

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



LEESA MANION
PROSECUTING ATTORNEY

JUSTICE
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April 29, 2025

Clerk of the Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Amendments to CrR/CrRLJ 8.3.

Dear Justices:

Thank you for seeking comments to the proposed amendments to the Superior Court Criminal Rules (CrR) and Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) submitted by the proponents.¹ After carefully reviewing the proposed amendment to CrR 8.3(b), and in consultation with the victim services community, I strongly urge you to reject the proposal.

The proponents' stated purpose for eliminating the prejudice requirement to CrR 8.3(b), is "empower a judge to dismiss a case in the furtherance of justice..." Instead, the proposed amendment makes the rule effectively standardless, violates the separation of powers doctrine, and does not show, in any meaningful way, how it would further justice.

As a threshold matter, it is important to note that this proposed amendment contains very few changes from the amendment rejected last year. The only meaningful difference between the two proposals is a list of four factors for courts to consider that are based on a New York State law that lists ten factors to consider. Even so, the four factors set forth in the current proposed amendment are all undercut by the inclusion of the phrase, "in addition to any other information the court believes is relevant to the inquiry." That language, along with the lack of any measurable standard, puts this proposed amendment in the exact same position as last year's proposal: allowing any trial judge to dismiss any criminal prosecution for virtually any reason.

Removing the essential requirement that the "arbitrary action" or "governmental misconduct" *must* have resulted in prejudice that materially affected the defendant's right to a fair trial deprives courts of any guidance on when or how to evaluate such claims. As written, the proposed amendment allows a trial court to conclude that anything from the prosecutor's charging decision to the sentencing recommendation, or even the prosecutor's charging standards and allocation of office resources was arbitrary or negligent. This would allow for the dismissal of all charges and convictions in a particular case and could even authorize the dismissal of entire swaths of cases if a trial court concluded that the cases were affected by a particular policy. In other words, this amendment allows for unpredictable and likely disparate results across the state.

¹ Although my comments focus on the proposed changes to the Criminal Rule (CrR), they apply with equal force to the proposed changes to the Criminal Rule of Limited Jurisdiction (CrRLJ), which are identical, and should be considered accordingly.

The proponents also assert that the current rule constrains Washington courts from furthering justice. However, the proponents offer no showing how the proposed amendment would further or improve justice. It is not at all clear that this amendment is warranted. Like last year, there are no cases cited, no examples given, and no explanation of how the current rule has specifically led to unjust results.

A related justification advanced by the proponents is that the amendment would allow judges to address “overrepresentation of black (sic) Americans” in our criminal justice system. The clear inference here is that simply dismissing lawfully filed cases, based upon the race of the defendant, could easily and quickly address the serious and complicated issue of racial disproportionality within the criminal justice system. However, it is entirely unclear how, under the proposed amendment, a judge would evaluate whether an individual case contributes to overrepresentation of people of color in the criminal justice system. It is also unclear what a judge should do in cases where the defendant and victim are both people of color.

Research shows that more than half of the victims in Washington criminal cases are people of color, but people of color only account for less than 35% of the population. Allowing and encouraging such race-based dismissals would violate due process and equal protection, erode public trust, and possibly disproportionately impact victims of color.

Finally, the proponents argue the amendment is necessary to combat broad prosecutorial discretion and aggravated sentencing laws. This suggests that dismissal of a criminal case should be authorized if a trial court disagrees with the charging decision of the prosecutor or the sentences enacted by the legislature. Allowing the dismissal of cases for these types of reasons violates the separation of powers between all three branches of government. The Legislature and prosecutors are constitutionally tasked with making and enforcing the law, respectively. They are accountable to the public. The proposed amendment takes away the voters’ ability to elect representatives who will enact laws they support and to respond to the will of the people by making decisions that reflect the values of the communities they serve.

The amendment also serves to undermine the prosecutor’s ability to respond to the needs of the community and to consider victim input at every stage of prosecution. The King County Prosecuting Attorney’s Office (KCPAO) reviews thousands of felony cases each year and ultimately files approximately 60% of those into Superior Court. This discretion is fundamental to the independent decision making afforded to the elected Prosecuting Attorney. It would be inappropriate for individual trial judges to disregard the Prosecuting Attorney’s discretion and decisions and to simply, instead, substitute their own discretion or decision.

I respectfully urge you to reject the proposed amendments to CrR/CrRLJ 8.3.

Sincerely,



LEESA MANION
King County Prosecuting Attorney

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Farino, Amber](#)
Cc: [Ward, David](#)
Subject: FW: Proposed Amendments to CrR/CrRLJ 8.3.
Date: Tuesday, April 29, 2025 8:47:54 AM
Attachments: [image001.png](#)
[Letter Opposing Proposed Amendment to 8.3.pdf](#)

From: Colasurdo, Mary <Mary.Colasurdo@kingcounty.gov>
Sent: Tuesday, April 29, 2025 8:19 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed Amendments to CrR/CrRLJ 8.3.

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Good morning, Justice of the Supreme Court.

Please find the attached letter from King County Prosecutor Leesa Manion. Thank you!

Best,
Mary



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