

LEESA MANION (she/her)
PROSECUTING ATTORNEY



King County

Subject: Comment on proposed amendment to Court Rule CrR and CrRLJ 8.3(b).

Dear Clerk of the Supreme Court,

I am writing to formally express strong opposition to the proposed amendment to CrR and CrRLJ 8.3(b), which would remove the longstanding requirement that dismissals for governmental misconduct occur only “when there has been prejudice to the rights of the accused which materially affect the accused’s right to a fair trial.” As Chair of the Domestic Violence Unit in the King County Prosecuting Attorney’s Office, I supervise the prosecution of over 1,000 felony domestic violence (DV) cases annually. Based on decades of experience, I believe this proposed change would have profound and negative consequences for victim safety, community trust, and judicial integrity.

Under the current rule, courts are charged with ensuring that dismissals are tethered to demonstrated prejudice to the accused’s constitutional trial rights. This standard maintains procedural fairness while providing a meaningful check on governmental overreach. The proposed amendment would remove this constitutional guardrail and authorize courts to dismiss criminal cases based on broader, less concrete, and more subjective considerations—including perceived systemic bias, structural inequities, or generalized claims of unfairness untethered from a specific legal violation.

This change risks disproportionately affecting domestic violence cases, where the factual record is often complicated by recantation, intimidation, or strategic noncooperation. As the U.S. Supreme Court noted in *Davis v. Washington*, 547 U.S. 813, 826–27 (2006), “This particular type of crime is notoriously susceptible to intimidation or coercion of the victim to ensure she does not testify at trial.” These pressures often result in prosecutorial or procedural complexity that could be mischaracterized as misconduct—particularly in high-volume, emotionally charged DV dockets where marginalized victims already face structural barriers to justice.

As documented in *Recantation and Domestic Violence: The Untold Story* (Bonomi & Martin, 2024), abusers often use coercive control and emotional manipulation—rather than physical threats—to induce victims to recant, withdraw, or disengage. In such cases, what might appear procedurally irregular (e.g., delays in disclosure, non-cooperation, or hearsay reliance) is in fact the direct result of the abuse itself. If trial courts are empowered to dismiss these cases without a showing of actual prejudice to the accused’s trial rights, the rule risks institutionalizing the very coercion it is meant to guard against.

Moreover, this change would run counter to the court’s obligation to balance the rights of the accused with the rights of victims and the public interest in accountability. Domestic violence victims—especially those from historically marginalized groups—already face barriers to

accessing justice. In King County, approximately 63% of felony DV victims are people of color. The removal of the prejudice requirement could increase the likelihood of dismissal in precisely those cases most vulnerable to manipulation, thereby eroding community trust and disproportionately harming victims from underrepresented communities.

The four factors enumerated in the proposed amendment are vague, internally inconsistent, and ultimately unmoored from any constitutional baseline. Without a clear requirement that governmental misconduct must materially affect the accused's right to a fair trial, the factors invite arbitrary or ideologically driven decisions—effectively substituting judicial belief for legal standard. Additionally, the Washington State Civil Legal Needs Study and the judicial branch's own access-to-justice priorities emphasize the importance of procedural consistency, transparency, and safeguarding marginalized populations. See [Washington State Civil Legal Needs Study Update Washington State Supreme Court](#). A rule that allows for case dismissal without a constitutional standard or articulated prejudice risks undermining those priorities and weakening the credibility of the courts.

The proposal is further justified by referencing system-wide racial disparities, but offers no mechanism for case-specific relief rooted in actual prejudice. To conflate systemic inequity with individualized dismissal, without due process analysis or constitutional scrutiny, risks creating inconsistent outcomes and undermining public trust—especially when similarly situated defendants receive divergent treatment under vague judicial assessments of “confidence in the justice system.”

Lastly, public confidence in the criminal legal system depends on accountability, especially in crimes involving power, control, and repeated violations of court orders. If community members perceive that domestic violence cases can be dismissed for amorphous or political reasons, rather than based on objective legal standards, the legitimacy of the courts will be diminished, and victims may be less likely to report abuse or cooperate in prosecution.

For these reasons, I strongly urge the Court to reject the proposed amendment to CrR/CrRLJ 8.3(b). The current rule strikes the proper balance between holding government actors accountable and ensuring that criminal dismissals are grounded in concrete, demonstrated prejudice to the accused's right to a fair trial. To remove that standard would not only destabilize domestic violence prosecution but also risk incentivizing further abuse through legal manipulation.

Thank you for the opportunity to provide input on this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "David Martin", written over a horizontal line.

David Martin
Chair, Domestic Violence Unit
King County Prosecuting Attorney's Office

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Farino, Amber](#)
Cc: [Ward, David](#)
Subject: FW: Comment Rule 8.3
Date: Thursday, April 17, 2025 1:20:39 PM
Attachments: [8.3 Letter from David Martin, KCPAO DV Unit 4.17.25.pdf](#)
[image002.png](#)

From: Martin, David (PAO) <David.Martin@kingcounty.gov>
Sent: Thursday, April 17, 2025 10:56 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
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Good morning,
Please find attached my comment on the proposed changes to 8.3

Sincerely,

David Martin



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Co-Chair, Regional DV Firearm Enforcement Unit
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