

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 2, 2019 11:16 AM
To: Tracy, Mary
Subject: FW: Comment to Proposed Rule Changes for CrRs 4.7, 3.7, 3.8, 3.9, 4.11

From: James Herr [mailto:jamesh@mazzonelaw.com]
Sent: Tuesday, April 2, 2019 11:15 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment to Proposed Rule Changes for CrRs 4.7, 3.7, 3.8, 3.9, 4.11

These additional rules changes to CrRs 3.7, 3.8, 3.9, 4.7, and 4.11 are necessary to bring the Washington court rules in-line with current precedent. Trial courts are often heavily-burdened, and the requirements of precedent are not as readily accessible (and therefore applicable) to courts when dealing with the volume of cases they are must handle. Court rules are clear and readily available. Just as importantly, the court rules help lower courts understand the Supreme Court's ideals and goals for administering justice.

Requiring prosecutors to approve discovery redactions adds to the staffing burdens of prosecutors, and allows prosecutor offices to relegate those tasks to the back-burner, inhibiting defendants' ability to access their own discovery.

Given the availability of recording software on smartphones, there is little excuse for not recording interviews of witnesses or interrogations. Research has consistently shown that police use suggestive techniques in interrogation tactics—they are trained to do so. Creating a record allows the defense attorney an opportunity to employ an expert to analyze those tactics, and inform the jury of any questionable tactics and the impact they might have had on the interrogation.

The proposed court rules provide more transparency to our criminal justice system. Those who perceive themselves to be on the side of 'justice' should be advocating for a more open system that provides careful documentation, not attempting to shroud their actions as much as possible from oversight and accountability. Just as new scientific research has demonstrated the fallibility of long-held police investigatory tactics (bite mark, fingerprinting, etc.), over time we will see the injustice in long-held court rules. These rule changes are a step in the right direction.

Thank you for considering these rule changes.

-James Herr

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