



# Lewis County Prosecuting Attorney's Office

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April 29, 2024

Washington State Court Rules & Procedures Committee

RE: Proposed Changes to CrR and CrRLJ 8.3, 3.2, and 4.7

Dear Committee Members:

I write this letter is to provide comment and opposition to the proposed amendments to CrR/CrRLJ 8.3, 4.7, and 3.2.

I oppose the proposed changes to CrR and CrRLJ 8.3.

This proposed changed would allow judges to dismiss any criminal proceeding for an arbitrary action or government misconduct without defining the terms or setting parameters for the judge's determination. The broad language sets up the rule to be implemented in a disparate fashion amongst jurisdictions.

Additionally, the proposed rule violates the separation of powers between the prosecutor and the judiciary. A judge could dismiss the case because they conclude the decision to prosecute is an arbitrary action based upon reading the probable cause statement. A judge could disagree with the Prosecutor's position regarding the prosecution of some offenses and conclude prosecuting those crimes are arbitrary actions or government misconduct. It is not for the court to make such determinations.

I oppose the proposed changes to CrR and CrRLJ 4.7.

This proposed rule allows defense counsel to provide redacted discovery that is consistent with published guidelines crafted through the local rule making process of Municipal, District, and Superior Courts. This leads to the potential that each county could have multiple guidelines because of the numerous courts located within the county. Further, the rule only requires "guidelines," thereby opening the door to a great deal of discretion and unequal application. There is no requirement that the prosecutor receive a copy of the redacted version of the discovery. This omission precludes the prosecutor from being able to identify disagreements or errors in the redaction. Additionally, the rule will likely result in the prosecutor scheduling hearings upon the release of discovery. Discovery is often released in installments, which could result in multiple hearings being set.

**It is the Mission of the Lewis County Prosecutor's Office to zealously seek justice in all criminal matters, consistently promote public confidence in the legal system, and diligently represent county government while adhering to the highest ethical and moral standards**

I oppose the proposed changes to CrR and CrRLJ 3.2.

This proposed rule change effectively reduces a judge's bail determination by 90 percent. The judge has the directive in subsection (d)(6) to set a bond amount "that will reasonably assure the safety of the community and prevent the defendant from intimidating witnesses or otherwise unlawfully interfering with the administration of justice." The mandated reduction of a judge's bail determination is contrary to this directive. The proposed change also does not allow forfeiture of the entire bail amount, only 10 percent. Therefore, without risk of losing the entire bail amount and the guardrails of being responsible to another entity, such as a bonding company, there is minimal risk to a defendant for failing to appear for scheduled court appearances.

For the reasons outlined above, I respectfully request the Committee reject the proposed rule changes.

Respectfully,

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

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