

Cooper Offenbecher
President

Lauren Bramwell
Executive Director

April 30, 2025

Sent via email to supreme@courts.wa.gov

Washington State Supreme Court
Court Rules Committee
supreme@courts.wa.gov

Re: Proposed changes to CrR/CrRLJ 8.3 (Dismissal)

Honorable Justices of the Supreme Court:

The Washington Association of Criminal Defense Lawyers (WACDL) strongly supports the proposed amendments to CrR 8.3 and CrRLJ 8.3 in their entirety. The rule change is a much-needed reform that restores balance to the criminal legal system by empowering trial courts with the discretion to dismiss cases in the interest of justice.

WACDL also supports a version of the rule in which consideration of the four enumerated factors is permissive (“may”) rather than mandatory (“shall”), which preserves judicial discretion and flexibility in application. As outlined in the proponents' GR 9 cover sheet, the current version of CrR 8.3(b) has proven too narrow and inflexible to address many of the real-world challenges that arise in criminal proceedings. Under the existing rule, judges are significantly constrained in their ability to dismiss cases—even where there is serious governmental misconduct or where continuing the prosecution would clearly undermine the interests of justice.

The proposed amendment corrects this by allowing courts to evaluate the totality of circumstances, not only at trial but across the lifespan of a case, including pretrial matters like competency hearings. It recognizes that miscarriages of justice and systemic failures are not confined to the courtroom and gives judges the ability to respond accordingly.

Importantly, the proposed rule also allows for a broader, more inclusive range of considerations. Judges would be able to weigh victim input, evaluate prosecutorial and law enforcement misconduct at all stages of the case, and consider the long-term consequences of prosecution on the individual and the community. These tools are vital to ensuring that our justice system does not operate in a vacuum, but rather reflects the full context of each case.

The rule further empowers courts to serve their constitutional role as a check on the executive branch. By granting judges the authority to dismiss cases in furtherance of justice, it sends a clear signal that misconduct—whether by prosecutors or law enforcement—will not be tolerated. This creates a meaningful incentive for all actors in the system to uphold the highest standards of integrity and professionalism.

These proposed changes to CrR 8.3 are urgently needed to address recurring patterns of prosecutorial conduct that undermine fairness but are rarely remedied under the current rule. For example, defense attorneys frequently face late discovery disclosures—sometimes just days before trial—forcing defendants into a Hobson’s choice between their right to a speedy trial and their right to effective assistance of counsel. In other cases, defense teams uncover *Brady* material on their own, clearly suppressed by the State, yet courts decline to dismiss because the material was “ultimately” found in time for trial, overlooking the systemic failure and constitutional violation involved. Another common scenario arises when prosecutors withhold the identity of a confidential informant until the eve of trial, preventing the defense from conducting any meaningful investigation. If that informant's identity then creates a conflict for defense counsel, the client must wait weeks or months for new counsel to be appointed and prepared—through no fault of their own. The amended rule would empower courts to respond meaningfully to these injustices, and deter conduct that disrupts the integrity of the process and delays justice for all parties involved.

WACDL believes that this rule change will elevate the overall quality of justice in Washington. By centering fairness, accountability, and judicial independence, it moves our system closer to one that truly serves the public interest and respects the rights of all individuals—especially those most vulnerable to misuse of prosecutorial power.

We urge the Supreme Court to adopt this critical reform to CrR 8.3 and CrRLJ 8.3 and support the rule's goals of fairness, equity, and a more principled criminal legal system.

Thank you for your consideration,



Cooper Offenbecher
WACDL President



Emily Gause
WACDL Court Rules Committee Co-Chair



Christopher Taylor
WACDL Court Rules Committee Co-Chair

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Farino, Amber](#)
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Subject: FW: WACDL Court Rule Public Comments
Date: Wednesday, April 30, 2025 3:46:30 PM
Attachments: [WACDL 3.1.pdf](#)
[WACDL 3.2.pdf](#)
[WACDL 4.1.pdf](#)
[WACDL 8.3.pdf](#)
[WACDL RAP 10.2.pdf](#)
[WACDL CR 12.pdf](#)
[WACDL 17.7.pdf](#)
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From: Lauren Bramwell <Lauren@wacdl.org>
Sent: Wednesday, April 30, 2025 3:34 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Cooper Offenbecher <cooper@ahmlawyers.com>; Emily Gause <emily@emilygauselaw.com>; Christopher Taylor <taylor@crtaylorlaw.com>
Subject: WACDL Court Rule Public Comments

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Good Afternoon,

Please see the attached comments submitted on behalf of the Washington Association of Criminal Defense Lawyers (WACDL) regarding the following proposed rules:

- CrR/CrRLJ 3.1 (Appellate Caseloads)
- CrR/CrRLJ 3.2
- CrR/CrRLJ 4.1
- CrR/CrRLJ 8.3
- CR 12
- RAP 10.2
- RAP 17.7
- RAP 18.17

Thank you,

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