



## Lewis County Prosecuting Attorney's Office

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April 14, 2023

Ms. Erin L. Lennon, Clerk  
Washington State Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929  
Email: supreme@courts.wa.gov

RE: Proposed Amendment to RAP 10.10

Dear Ms. Lennon:

This letter is to provide comment and express concern regarding the Washington State Office of Public Defense proposed amendments to the Rules of Appellate Procedure, RAP, 10.10. The proposed rule fails to employ any of the safeguards built into the discovery rules and allows unfettered access by defendants to materials they would not have access to under any other circumstances.

The proposed change to RAP 10.10, when a defendant requests a copy of the record, the appellate counsel shall send all of the Clerk's papers and the exhibits that were transmitted to the Court of Appeals. There are many types of items that are admitted as exhibits that are inappropriate for a defendant to have unfettered access to. Further, this rule does not require the defendant to remain in control of the items sent, and therefore they would be free to copy and disseminate exhibits they received from their counsel.

During a trial exhibits such as autopsy photos, child interviews, depictions of minors engaged in sexually explicit activity, banking records, driver's licenses and other means of identification, medical records, mental health and counseling records, videos of crime scenes, and more. This amendment will force prosecutors to obtain protection orders in all cases to prevent the unfettered access this type of material. Material that the Court necessarily understood should not be available without oversight and restrictions. See, CrR 4.7(h).

Additionally the rule does not address exhibits and Clerk's papers that are not allowed into the prisons per Department of Corrections policies. It further does not address forms of media, DOC policy in regards to accepting electronic media (CDs, flash drives), and also how incarcerated individuals will be able to secure access to these materials. In all of the cases I have worked, as an appellate deputy for over 12 years, access to electronic media must be in the Law Library, and access to the Law Library in some institutions is limited due to staffing

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issues. This will only increase the time it will take to have Statement on Additional Grounds for Review filed.

For the reasons outlined above, I respectfully request the rejection of the proposed rule change.

Respectfully,

A handwritten signature in black ink, appearing to be 'S. Beigh', with a long horizontal line extending to the right.

Sara I. Beigh  
WSBA No. 35564  
Senior Deputy Prosecuting Attorney

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Martinez, Jacquelynn](#)  
**Subject:** FW: Comment for RAP 10.10 amendment  
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[Letter to Proposed RAP 10.10 Amendment.pdf](#)

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**From:** Sara Beigh <Sara.Beigh@lewiscountywa.gov>  
**Sent:** Friday, April 14, 2023 2:46 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
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Clerk Lennon,

Please accept the attached letter for comment on the proposed amendment to RAP 10.10.

Respectfully,

*Sara I. Beigh*

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