba, Leah [mailto:Leah.Taguba@kingcounty.gov]  
**Sent:** Wednesday, April 3, 2019 1:52 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment on proposed changes to CrR 3.9

In-Court Eye Witness Identification changes seem to present several concerning issues if approved:

- 1) Officers who enforce traffic offenses (DUI, Reckless driving, Vehicular Assault/Homicide, etc.) rarely, if ever go through an out of court identification process. Typically the defendant is unknown to them at the time of the contact, and they don't do line up, photo arrays, or show up for themselves. It is usually only during trial, or during other court proceedings would the officer have the opportunity to identify the defendant as the same person who perpetrated the crime. This rule, if approved, would not allow for the in court ID to take place linking that perpetrator to the defendant who is in court. King County District Court processes thousands of DUI or traffic related offenses each year, and this rule would have a significant impact on proving up these cases if the officers would be precluded from making an in court ID, without doing their own line up/show up, photo array, which seem impractical and unnecessary.
- 2) This rule would then force ID procedures in every case, even if the ID of the individual is certain – in cases where it was an on-view crime, for example. This would be a waste of resources and time in the case, just to be able to have that person be able to identify the Def in court.
- 3) The in court ID is important in every case, regardless whether there was a process before, and the jury should be able to have that relevant evidence in order to evaluate the credibility of the witness, and the validity of the Identity of the person the State has charged. Further it precludes evidence to be presented by the State to prove up an essential element for each crime, and it precludes the defense to potentially cross-examine the witness and bring into question the reliability of their testimony. This rule take away from the fact finding function of this rule.
- 4) This rule assumes that in-court identifications are unreliable
- 5) The term "unknown" is incredibly vague. What if the person is seen, but their identity, or true identity is unknown? Would that been considered unknown? Due to this vague term, law enforcement would have to do unnecessary ID procedures so that the person could ID them in person.

It is my hope the committee DOES NOT approve these changes, as I believe it will have an enormous negative impact in the effective processing of criminal offenses.

Thanks,  
LT

**Leah Taguba**  
**Senior Deputy Prosecuting Attorney**  
**District Court Unit—Unit Chair**  
**206-477-1212**