

April 30, 2019

MEMORANDUM

Re: Proposed Changes to CrR and CrRU
To: Clerk of the Supreme Court
From: Lucy Berliner, MSW, Director Harborview Center for Sexual Assault and Traumatic Stress

Our program serves victims of sexual assault, child abuse and violent crimes. We have worked for the past forty years to counter the fears and worries that victims, especially victims of sexual assault, have about participation in the criminal justice system. One of the most common concerns is the expectation of relentless challenges to their credibility.

I am writing in response to proposed amendments to the Superior Court Criminal Rules (CrR) and Criminal Rules for Courts of Limited Jurisdiction (CrRU). We object to changes that would require all victim statements to be recorded and if a victim refuses, the court should instruct the jury that refusal may reflect a lack of credibility or bias on the part of the victim.

This rule assumes that refusal is related to credibility, whereas there are many reasons that victims may not want interviews recorded. They might still be in shock in the immediate aftermath of the crime. There may be certain aspects of the victimization that produce extreme distress to describe or are experienced as shameful. Victims may be justifiably worried about who will have access to the recording, including the possibility that the accused offender will receive it. While these concerns are most heightened for sexual assault, they may apply to victims of other violent crimes.

We urge you not to adopt rules that will make the experience of participating in the criminal justice process even more onerous and adversarial. If we want victims to report crimes and participate in the criminal justice process, the system must consider their rights and needs. In WA these rights are enshrined in law (RCW 7.69.010).

Harborview Center for Sexual Assault & Traumatic Stress

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Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 4:07 PM
To: Tracy, Mary
Subject: FW: Proposed court rule changes
Attachments: Harborview Response Proposed Rule Change.docx

From: Lucy Berliner [mailto:lucyb@uw.edu]
Sent: Tuesday, April 30, 2019 4:04 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed court rule changes

Please see the attached response.
Lucy

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