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To: [Farino, Amber](#)
Subject: FW: Comment to Proposed Court Rule CrR/CrRLJ 8.3
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From: Sara Tagart Beigh <sara.beigh@lewiscountywa.gov>
Sent: Friday, April 25, 2025 10:41 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment to Proposed Court Rule CrR/CrRLJ 8.3

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Dear Committee Members:

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

I oppose the proposed changes to CrR and CrRLJ 8.3.

This proposed change is similar to the rejected 2024 proposed amendment to the rule. This amendment allows judges to dismiss any criminal proceeding for an arbitrary action or government misconduct, but this time includes vague and ambiguous factors for the court to consider when making its ruling. The addition of these factors are not helpful in achieving the purported goal of the drafter. The broad language sets up the rule to be implemented in a disparate fashion amongst jurisdictions.

Further, the removal of the prejudice standard is contrary to this Court's precedent. *State v. Michielli*, 132 Wn.2d 229, 239-40, 937 P.3d 587 (1997). Over 20-years ago, this Court has reaffirmed the long-held standard that "dismissal of charges is an extraordinary remedy ... available only when there has been *prejudice to the rights of the accused which materially affected the rights of the accused to a fair trial.*" *State v. Rohrich*, 149 Wn.2d 647, 653-54, 71 P.3d 638 (2003) (citing *State v. Baker*, 78 Wash.2d 327, 332-33, 474 P.2d 254 (1970) (emphasis added)). The removal of this standard violates constitutional principles, including due process. *State v. Cantrall*, 111 Wn.2d 385, 758 P.2d 1 (1988).

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. The judge could disagree with the conviction or the sentencing recommendation and determine this is an arbitrary action or government misconduct. It is not for the court to make such determinations. .

The rule as currently written works. The extraordinary remedy of dismissal is granted when appropriate. This Court changing a rule that would allow for a dismissal on less than a violation of the defendant's right to a fair trial does not promote justice. Rather it promotes inequality and dismissed public safety and the victim's rights.

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

Respectfully,

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