

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Comment re Proposed New RAP 18.25 – Use Of Initials - When Required
Date: Wednesday, April 24, 2024 8:29:22 AM

From: Guthrie, Stephanie <Stephanie.Guthrie@kingcounty.gov>
Sent: Tuesday, April 23, 2024 6:01 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment re Proposed New RAP 18.25 – Use Of Initials - When Required

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I am writing to strongly urge the Court to adopt the proposed new RAP 18.25. This rule is desperately needed to protect children and victims (and alleged victims, even if their courageous reporting of a crime does not result in conviction) of sex offenses from having the terrible details of their worst experiences come up in a casual google search due to the intransigent insistence of certain appellate defense attorneys that their full names should be included in appellate briefs. Using the full names of victims of sexual assault in appellate opinions can only serve to embarrass victims and alleged victims and discourage them from cooperating in prosecution. Appellate briefs appear as results in google searches, and no victim wants the details of their worst experience to be among the first results found in a casual internet search. Further, victims' safety may be put at risk by the use of their full names in briefing, as recitation of the testimony at trial sometimes includes other information about victims' homes and families that could be used to locate them.

The Supreme Court, and all divisions of the court of appeals, routinely use initials in their opinions to protect the privacy of children and adult victims of sex offenses, and Divisions Two and Three of the Court of Appeals have had general rules in place for more than a decade requiring that initials or pseudonyms be used to varying extents in pleadings, motions, and briefs filed with the court (see below). However, Division One has thus far failed to adopt such a general order. As a result, attorneys employed by the Washington Appellate Project (one of two firms contracted to provide appellate counsel for indigent defendants in King County and across the State) routinely use the full names of child victims/witnesses, and of adult victims of sex offenses, in their briefing. I and other members of my office have repeatedly reached out to WAP attorneys to request that they protect the privacy of the minors and sex-offense victims they discuss in their briefing, and they have repeatedly refused. The only justification provided for such refusal has been the assertion that to use initials rather than full names would be a violation of the constitutional guarantee of open courts. This contention has been rejected by Washington courts, e.g., State v. Mansour, 14 Wn. App. 2d 323, 333, 470 P.3d 543 (2020) (use of a victim's initials in court documents in the first instance is not a closure for purposes of an open courts analysis), yet some attorneys continue to refuse to use

initials or pseudonyms in their briefing.

RCW 7.69.010 states: “In recognition of the severe and detrimental impact of crime on victims . . . and the civic and moral duty of victims . . . to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent . . . to grant to the victims of crime . . . a significant role in the criminal justice system. **The legislature further intends to ensure that all victims . . . of crime are treated with dignity, respect, courtesy, and sensitivity;** and that the rights extended in this chapter to victims . . . are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.” I ask the Court to demonstrate respect, courtesy, and sensitivity for victims of sex offenses and for children by adopting the proposed rule to ensure that their privacy is protected.

General Orders of Division II

2023-2 Using Victim Initials

In light of the increased availability of court documents through electronic sources, this Court concludes that additional steps are required to protect the privacy interests of victims and child witnesses in cases involving sexual misconduct. Accordingly, it is hereby

ORDERED that in all pleadings, motions and briefs filed with this court, all parties shall use initials in place of the names of all victims and child witnesses in cases involving sexual misconduct except for use of the victim’s or witness’s name in the existing case caption. The parties or the court may address the case caption as provided in RAP 3.4.

ORDERED that unless otherwise ordered by the Court, a record on appeal containing the names of victims or child witnesses in cases involving sexual misconduct is not subject to redaction. However, if portions of the record are copied into a party’s pleadings, motions, or briefs or into an attached appendix, the copied record shall be redacted so as to replace the names of victims and child witnesses with initials.

ORDERED that in all opinions, orders and rulings, this Court shall use initials in place of the names of all victims and child witnesses in cases involving sexual misconduct except for use of the victim’s or witness’s name in the existing case caption. The parties or the court may address the case caption as provided in RAP 3.4.

This General Order replaces and supersedes General Order 2011-1, which is rescinded.

Source: https://www.courts.wa.gov/appellate_trial_courts/?fa=atc.genorders_orddisp&ordnumber=2023-2&div=II

General Orders of Division III

In RE the Use of Initials or Pseudonyms for Child Victims or Child Witnesses

In light of the increased availability of court documents through electronic sources, the Court concludes that additional steps are required to protect the privacy interests of children. Accordingly, it is hereby

ORDERED that in all opinions, orders and rulings, this Court shall use initials or pseudonyms in place of the names of all witnesses or victims known to have been under the age of 18 at the time of any event in the case. It is further

ORDERED that in all pleadings, motions and briefs filed with this Court all parties shall use initials or pseudonyms in place of the names of all child witnesses or any victims known to have been under the age of 18 at the time of any event in the case.

DATED: June 18, 2012

Source: https://www.courts.wa.gov/appellate_trial_courts/?fa=atc.genorders_orddisp&ordnumber=2012_001&div=III

General Orders of Division III

In Re The Matter of Victim Initials

THE COURT OF APPEALS OF WASHINGTON

IN RE THE MATTER OF)

VICTIM INITIALS) **GENERAL COURT ORDER**

IN LIGHT OF the increased availability of court documents through electronic sources, the Court concludes that additional steps are required to protect the privacy interests of sexual assault victims and alleged victims. Accordingly, it is hereby

ORDERED that in all pleadings, motions and briefs filed with this Court all parties shall use initials in place of the names of all victims and alleged victims of sexual assault, unless the victim's or alleged victim's name is already in the case caption. The parties or the court may address the case caption as provided in RAP 3.4.

ORDERED unless otherwise ordered by the court, a record on appeal containing the name of a victim or alleged victim of sexual assault is not subject to redaction. However, if portions of the record are copied into a party's brief or the appendix to the brief, the copied record shall be redacted so as to replace the victim's or alleged victim's name with initials.

DATED this 22nd day of September, 2023.

Source: https://www.courts.wa.gov/appellate_trial_courts/?fa=atc.genorders_orddisp&ordnumber=2023_3&div=III

Stephanie Finn Guthrie (she/her)

Senior Deputy Prosecuting Attorney, Appellate Unit

Contested Blake Resentencing Coordinator

King County Prosecuting Attorney's Office

516 3rd Avenue | Seattle | WA | 98104

Phone: (206) 477-9527

Email: stephanie.guthrie@kingcounty.gov