

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, March 13, 2019 2:06 PM
To: Tracy, Mary
Subject: FW: Objection to Proposed Rule Changes to CrR 3.7, 3.8, 3.9, 4.7, and 4.11

For you. ☺

From: Longanecker, Mindy K [mailto:Mindy.Longanecker@seattle.gov]
Sent: Wednesday, March 13, 2019 2:04 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Objection to Proposed Rule Changes to CrR 3.7, 3.8, 3.9, 4.7, and 4.11

Good afternoon,

To whom it may concern, I am writing to express my objections to and concerns with the proposed rule changes to Criminal Rules 3.7, 3.8, 3.9, 4.7, and 4.11. These proposed rule changes are rash and unnecessary. They will have little to no impact on the fair and just adjudication of criminal cases. However, they are poorly crafted, will crowd the courts with additional litigation to define various undefined terms, put unnecessary burdens on law enforcement, and chill witness and victim cooperation with criminal investigations, especially amongst our most disadvantaged.

Based on both my personal and professional experience, I have a wealth of subject matter expertise in how these rules will play out in practice. Since 2009, I have served as a criminal prosecutor for the Pierce County Prosecuting Attorney's Office, the King County Prosecuting Attorney's Office, and the Seattle City Attorney's Office. I now serve as the South Precinct Liaison for the Seattle City Attorney's Office, where I work directly with Officers in helping interpret the law and how it applies to their practices. I have also personally been the victim of violent crime, and have a number of friends and associates who have been victimized, as well.

Proposed CrR 3.7, 3.8, and 4.11 all involve recording of individuals who have information regarding a case. These will be as complex for Officers to institute as they will be chilling to witness and victim cooperation. They will particularly discourage the participation of the most disenfranchised and vulnerable in our society – think undocumented immigrants, the LGBTQ community, children, etc. – in our justice system.

Proposed CrR 3.8 & 3.9 both deal with identification of suspects. These are solutions without problems. Counsel can certainly raise any procedural irregularities and/or bias issues during cross-examination of identification witnesses, but those should go to the weight and not the admissibility of identification evidence. As someone who has been a victim of violent crime perpetrated by a stranger, I have done my best to purposefully avoid my attacker; but I certainly believe I would recognize him if I saw him again, even years later. Those are not faces one forgets.

Proposed CrR 4.7 greatly, unnecessarily, and impossibly expands the duties of prosecutors. "Others acting on the State [or prosecutor]'s behalf" could be construed incredibly broadly to include prosecution witnesses, the police, other state agencies, or practically anyone. *Brady* and RPC 3.8(g) already apply on top of any court rules, have been litigated to the hilt, and are sufficient to define what is material to a case. Furthermore, by including a requirement of disclosure of all evidence that tends to impeach any State witness, without limiting that obligation to material evidence, this rule would radically and needlessly expand *Brady*. Proposed CrR 4.7 also undermines the safety and privacy of victims and witnesses by allowing for various information – such as where a victim or witness attends school or works, a victim's medical records, photographs of a victim, etc. – to be disseminated to defendants without any notice to the prosecutor or court, discouraging their participation in our justice system as well as Officer's collection of pertinent evidence and information as part of their investigation.

I urge the Court – in the strongest terms possible – against adopting these extreme, unnecessary, concerning rules that will undermine the operations of our criminal justice system, as well as the privacy and rights of victims and witnesses.

Sincerely,



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South Precinct Liaison

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