

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, May 1, 2019 8:24 AM
To: Tracy, Mary
Subject: FW: Opposition to Proposed Changes to WA Criminal Rules 3.7, 3.8, 3.9

From: Anderson, Rhyan [mailto:Rhyan.Anderson@kingcounty.gov]
Sent: Tuesday, April 30, 2019 5:03 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Opposition to Proposed Changes to WA Criminal Rules 3.7, 3.8, 3.9

Good afternoon,

I strongly urge the court to reject the proposed rule changes. It is alarming to me that these suggested changes that the court now seeks comments for were submitted by the Washington Association for Criminal Defense Lawyers (WACDL), without any input from prosecutors, judges, law enforcement, or victim's rights groups – and importantly – without forwarding to the Washington State Bar Association, Superior Court Judges Association, District and Municipal Court Judge's Association, and the Chief Presiding Judge of the Court of Appeals for their consideration, in direct violation of GR 9(f)(2), which provides that proposed rule changes must be sent to those entities.

Below are some of the concerns I have with the proposed changes, nearly all of which will have a chilling effect on victim's rights and the ability to hold the perpetrators accountable for their crimes.

CrR 3.7

This rule will impede effective law enforcement because many crime victims are reluctant to be recorded, especially victims who are especially fearful of retaliation (domestic violence, gang violence, etc). If a victim's or a witness's refusal to be recorded is not contained on the recording, the rule would lead to the suppression of otherwise properly obtained evidence. Further, this rule is premised on the belief that the police are untrustworthy and cannot be taken at their word. The credibility of witnesses is a matter for the judge or jury to decide after hearing all of the evidence.

CrR 3.8

Many victims of sexual assault and domestic violence are extremely reluctant to even report their assaults to a trusted loved one, let alone police - and let alone face the prospect that the recorded statement which detailed the most intimate and humiliating experiences of their lives might be disseminated amongst the general public – and to their abuser – without any notice to them. That rule will almost certainly dissuade victims from reporting their assaults allowing the perpetrators to continue to victimize others.

CrR 3.9

The rule would force an identification procedure in every case, including in cases where there is no question that the correct person has been charged (bloody, weapon-wielding man caught leaving victim's home, surveillance of the defendant committing crime and leaving DNA at the scene, etc), or in-court identification would not be permitted. This prevents the jury from hearing relevant evidence. The weight of that evidence is properly developed through cross-examination and determined by the jury, not an arbitrary bright-line rule.

Thank you for your consideration.

Rhyan Anderson

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