From: OFFICE RECEPTIONIST, CLERK
To: Farino, Amber
Cc: Ward, David
Subject: FW: Common on Proposed Rule Change to CrR/CrRLJ 8.3
Date: Thursday, May 1, 2025 8:08:50 AM

From: Reese, Roxanne <roreese@kingcounty.gov>
Sent: Wednesday, April 30, 2025 5:17 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Common on Proposed Rule Change to CrR/CrRLJ 8.3

I am writing to comment in opposition to the proposed change to CrR/CrRLJ 8.3 because it creates a remedy where there has been no harm shown and would require inhuman perfection from prosecutors under threat of a title wave of litigation. This rule change would proliferate CrR/CrRLJ 8.3 Motions to Dismiss to the point of be being litigated in every case, for inevitably, there will an action or inaction by the prosecution *that could be construed* by the defense as having been arbitrary or misconduct—a low bar as established by caselaw. Where there is no barrier of showing some prejudice, and the potential windfall of a dismissal, the cost/benefit analysis would undoubtably lead defense attorneys to conclude that they would be providing ineffective assistance of counsel if they *did not* bring a CrR/CrRLJ 8.3 Motion to Dismiss on their client's behalf.

And while, increased litigation is not, in and of itself, a reason to reject an amendment, its total divorce from a fair and just outcome is. The proposed change in favor of a policy-based factor analysis would lead to wide disparity and inconsistency between similarly situated defendants due to the excessive discretion that it would endow with judicial officers. These motions would quickly become a running commentary of what crimes—as articulated by the legislature—a given judicial officer subjectively considers "serious" and "impactful." That is not the role of a neutral arbiter.

Thank you,
Roxanne Reese