



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N · Olympia, WA 98501-1091 · (360) 902-2200, TTY (800) 833-6388
Main Office Location: Natural Resources Building · 1111 Washington Street SE · Olympia, WA

April 27, 2019

TO: Clerk of the Washington Supreme Court
FROM: Chief Steve Bear, Department of Fish & Wildlife Enforcement Program
RE: Proposed Court Rules

Dear Clerk of Court:

On behalf of the Department of Fish and Wildlife, I am contacting you and the justices of the Washington Supreme Court to convey my strong opposition to the proposed court rules currently before the Court.

Each day, our officers make contact with hunters and anglers statewide to enforce fishing and hunting laws and rules, educate individuals and protect our state's natural resources. The effect of the proposed rules would undermine our agency's mission to conserve our state's natural resources and support recreational commercial hunting and fishing opportunities for the public.

Here is a brief summary of my opposition to each proposed rule change:

- CrR 3.7: The audio-visual recording of all custodial and non-custodial interrogations would be unduly burdensome on our officers, discourage contact with the public even for educational purposes and lead to the expenditure of significant administrative costs by the department.
- CrR 3.8: The recording of eyewitness identification would impede effective law enforcement because many individuals are reluctant to be recorded. This rule may result in the intimidation of victims (and witnesses) when recordings of them making an identification are circulated by the defendant through a Public Records Act request. Also, complying with this rule would be very costly for the department.
- CrR 3.9: Requiring that a witness cannot make an in-court identification if the defendant is unknown to the witness or there has been no prior identification is arbitrary and would prevent the jury from hearing relevant evidence.

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- CrR 4.7: The enlarged discovery requirements on the part of the prosecutor would create an undue burden on deputy prosecutors. Furthermore, it may have a chilling effect on the victim's ability to identify a possible defendant.
- CrR 4.11: Requiring that a jury be instructed to take into consideration when a witness declines to be recorded during an interview undermines the role and protection of a witness. This rule would coerce the witness to agree to do a recording by failing to inform them of the right to refuse and by punishing a refusal. This may have the effect of causing witnesses to refuse to cooperate with the prosecution and ultimately reduce community safety.

Thank you for your consideration of my comments.

Respectfully Submitted,

Chief Steve Bear
Department of Fish & Wildlife
State of Washington

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 2:58 PM
To: Tracy, Mary
Subject: FW: Comments on Proposed Court Rules - 3.7, 3.8, 3.9, 4.7, 4.11 CrR
Attachments: DFW Chief Bear - Response to Court Rules.doc

From: Bird, Scott A (DFW) [mailto:Scott.Bird@dfw.wa.gov]
Sent: Tuesday, April 30, 2019 2:50 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments on Proposed Court Rules - 3.7, 3.8, 3.9, 4.7, 4.11 CrR

This letter is being sent on behalf of the Department of Fish and Wildlife Enforcement Program.

Thank you.