

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Objection to proposed court rule changes - CrR 8.3 & CrRLJ 8.3
Date: Tuesday, April 30, 2024 2:28:44 PM
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From: Georgieva, Kristina <Kristina.Georgieva@seattle.gov>
Sent: Tuesday, April 30, 2024 2:26 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Objection to proposed court rule changes - CrR 8.3 & CrRLJ 8.3

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To: Supreme Court
Re: Proposed amendment to CrR 8.3 and CrRLJ 8.3

I am writing to object to the proposed amendments to CrR 8.3 and CrRLJ 8.3. The proposed amendment fails to consider public interest in prosecuting crimes and protecting victims of crimes. It would eliminate the requirement for a connection between government misconduct and a defendant's ability to receive a fair trial.

Additionally, it overlooks a victim's right to justice and protection from the defendant, while violating the separation of powers by allowing dismissal of prosecutions based on policy considerations and disagreements with prosecutors. This rule, by not requiring judges to determine whether the defendant has been prejudiced, can particularly harm survivors of domestic violence and sexual assault in several ways:

1. Dismissal without consideration of victim impact: Without assessing prejudice to the defendant, a trial court may dismiss cases without fully considering the impact on the victim.
2. Lack of legal protections: Victims of crimes, particularly domestic violence and sexual assault survivors, rely on legal protections such as no-contact orders. If cases are dismissed without consideration of victim's safety, these legal protections may not be enforced.
3. Victim's right to participation: Victims have the right to participate in criminal proceedings and have their voices heard. Dismissing cases without considering the impact on victims undermines this right and can discourage victims from reporting crimes or participating in the legal process.

Importantly, this rule does not require courts to use a balancing test, but rather allows courts to act "in furtherance of justice," which is open to interpretation. This means courts are not required to weigh the safety of the victim against other factors such as whether the action has materially prejudiced the defendant's right to trial. Moreover, excessive judicial involvement in prosecutorial decisions could hinder the prosecutor's ability to pursue accountability, rehabilitation, and effective allocation of resources.

As noted in *Newman v. United States*, “[f]ew subjects are less adapted to judicial review than the exercise by the Executive of his discretion in deciding when and whether to institute criminal proceedings, or what precise charge shall be made, or whether to dismiss a proceeding once brought.” 382 F.2d 479, 480 (D.C. Cir. 1967).

Under the proposed rule, the trial courts’ ability to consider these issues fully is limited without having the benefit of reviewing all aspects of the investigation. The proposed amendment as written is simply too broad.

Thank you for your time and consideration.

Sincerely,



Kristina Georgieva

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