

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, February 13, 2019 8:07 AM
To: Tracy, Mary
Subject: FW: Proposed new Criminal Rules and changes to current Criminal Rules

From: O'Toole, Scott [mailto:Scott.Otoole@kingcounty.gov]
Sent: Saturday, February 9, 2019 7:23 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed new Criminal Rules and changes to current Criminal Rules

I write to voice my opposition to the proposed new Criminal Rules and changes to current Criminal Rules; specifically, proposed CrR 3.7, 3.8, 3.9 and 4.1, and proposed amendment to CrR 4.7. I have practiced law for more than 35 years, and criminal law for 30 years as deputy prosecuting attorney. I have had the opportunity to review the concerns raised by others regarding the changes in the rules and agree that they are significant. It is obvious to anyone who has practiced criminal law for a significant period of time, on either side of the bar, that the proposed rules and changes are not directed at enhancing the search for truth; they are designed to impede that search. Further, and most disturbing, it is clear that there is an element of gamesmanship underlying the proposed changes. Unable to persuade trial court and appellate judges of experience who realize and appreciate the real-world impact of the proposed changes on the criminal justice system, some in the defense bar have decided to "solve" the problem at the source – through "legislation" in the form of the Criminal Rules. No one in their right mind who is involved in the criminal justice system (judges, prosecutors and most defense counsel) would ever view the proposed changes as anything than what they are – rules designed to cripple effective law enforcement and negatively impact prosecutions. It is my sincere hope that the Supreme Court will see the proposed changes as a transparent attempt not to improve the process, but to affect outcomes. The effect on victims and witnesses, as well as law enforcement investigations and subsequent prosecutions would be devastating. Thank you for considering my comments.

Scott O'Toole

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