



April 30, 2019

To Whom It May Concern:

As a Washington State Certified Victim Advocate employed with the Victim Advocacy Program of LCS Northwest in Spokane, Washington, I am writing in concern of the rule changes proposed by the Washington State Supreme Court, specifically regarding CrR 3.8, CrR 4.7 and CrR 4.11. Our program serves survivors of sexual assault and other interpersonal crimes, who are some of our most vulnerable and traumatized community members. These proposed amendments discount a victim's voice and rights, increases their safety concerns and within an already challenging criminal justice system, it tips the scale of balance towards defense and the defendant. There is also apprehension that there will be a ripple effect if these changes are enacted; there will be less crime victim participation in the criminal justice system, leaving people vulnerable to further abuse and harm by the defendant or others who may intimidate them and possibly preventing survivors in reaching out for help with any future crime victimization. As a result, this also impacts their community as loved ones around them may be less inclined to report crimes or reach out for support themselves and ultimately offenders are not held accountable if survivors are not treated with the dignity and respect they deserve and are deterred from the criminal justice system; it's a cyclical effect. Washington State's Crime Victim Bill of Rights (RCW 7.69.030) currently provides narrow protections and these proposed amendments would further limit victim protections.

CrR 3.8 proposes that a victim would be forced to identify their perpetrator on camera, resulting in fear of retaliation and threats to personal safety as this could be released to defense counsel and to the defendant. Further, these recordings would be available as public record which further jeopardizes survivor safety, violation of privacy and fearing intimidation or harassment by defendants or their association. This is already a real fear, often substantiated by defendants' use of direct or third-party contact in attempt to prevent victims from criminal justice participation and seeking safety from them.

CrR 4.7 proposes defense counsel may provide discovery to the defendant without a prosecutor's or court knowledge or approval, including medical records, photos and recordings with limited redactions. This rule would put survivors in unsafe situations with the defendant's access to their address and other confidential and sensitive information that could also be used as a means of control and intimidation in civil legal proceedings such as protective orders, child custody and dissolution cases.

CrR 4.11 proposes defense counsel the right to record victim or witness testimony without their consent, also allowing coercion to agree to the recording, by failing to inform them of the right to refuse and by punishing refusal. This would likely result in a decline of victim participation with prosecution, increasing their safety risks while defeating the purpose of justice and reducing community safety. Further troubling, this would be a violation of Article I, Section 35 of the Washington Constitution which requires that crime victims be afforded due dignity and respect.

On behalf of survivors and community safety, I appreciate your consideration of my comments.

Jenn Davis Nielsen  
Advocacy Supervisor/Victim Advocate  
LCS Northwest  
509.747.8224

**Tracy, Mary**

---

**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Wednesday, May 1, 2019 8:25 AM  
**To:** Tracy, Mary  
**Subject:** FW: Comments on Proposed Court Rule Changes  
**Attachments:** Supreme Court Rules Comments.pdf

**From:** Jenn Davis Nielsen [mailto:jnielsen@lcsnw.org]  
**Sent:** Tuesday, April 30, 2019 7:43 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comments on Proposed Court Rule Changes

Greetings-I have attached comments. Thank you for the consideration on behalf of all crime victims in our state.

Sincerely,

**Jenn Davis Nielsen (she/her/hers)**

*Advocacy Supervisor/Victim Advocate*  
*WA Certified Sexual Assault & Crime Victim Advocate*  
*LCS Northwest Spokane*  
509.343.5043  
[#StartByBelieving](#)  
[Seek Then Speak](#)  
[Instagram](#)  
[Facebook](#)  
[Walker's Instagram](#)  
[Partners In Justice Nomination Form](#)

NOTICE: It is the policy of LCSNW not to use email to transmit unencrypted confidential or sensitive information. But mistakes do happen and if you do receive confidential information from us via email, please notify the sender immediately and delete the message. Thank you for your consideration.