

Washington State
Minority and Justice Commission

Commission Meeting



TVW: <https://tvw.org/video/washington-state-minority-justice-commission-2022051136/?eventID=2022051136>

Friday, May 13, 2022
9:00 a.m.–12:00 p.m.

Minority and Justice Commission

2022 Meeting Dates

Virtual Meetings held via Zoom Videoconference

Available to the public online at TVW.org

Date	Time	Location
Friday, January 28 th , 2022 01/28/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, March 25 th , 2022 03/25/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, May 13 th , 2022 05/13/22	9:00 AM – 1:00 PM	Zoom Videoconference
Wednesday, June 1 st , 2022 <i>Supreme Court Symposium</i> 06/01/22	9:00 AM – 12:00 PM	Zoom Videoconference
Friday, July 22 nd , 2022 07/22/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, September 30 th , 2022 09/30/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, December 9 th , 2022 12/09/22	9:00 AM – 1:00 PM	Zoom Videoconference

Please contact Frank Thomas at Frank.Thomas@courts.wa.gov or 206-316-0607 if you have any questions.



MINORITY AND JUSTICE COMMISSION

BIMONTHLY GENERAL MEETING

MAY 13TH, 2022

9:00 A.M. – 12:00 P.M.

JUSTICE MARY YU, CO-CHAIR

JUDGE VERONICA GALVÁN, CO-CHAIR

[HTTPS://WACOURTS.ZOOM.US/J/87343241752](https://wacourts.zoom.us/j/87343241752)

MEETING ID: 9873 4324 1752

AGENDA

CALL TO ORDER 9:00 – 9:10 a.m. (10 minutes)

- Welcome and Introductions
- Approval of March 25 Minutes
- Recognition of Service: Ann Benson

CHAIR & STAFF REPORT 9:10 – 10:30 a.m. (80 minutes)

- **Co-Chair Report**
 - NCREF National Conference – Judge Veronica Galván and Frank Thomas
 - Recap of the 2022 NCREF Conference in Grand Forks, North Dakota.
 - Discuss Planning Committee for 2023 Conference in Washington.
- **GR 31 & CrR 2.1: Relating to Juvenile Records** – Justice Mary Yu and Judge Veronica Galván
 - Discuss status of recently-adopted court rules applying best-practices for confidentiality to state juvenile records.
 - Included in Meeting Packet: copy of GR 31 and CrR 2.1 rules as adopted, letters received by Court during public comment period, advocacy letters received by Court.
- **Staff Report**
 - **Debrief SCJA Spring Conference Colloquium, *Pathways to a More Equitable Justice System*** – Judge Johanna Bender and Frank Thomas
 - Jury Diversity Study – Frank Thomas
 - LFO Calculator Update – Frank Thomas
 - 2022 Supreme Court Symposium, *Reparations for African Americans* – Frank Thomas
 - *Date:* Wednesday June 1st, 2022, 8:30 – 12:35 p.m. via Zoom Videoconference

BREAK 10:30 – 10:40 (10 minutes)

LAW STUDENT LIAISON PROJECT UPDATES 10:40 – 11:10 (30 minutes)

- **University of Washington School of Law – Trauma Informed Anti-Racist Approach to Legal Advocacy**
 - Angel Torres Mann, Kenneth Nelson, Priyanka Menon, Wendy Martinez Hurtado
 - *Date:* Tuesday, May 10th, 3:00 – 5:00 PM, via Zoom Videoconference
- **Gonzaga University School of Law – Equity through Accessibility**
 - Maggie Esquivel Torres, Gloria Herrera, Alicia Chaudry, Whitney Wakefield
- **Seattle University School of Law – Expungement Clinic Project Update**
 - Denise Chen, Sean Dong, Sarah Max

COMMISSION LIAISONS & COMMITTEE REPORTS 11:10 – 12:00 p.m. (50 minutes)

- **2022 MJC Artwork Selection: *Sea of Red***, by Kathleen Gale
 - Artist Description: “Sea Of Red” highlights the Field Workers of The Skagit Valley. Their hard work, in challenging conditions, is often ignored or unappreciated by most consumers. I hope to bring their story forward.

- **Outreach Committee** – Judge Bonnie Glenn and Lisa Castilleja
 - CZ Smith Heritage Symposium – Lisa Castilleja and Dean Jacob Rooksby, GU Law
 - Charles V. Johnson Youth & Law Forum
 - Judges of Color Diversity Directory Update
 - G&J and WSMJ Next Steps

 - **MJC Liaisons**
 - **Guidelines and Best Practices for MJC Liaison Reporting** – Judge Veronica Galván
 - **WPI Jury Instruction Video** – Judge Leah Taguba
 - **Access to Justice Board** – Esperanza Borboa
 - **Self-Represented Litigants Work Group** – Josh Treybig and Theresa Cronin
 - **Washington State Bar Licensure Task Force** – Frank Thomas
 - **Sentencing Task Force** – Judge Veronica Galván

Next MJC meeting: Friday, July 22nd, 2022 @ 9:00 a.m. (via Zoom).



**MINORITY AND JUSTICE
COMMISSION**
ZOOM VIDEOCONFERENCE
FRIDAY, MARCH 25TH, 2022
9:00 A.M. – 12:00 P.M.
JUSTICE MARY YU, CO-CHAIR
JUDGE VERONICA ALICEA-GALVÁN, CO-CHAIR



MEETING NOTES

Commission Members

Jeffrey Beaver
Annie Benson
Professor Bob Boruchowitz
Judge Faye Chess
Professor Mark Chinen
Judge Linda Coburn
Thresa Cronin
Grace Cross
Judge Theresa Doyle (ret.)
Jason Gillmer
Judge Anthony Gipe
Judge Bonnie Glenn
Kitara Johnson
LaTricia Kinlow
Karen Murray
P. Diane Schneider
Judge Ketu Shah
Judge Lori K. Smith
Travis Stearns
Judge Leah Taguba
Josh Treybig
Jeremy Walker

AOC Staff

Kelley Amburgey-Richardson
Cynthia Delostrinos
Moriah Freed
Frank Thomas

Liaisons

Wanda Barrett, *Embedded Law Librarian*
Esperanza Borboa, *Access to Justice Board*
Margarita Esquivel Torres, *Gonzaga Law*
Gloria Ixtaly Herrera, *Gonzaga Law*
Whitney Wakefield, *Gonzaga Law*
Alicia Chaudry, *Gonzaga Law*
Wendy Martinez Hurtado, *UW Law*
Angel Torres Mann, *UW Law*
Priyanka Menon, *UW Law*
Ken Nelson, *UW Law*

Guests

Megan Berry-Cohen
Riley Burton
Judge Sara Dannen
Dr. Lisette Garcia
Jaime Hawk
Patty Lally
Dontay Proctor-Mills
Cherif Sidiali

CALL TO ORDER

The meeting was called to order at 9:02 AM

Welcome and Introductions

- Judge Lori K. Smith will be chairing the meeting because Justice Yu and Judge Galvan could not attend today's meeting.

Approval of January 28th Meeting Minutes

- The minutes were approved with correction.

CHAIR & STAFF REPORT

2023 NCREF National Conference – Frank Thomas

- MJC still has space for one additional member to attend the 2022 NCREF Conference. The deadline for registration and lodging is April 1st. Contact Frank Thomas if interested in attending.
- Washington is set to receive host privileges for the 2023 national conference, taking place in Seattle. If the offer to host the conference is accepted, this would mean no Annual Supreme Court Symposium in 2023. All major educational programming would be rolled into this event.
- A budget request was submitted to AOC for a project manager to organize this event and manage the planning Committee. AOC has been supportive of this request, and the AOC Office of Court Innovation will be working with the Office of Minority and Women Owned Business Enterprises to identify an event planner.
- Dates will be finalized when the offer is formally accepted.

Jury Diversity Study – Frank Thomas

- This project is in partnership with researchers at Seattle University and led by Judge Steve Rosen.
- The project is up and running in 3 jurisdictions – Pierce, King and Clark counties.
- Judge Rosen would like to intensify efforts to increase participating counties by the end of the fiscal year. The goal is to get comprehensive jury diversity data to present to the legislature.
- There has been some pushback by jurisdictions who see this survey as an administrative burden.

LFO Calculator Update – Frank Thomas

- This project was originally envisioned and led by Judge Linda Coburn as part of the LFO Consortium. The calculator is now managed by the AOC.
- AOC will work with Judge Coburn to modify the calculator to reflect any LFO law changes.
- Frank Thomas and Cynthia Delostrinos additionally continue meet with Microsoft to develop a consumer facing tool for individuals to more easily track their LFOs, including how to seek relief.

Annual Supreme Court Symposium Update – Frank Thomas

- Wednesday, June 1st, 2022 from 9:00 AM – 12:00 PM via Zoom
- The program will be split into 3 sections that explore the idea of reparations for anti-black discrimination in Washington State:
 - Historical account of anti-black discrimination in Washington.
 - Keynote scholar to discuss in depth the principles and necessity of reparations.
 - Highlighting local initiatives for reparations in Washington.
- Anticipate promotional materials for dissemination by May MJC meeting. CLE credits will be available again this year.

LAW STUDENT LIAISON PRESENTATIONS

University of Washington School of Law Project Proposal: *Trauma Informed Anti-Racist Approach to Legal Advocacy* – Angel Torres Mann, Kenneth Nelson, Priyanka Menon, Wendy Martinez Hurtado

- Thursday, April 28th from 3:00 PM – 5:00 PM via Zoom
- The purpose of this event is to help members of the Washington legal community rethink their approach to legal advocacy entirely that will result in increased sustainability for them as the advocates, holistic care for the people they serve, and outcomes that disrupt unjust systems. This training will result in more confidence from the community that their legal representation is better prepared to providing representation that is more culturally competent and equipped to eliminate biases. This training will provide a basic introduction to concepts relating to trauma and race, leading up to a four-part model that guides legal advocates to tangibly engage in a trauma-informed, anti-racist approach to legal advocacy.
- The event will be led by Lorilei Williams, Shriver Center on Poverty Law.
- It was suggested to send the announcement out through MJC listservs to assist with outreach and connect with a greater audience.
- Commission members asked if there will be a recording or suggested best practices provided as resources.
 - The Liaisons hope to record the event and host it on UW Law's website.
 - Best practices will be proposed with Lorilei Williams.
- Scenarios and strategies will be discussed at the end of the training.
- Feedback survey will be sent to measure success and ask how participants will incorporate trauma informed practices.
- Commission members were in support of the proposal and recognized how trauma informed providers could better serve clients throughout the legal system.
- It was suggested to arrange for CLE credits for the event to draw more participants. The students are working with UW advisors to get the event approved.

VOTE: 1) Judge Glenn 2) Karen Murray. The Commission unanimously voted to approve and provide \$900 support to the UW student's proposal.

Gonzaga University School of Law Project Proposal: *Equity Through Accessibility* – Maggie Esquivel Torres, Gloria Herrera, Alicia Chaudry, Whitney Wakefield

- The purpose of the project is to create a 'one stop shop' compilation of pro bono or low cost legal resources and aid in the realm of family law, broken down by individual Washington counties. Information will be available in the form of a webpage, several

brochures, both of which will be maintained ongoing. The goal is to create ease of access to legal resources for the community relating to family law broadly. The full project proposal is on page 15 of the meeting packet.

- The law students screen shared their proposed materials, both physical pamphlets and an update the MJC website.
- Commission members expressed concern about the cost estimates, particularly for quality translation. The students were encouraged to seek additional estimations for translation, and also web design.
 - Frank Thomas clarified that the web team is internal to AOC and would not incur additional costs.
 - It was recommended to amend the budget request to the maximum allowed by MJC. Frank Thomas suggested moving forward with the \$1000 request today and amending the request after the scope of the project is reevaluated.
- Cynthia Delostrinos noted how this work overlaps with the new AOC equity and access team. She recommended that the LSLs narrow their scope in the project, and connect with courthouse facilitators. For the web update, they could provide an outline for the web developer that will be hired in the coming months for the equity and access team.
- Commission members asked how the project will be maintained long term.
- Commission members were supportive of the creation of resources, and it was noted that there is a need for them statewide.
- Jeremy Walker added that he has experience working with NJP and WA Law Help. From his experience, he thinks brochures will be the most helpful to give people tangible, written items they can take with them.
- Frank Thomas proposed the idea of a “turnkey project” where once the students begin the project, they can turn it over to their partner entities.

VOTE: 1) Judge Glenn 2)Theresa Cronin. The Commission unanimously voted to approve and provide \$1000 in support to the Gonzaga Law Student Liaison’s proposal.

Seattle University School of Law – Expungement Clinic Project Update – Denise Chen, Sean Dong, Sarah Max

- The Seattle University Liaisons received approval for their project at the last meeting.
- The training is scheduled for this morning, and so the Law Student Liaisons were not able to attend today’s meeting.
- Josh Treybig presented at the pre-clinic training this morning and provided an update. He presented on racial disproportionalities in the legal system, and set the framework for the expungement clinic work.
- There was high interest on campus, and they filled all 30 spots at the clinic for student volunteers with a waitlist. The project has come in under budget, in part due to partnering organizations.
- The clinic is scheduled for April 8th.

COMMISSION LIAISON & COMMITTEE REPORTS

Racial Justice Consortium – Patty Lally

- The draft Racial Justice Consortium Action Plan was provided prior to today’s meeting for the Commission’s review. Patty Lally shared that the action plan is intended as a one

year road map to promote belonging and racial equity in the courts. The action plan is centered on accountability for systems actors, and is authored by the judicial branch as a partnership. Patty Lally stressed that the work going forward should be done together, and is hoping for the MJC's continued support in addressing areas of reform.

- There is a list of recommendations in the document for each priority area identified. How do we move from theory to action?
- The Consortium has one final meeting in April.
- Commission members supported use of media to capture the attention of mainstream publications and maintain interest in racial justice. Cynthia Delostrinos and Patty Lally will work with AOC on a communications plan.
- Commission members asked what next steps are for some of the priorities, particularly legislative changes?
 - Work with judicial branch legislative committees on adopting recommendations. Using action plan document to hold internal partners accountable.
- Commission members suggested sharing the action plan with community organizations and advocacy groups to get their feedback.
 - Patty Lally addressed the tension between the action plan drafters and system actors owning and being accountable to their own document, against being directed by impacted individuals. Unless there are healthy and mutually respectful relationships built with outside partners they cannot be maintained and trust cannot be built.
 - Dr. Lisette Garcia also addressed that there are smaller jurisdictions that might not have capacity to incorporate some of these changes.
- Commission members stressed the need for internal buy-in from justice system leaders and holding peers accountable.
- How will issues of racism be addressed when they occur behind closed doors? Courts and staff will need to hold themselves accountable. Internal and external work.

ACTION: Send feedback for the draft Racial Justice Consortium Action Plan to Patty Lally and Frank Thomas.

Education Committee – Judge Lori K. Smith

- The Education Committee revised their mission statement and goals. The revised statement is included in the packet and [online](#).
- MJC will be sponsoring the following upcoming session:
 - SCJA Spring Conference Colloquium, *Pathways to a More Equitable Justice System*, April 26th at 1:30 pm
 - The program is open to all levels of court. A registration link will be circulated.
- The Race Equity in Child Welfare Colloquium is being led by Frank Thomas and Judge McKee. The group is in the process of identifying speakers and developing a program.

Outreach Committee – Lisa Castilleja and Judge Bonnie Glenn

- Justice CZ Smith Award - The event will be hosted by Gonzaga University in the spring. The award is given to one law student from each of the 3 Washington law schools annually for commitment to racial justice.

- Judges of Color Directory – The directory was published and AOC press release published. Judge Chess has an open call out to new appointees to see if they would like to be included. Since the directory is digital, updates are much easier.
- 2022 MJC Artwork Update - Submissions open until 3/31. A reminder email will be sent out to community groups.
- Gender Justice Study Next Steps - Group has been meeting to narrow next steps and has identified the following priorities for MJC:
 - Jury Diversity – Frank Thomas and Riley Burton will be working to address one of the GJ study priorities related to jury diversity that is not addressed by the jury study.
 - Juvenile Research 2.0
 - Incarceration and Civil Proceedings - Work has been transferred to Incarceration, Gender and Justice committee at GJC.
- Board Award Update – A proposed award is being designed. There will be options for consideration in the coming months.

Rules and Legislation Committee – Judge Theresa Doyle

- Judge Doyle observed there has been some pushback to racial justice bills this session and provided updates on the following legislation:
 - Passage of [HB 1412](#) – omnibus LFO bill
 - Some aspects were limited through amendments, but still significant changes for LFO reform.
 - [HB 1169](#) – Concerning sentencing enhancements.
 - This bill received considerable pushback and did not pass.
- GR 31 Amendment
 - This amendment is being proposed in partnership with the MJC Juvenile Justice Committee. The amendment will be voted on by the court next week – concerning juvenile records. Would increase protections for juvenile records and privacy.
- Frank Thomas introduced Megan Berry-Cohen, the new AOC researcher who will be looking into juvenile justice issues.

MJC Liaisons


- **Washington State Bar Licensure Task Force – Frank Thomas**
 - Group took a hiatus. Being led by Justice Montoya-Lewis.
 - Will begin meeting after oral arguments. Hoping to re-center discussion on race equity in relation to bar exam.

ADJOURNMENT

The meeting was adjourned at 12:12 PM.

DATED at Olympia, Washington this 31st day of March, 2022.


González, C.J.

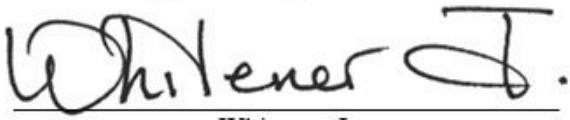

Johnson, J.


Gordon McCloud, J.


Madsen, J.


Yu, J.


Owens, J.


Whitener, J.

GR 31
ACCESS TO COURT
RECORDS

(a) Policy and Purpose. It is the policy of the courts to facilitate access to court records as provided by Article I, Section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by article 1, Section 7 of the Washington State Constitution and shall not unduly burden the business of the courts.

(b) Scope. This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record or the method of storage of the court record. Administrative records are not within the scope of this rule. Court records are further governed by GR 22.

(c) Definitions.

(1) “Access” means the ability to view or obtain a copy of a court record.

(2) “Administrative record” means any record pertaining to the management, supervision or administration of the judicial branch, including any court, board, or committee appointed by or under the direction of any court or other entity within the judicial branch, or the office of any county clerk.

(3) “Bulk distribution” means distribution of all, or a significant subset, of the information in court records, as is and without modification.

(4) “Court record” includes, but is not limited to: (i) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. Court record does not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the record.

(5) “Criminal justice agencies” are government agencies that perform criminal justice functions pursuant to statute or executive order and that allocate a substantial part of their annual budget to those functions.

(6) “Dissemination contract” means an agreement between a court record provider and any person or entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court or municipal court), that is provided court records. The essential elements of a dissemination contract shall be promulgated by the JIS Committee.

(7) “Judicial Information System (JIS) Committee” is the committee with oversight of the statewide judicial information system. The judicial information system is the automated, centralized, statewide information system that serves the state courts.

(8) “Judge” means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).

(9) “Public” includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(10) “Public purpose agency” means governmental agencies included in the definition of “agency” in RCW 42.17.020 and other non-profit organizations whose principal function is to provide services to the public.

(d) Access.

(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.

(2) Information from an official juvenile offender court record shall not be displayed on a publicly accessible website. The only exception to this rule is if the website is accessed from a physical county clerk’s office location.

(3) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.

(4) A fee may not be charged to view court records at the courthouse.

(e) Personal Identifiers Omitted or Redacted from Court Records.

(1) Except as otherwise provided in GR 22, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(A) Social Security Numbers. If the Social Security Number of an individual must be included in a document, only the last four digits of that number shall be used.

(B) Financial Account Numbers. If financial account numbers are relevant, only the last four digits shall be recited in the document.

(C) Driver’s License Numbers.

(2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may

move the Court to order redaction. The court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

Comment

This rule does not require any party, attorney, clerk, or judicial officer to redact information from a court record that was filed prior to the adoption of this rule.

(f) Distribution of Court Records Not Publicly Accessible.

(1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:

(A) Consider: (i) the extent to which access will result in efficiencies in the operation of the judiciary; (ii) the extent to which access will fulfill a legislative mandate; (iii) the extent to which access will result in efficiencies in other parts of the justice system; and (iv) the risks created by permitting the access.

(B) Determine, in its discretion, that filling the request will not violate this rule.

(C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.

(D) Assure that prior to the release of court records under section (f) (1), the requestor has executed a dissemination contract that includes terms and conditions which: (i) require the requester to specify provisions for the secure protection of any data that is confidential; (ii) prohibit the disclosure of data in any form which identifies an individual; (iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and (iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the Administrator of the Courts. Any audit should verify that the court records are being appropriately used and in a manner consistent with this rule.

(2) Courts, court employees, clerks and clerk employees, and the Commission on Judicial Conduct may access and use court records only for the purpose of conducting official court business.

(3) Criminal justice agencies may request court records not publicly accessible.

(A) The provider of court records shall approve the access level and permitted use for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not included in a class may request access.

(B) Agencies requesting access under this section of the rule shall identify the court

records requested and the proposed use for the court records.

(C) Access by criminal justice agencies shall be governed by a dissemination contract. The contract shall: (i) specify the data to which access is granted, (ii) specify the uses which the agency will make of the data, and (iii) include the agency's agreement that its employees will access the data only for the uses specified.

(g) Bulk Distribution of Court Records.

(1) A dissemination contract and disclaimer approved by the JIS Committee for JIS records or a dissemination contract and disclaimer approved by the court clerk for local records must accompany all bulk distribution of court records.

(2) Dissemination contracts shall not include the dissemination or distribution of juvenile court records.

(3) A request for bulk distribution of court records may be denied if providing the information will create an undue burden on court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

(4) The use of court records, distributed in bulk form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

(h) Appeals. Appeals of denials of access to JIS records maintained at state level shall be governed by the rules and policies established by the JIS Committee.

(i) Notice. The Administrator for the Courts shall develop a method to notify the public of access to court records and the restrictions on access.

(j) Access to Juror Information. Individual juror information, other than name, is presumed to be private. After the conclusion of a jury trial, the attorney for a party, or party pro se, or member of the public, may petition the trial court for access to individual juror information under the control of court. Upon a showing of good cause, the court may permit the petitioner to have access to relevant information. The court may require that juror information not be disclosed to other persons.

(k) Access to Master Jury Source List. Master jury source list information, other than name and address, is presumed to be private. Upon a showing of good cause, the court may permit a petitioner to have access to relevant information from the list. The court may require that the information not be disclosed to other persons.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED
AMENDMENTS TO GR 31—ACCESS TO COURT
RECORDS AND CrR 2.1—THE INDICTMENT
AND THE INFORMATION

ORDER

NO. 25700-A-1415

The Washington State Office of Public Defense and the Minority and Justice Commission, having recommended the adoption of the proposed amendments to GR 31—Access to Court Records and CrR 2.1—The Indictment and the Information, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

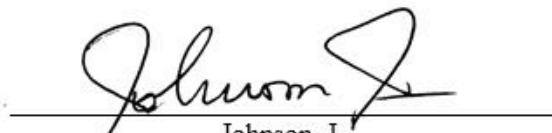
- (a) That the proposed amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the proposed amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

ORDER

IN THE MATTER OF THE PROPOSED AMENDMENTS TO GR 31—ACCESS TO COURT RECORDS AND CrR 2.1—THE INDICTMENT AND THE INFORMATION

DATED at Olympia, Washington this 31st day of March, 2022.


González, C.J.


Johnson, J.


Gordon McCloud, J.


Madsen, J.


Yu, J.


Owens, J.


Whitener, J.


Stephens, J.

SUGGESTED AMENDMENT:

**GR 31
ACCESS TO COURT
RECORDS**

(a) Policy and Purpose. It is the policy of the courts to facilitate access to court records as provided by Article I, Section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by article 1, Section 7 of the Washington State Constitution and shall not unduly burden the business of the courts.

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(9) “Public” includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

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(d) Access.

(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.

(2) Information from an official juvenile offender court record shall not be displayed on a publicly accessible website. The only exception to this rule is if the website is accessed from a physical county clerk’s office location.

(3) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.

(4) A fee may not be charged to view court records at the courthouse.

(e) Personal Identifiers Omitted or Redacted from Court Records.

(1) Except as otherwise provided in GR 22, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(A) Social Security Numbers. If the Social Security Number of an individual must be included in a document, only the last four digits of that number shall be used.

(B) Financial Account Numbers. If financial account numbers are relevant, only the last four digits shall be recited in the document.

(C) Driver’s License Numbers.

(D) In a juvenile offender case, the parties shall caption the case using the juvenile's

initials. The parties shall refer to the juvenile by their initials throughout all briefing and pleadings.

(2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may move the Court to order redaction. The court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

Comment

This rule does not require any party, attorney, clerk, or judicial officer to redact information from a court record that was filed prior to the adoption of this rule.

(f) Distribution of Court Records Not Publicly Accessible.

(1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:

(A) Consider: (i) the extent to which access will result in efficiencies in the operation of the judiciary; (ii) the extent to which access will fulfill a legislative mandate; (iii) the extent to which access will result in efficiencies in other parts of the justice system; and (iv) the risks created by permitting the access.

(B) Determine, in its discretion, that filling the request will not violate this rule.

(C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.

(D) Assure that prior to the release of court records under section (f) (1), the requestor has executed a dissemination contract that includes terms and conditions which: (i) require the requester to specify provisions for the secure protection of any data that is confidential; (ii) prohibit the disclosure of data in any form which identifies an individual; (iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and (iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the Administrator of the Courts. Any audit should verify that the court records are being appropriately used and in a manner consistent with this rule.

(2) Courts, court employees, clerks and clerk employees, and the Commission on Judicial Conduct may access and use court records only for the purpose of conducting official court business.

(3) Criminal justice agencies may request court records not publicly accessible.

(A) The provider of court records shall approve the access level and permitted use for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not included in a class may request access.

(B) Agencies requesting access under this section of the rule shall identify the court records requested and the proposed use for the court records.

(C) Access by criminal justice agencies shall be governed by a dissemination contract. The contract shall: (i) specify the data to which access is granted, (ii) specify the uses which the agency will make of the data, and (iii) include the agency's agreement that its employees will access the data only for the uses specified.

(g) Bulk Distribution of Court Records.

(1) A dissemination contract and disclaimer approved by the JIS Committee for JIS records or a dissemination contract and disclaimer approved by the court clerk for local records must accompany all bulk distribution of court records.

(2) A request for bulk distribution of court records may be denied if providing the information will create an undue burden on court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

(3) The use of court records, distributed in bulk form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

(h) Appeals. Appeals of denials of access to JIS records maintained at state level shall be governed by the rules and policies established by the JIS Committee.

(i) Notice. The Administrator for the Courts shall develop a method to notify the public of access to court records and the restrictions on access.

(j) Access to Juror Information. Individual juror information, other than name, is presumed to be private. After the conclusion of a jury trial, the attorney for a party, or party pro se, or member of the public, may petition the trial court for access to individual juror information under the control of court. Upon a showing of good cause, the court may permit the petitioner to have access to relevant information. The court may require that juror information not be disclosed to other persons.

(k) Access to Master Jury Source List. Master jury source list information, other than name and address, is presumed to be private. Upon a showing of good cause, the court may permit a petitioner to have access to relevant information from the list. The court may require that the information not be disclosed to other persons.

CrR 2.1
THE INDICTMENT AND THE INFORMATION

(a) Use of Indictment or Information. The initial pleading by the State shall be an indictment or an information in all criminal proceedings filed by the prosecuting attorney.

(1) *Nature.* The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney. Allegations made in one count may be incorporated by reference in another count. It may be alleged that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. The indictment or information shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission shall not be ground for dismissal of the indictment or information or for reversal of a conviction if the error or omission did not mislead the defendant to the defendant's prejudice.

(2) *Contents.* The indictment or the information shall contain or have attached to it the following information when filed with the court:

(i) the name, or in the case of a juvenile respondent the initials, address, date of birth, and sex of the defendant

(ii) all known personal identification numbers for the defendant, including the Washington driver's operating license (DOL) number, the state criminal identification (SID) number, the state criminal process control number (PCN), the JUVIS control number, and the Washington Department of Corrections (DOC) number.

(b) Surplusage. The court on motion of the defendant may strike surplusage from the indictment or information.

(c) Bill of Particulars. The court may direct the filing of a bill of particulars. A motion for a bill of particulars may be made before arraignment or within 10 days after arraignment or at such later time as the court may permit.

(d) Amendment. The court may permit any information or bill of particulars to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced.

(e) Defendant's Criminal History. Upon the filing of an indictment or information charging a felony, the prosecuting attorney shall request a copy of the defendant's criminal history, as defined in RCW 9.94A.030, from the Washington State Patrol Identification and Criminal History Section.

Comment

Supersedes RCW 10.37.020, .025, .026, .035, .180; RCW 10.40.080; RCW 10.46.170. The purpose of section (f) is to ensure that the defendant's criminal history is available when and if the court is required to determine the validity of a plea agreement.

February 25, 2022

Honorable Charles W. Johnson
Honorable Mary I. Yu
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Re: Comment in Support of Adopting Proposed Changes to GR 31 and CrR 2.1

Comment in Support of Adopting Proposed Changes to GR 31

Dear Justice Johnson, Justice Yu, and Rules Committee Members:

We urge you to adopt the proposed changes to GR 31 and CrR 2.1, which would prohibit the public online dissemination of juvenile court records and require the use of a young person’s initials, rather than their name, in the case caption and pleadings. The proposed changes will help mitigate the harm of the juvenile legal system and are consistent with national efforts to protect youth records from online dissemination to the public.

- Adopting proposed changes to GR 31 and CrR 2.1 will limit (though not eliminate) the long-lasting consequences of juvenile records, which disproportionately affect Black youth, Indigenous youth, and Youth of Color (BIPOC).

Because of the public online availability of many Washington State juvenile records, youth often do not “have a meaningful opportunity to put delinquency behind them.”¹ The impact of juvenile court involvement and “the longevity and availability of juvenile court records directly interfere with the very things that help young people succeed.”² In addition to limiting young people’s access to education and meaningful employment, juvenile records impede young people’s ability to find housing. Although “Public Housing Authorities (PHAs) cannot legally obtain juvenile records... [T]hey frequently use informal methods to obtain information about juvenile records.”³ They use this information to deny housing to families of young people with criminal legal involvement.

¹ See Juvenile Justice and Racial Disproportionality: A Presentation to the Washington State Supreme Court, the Task Force on Race and the Criminal Justice System, March 28, 2012, at page 16.

² See Nat’l Juv. Def. Ctr., *CAUTION: Collateral Consequences Obstructing the Pathway to Young People’s Success* (2019), <https://njdc.info/wp-content/uploads/Collateral-Consequences-One-Pager-Web.pdf> (last accessed Feb. 10, 2022).

³ Off. of Juv. Just. & Delinq. Prevention, *Expunging Juvenile Records: Misconceptions, Collateral Consequences, and Emerging Practices*, 1, 8 (2020), <https://ojdp.ojp.gov/publications/expunging-juvenile-records.pdf> (last accessed Feb. 1, 2022).

The consequences of juvenile records are particularly acute for BIPOC youth who are disproportionately prosecuted and incarcerated in Washington’s juvenile legal system.⁴ “One of the most consistent findings in the research on the juvenile justice system is that race matters...[t]he pattern of disproportionate minority contact is a persistent one across time.”⁵ In the same way life-long consequences of juvenile records follow youth, so do racial inequities.

- Adopting the proposed changes to GR 31 and CrR 2.1 will ensure that juvenile records are treated the same throughout Washington State.

Adopting the proposed changes is consistent with how the Washington State Administrative Office of the Courts (AOC) treats juvenile court records in its Data Dissemination Policy (“The AOC shall not display any information from an official juvenile offender court record on a publicly-accessible website that is a statewide index of court cases”). In addition, adopting the proposed change to CrR 2.1 is consistent with how cases are captioned at the appellate level in RAP 3.4(f).

- Adopting proposed changes to GR 31 and CrR 2.1 aligns with the stated goals of the juvenile legal system.

The Juvenile Justice Act requires that the juvenile legal system “provide for the rehabilitation and reintegration of juvenile offenders.” RCW 13.40.010. In 2010, the American Bar Association passed a resolution “recognizing that extra effort must be made to reduce the stigma and discrimination faced by youth involved in the juvenile justice system.”⁶

In 2020, the Juvenile Law Center studied laws impacting youth records, including expungement, confidentiality of juvenile records, and whether youth court records are available to the public and online.⁷ Nationally, Washington ranks as one of the worst states (within the bottom five) for protecting juvenile records.

The disproportionate and harmful consequences of having a juvenile record are not collateral in the least – they are costly and lasting. “When states fail to protect juvenile records either by granting broad access or by making expungement and sealing costly and inaccessible... the disproportionate impact on Black and Brown youth compounds the systems of discrimination in our education, employment, and housing systems.”⁸

While the proposed amendments to GR 31 and CrR 2.1 do not remedy the fundamental harm of open juvenile court records, they are an important step to mitigating the harms of juvenile court involvement and to ensuring that juvenile records are handled consistently throughout the state. We urge you to adopt them.

⁴ See Juvenile Justice and Racial Disproportionality, *supra* note 1 at 11, 16; See also Report and Recommendations to Address Race in Washington’s Juvenile Legal System: 2021 Report to the Washington Supreme Court, Fred T. Korematsu Center for Law and Equality, December 2021, at pages 12, 13.

⁵ See Juveniles Sentenced as Adults in Washington State, 2009-2019, Univ. of Wash., June 14, 2021, at pages 1-2.

⁶ Juvenile Justice and Racial Disproportionality, *supra* note 1, at 16.

⁷ Juv. Law Ctr. & Troutman Pepper, *Failed Policies, Forfeited Futures: Revisiting a Nationwide Scorecard on Juvenile Records* (2020), <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/executive-summary-2020.pdf> (last accessed Feb. 1, 2022).

⁸ *Id.*

Sincerely,

King County Department of Public Defense	The Washington Chapter of the American Academy of Pediatrics	Juvenile Law Center
Partners for Our Children	Washington Defender Association	What's Next Washington
Pierce County Department of Assigned Counsel	Washington Association of Criminal Defense Lawyers	Columbia Legal Services
The Gault Center	Law Offices of Dena Alo-Colbeck	American Civil Liberties Union of Washington
CHOOSE 180	Community Passageways	Northwest Community Bail Fund
The Mockingbird Society	Legal Counsel for Youth and Children (LCYC)	Legal Voice
The Defender Initiative, Seattle University School of Law	Fred T. Korematsu Center for Law and Equality, Seattle University School of Law	TeamChild
Center for Children & Youth Justice	Washington State Office of Public Defense	Freedom Project
Public Defender Association	Creative Justice	Snohomish County Public Defender Association
Paul Holland	Dr. Dennis Pang	Emily Hiskes
Kim Ambrose	Sarah Cusworth Walker	

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Comment in Support of Adopting Proposed Changes to GR 31/CrR 2.1 and also changes to GR 31
Date: Friday, February 25, 2022 4:37:12 PM
Attachments: [2022-02-25--Letter in Support of Rule Change Proposal GR 31 CrR 2.1 and GR 31 Final with Signatories.pdf](#)

From: Hurley, Katherine [mailto:Katherine.Hurley@kingcounty.gov]
Sent: Friday, February 25, 2022 4:30 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment in Support of Adopting Proposed Changes to GR 31/CrR 2.1 and also changes to GR 31

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Hello,

Attached please find a Comment in Support of:

- Adopting Proposed Changes to GR 31/CrR 2.1 and
- Adopting Proposed Changes to GR 31.

Thank you,
Katie

Katherine Hurley
Special Counsel for Criminal Practice and Policy
King County Department of Public Defense
710 2nd Ave, Suite 200
Seattle WA 98104
Ph: 206-477-8700 Ext 78744

Katherine Hurley
Special Counsel for Criminal Practice and Policy
King County Department of Public Defense
710 2nd Ave, Suite 200
Seattle WA 98104
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Washington State Office of Civil Legal Aid

PO Box 41183
Olympia, WA 98504-1183
(360) 338-5619

Bailey Zydek, Program Counsel
Children's Representation Program
bailey.zydek@ocla.wa.gov

January 31, 2022

The Honorable Justice Charles W. Johnson
The Honorable Justice Mary Yu
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed Amendments to GR 31 and CrR 2.1

Dear Justices Johnson, Yu, and members of the Rules Committee:

The Washington State Office of Civil Legal Aid (OCLA) hosts and administers a statewide Children's Representation Program for children and youth in the child welfare system, many of whom are dually involved with the juvenile justice system. OCLA supports the proposed amendments to General Rule 31, concerning access to court records, and Criminal Rule 2.1, concerning access to the criminal indictment or information. The proposed amendments will preserve confidentiality in juvenile offender cases by requiring that only a youth's initials be used in all captions, pleadings, briefings, and indictment or information forms.

Adoption of the proposed amendments will protect against the undue burden a juvenile offense record places on a young person's ability to secure employment, housing, higher education, or military service. As noted, there is substantial overlap between youth involved in the child welfare system and those involved in the juvenile justice system in Washington State. In both systems, BIPOC children and youth are overrepresented. These youth also tend to experience disproportionately negative outcomes in the areas of employment, higher education, and housing, both generally and compared to their white counterparts. Adopting these proposed amendments will advance the significant interest of race equity in juvenile offender proceedings by removing obstacles that arise when a young person is directly identifiable in juvenile offense records.

Adopting the proposed amendments will also bring GR 31 and CrR 2.1 in line with other court rules impacting juvenile defendants. In 2018, this Court took action to preserve a minor's right to privacy in juvenile offender proceedings by amending RAP 3.4 to require parties to use the accused juvenile's initials in all captions, pleadings, and briefings. The amendment further required references to "any related individuals [be] in such a way as to not disclose the juvenile's identity." Youth at all stages of juvenile offender proceedings, not just those involved at the appellate level, should be afforded the protection that strict use of initials in captions, briefings,

Re: Proposed Amendments to GR 31 and CrR 2.1

1/31/2022

Page 2 of 2

indictments, and pleadings brings. We at the Office of Civil Legal Aid respectfully request that this Committee adopt the amendments to GR 31 and CrR 2.1 as proposed.

Respectfully,

OFFICE OF CIVIL LEGAL AID

A handwritten signature in black ink that reads "Bailey Zydek". The signature is written in a cursive, slightly slanted style.

Bailey Zydek, Program Counsel
OCLA Children's Representation Program

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Comment re: Proposed Rule Change GR 31 and CrR 2.1
Date: Tuesday, February 1, 2022 9:44:41 AM
Attachments: [Letter of Support Rule Change GR 31 CrR 2.1 FINAL.pdf](#)

From: Zydek, Bailey (OCLA) [mailto:bailey.zydek@ocla.wa.gov]
Sent: Tuesday, February 1, 2022 9:43 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment re: Proposed Rule Change GR 31 and CrR 2.1

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Good Morning,

Please see the attached letter from the Office of Civil Legal Aid's Children's Representation Program in support of the proposed amendments to rules GR 31 and CrR 2.1.

Thank you,

Bailey Zydek
Children's Representation Program Counsel
Office of Civil Legal Aid
PO Box 41183
Olympia, WA 98504-1183
bailey.zydek@ocla.wa.gov
(360) 338-5619
(Gender pronouns: she/her/hers)



WASHINGTON STATE
ASSOCIATION OF
COUNTY CLERKS

Kimberly A. Allen, President
Grant County Clerk
P.O. Box 37
Ephrata, WA 98823
509-754-2011 ext. 2818
kallen@grantcountywa.gov

February 25, 2022

via e-mail: supreme@courts.wa.gov
Honorable Charles W. Johnson, Co-Chair
Honorable Mary I. Yu, Co-Chair
Washington State Supreme Court Rules Committee
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Amendments to GR 31 Access to Juvenile Records

Dear Justices Yu and Johnson:

Concerning GR 31, the Washington State Association of County Clerks (WSACC) does not support two of the proposed edits related to juvenile records and asks that you NOT adopt those two proposed edits (outlined in paragraphs 1 and 2 following).

1. The changes to GR 31(d) to limit access to juvenile offender case records by forcing in-person access at a physical courthouse location is a bad idea. This rule change is intended to make it impossible to find a record of a juvenile court case without driving to each county to search local records. Under this proposal, even the existence of the record – **the case index** information listing each filed case (not just the documents) – would be impossible to find except via one's ability to physically visit each Clerk's office. Existing Judicial Information Systems (JIS) policy and this proposed rule change limit functional access to only those with the means to physically travel to courthouses during the business day. It would essentially deny access to those with disabilities or without resources (even people with resources would be very inconvenienced). We ask that you NOT adopt this proposal.

As custodians of the courts' records, County Clerks are experts in the laws and rules around superior court record keeping. This proposal is currently in place as an existing JIS policy without any foundation in law or court rule. The JIS policy and the proposal to convert this to a court rule, are in conflict with the long history of law and the purview of the Legislature related to restricting access to categories of court records, for instance, adoption, dependency, and involuntary commitment matters. The Washington State Legislature has historically been very careful, and very judicious about concealing court records. In fact, this rule proposal regarding juvenile offender records has been before the Legislature several times and repeatedly rejected. Proponents bring this rule to you as they did not achieve their goal in the Legislature. This rule would be a significant departure from the decisions made about hiding these records heretofore, and with the historical process of the Legislature first determining the confidential status of court documents, and the Courts then establishing procedural rules in accordance with the law.

2. The other GR 31 proposal to prevent the display of a youth's full name in a case caption is not operationally possible to implement. Using initials in the caption of a juvenile case would not allow County Clerks to perform their duties in identifying the offender with other family law, dependency, and offender matters across the state - - which we are required to do. Previous versions of GR 31 contained provisions to use initials in place of juvenile names in court records and that was found to be unworkable and edited out of GR 31. We ask that you NOT adopt this proposal.

We understand that proponents are proposing these measures to conceal the records of juveniles, as they assert them to be harmful to youth. However, please keep in mind these two things:

- ✓ Court records are not just about an offender's alleged actions – they are also **an official court record** of decisions of government officials including law enforcement, judges, prosecutors, county clerks, etc., and should not be impossible to access.
- ✓ There is already a mechanism and a very wide allowance in law to seal these juvenile court records – more so than any other court record. Unlike any other sealed case, sealed juvenile records index information is not accessible. In other words, **sealed juvenile court records are already very protected records via existing law**.

3. Regarding the proposed rule change preventing the sale of juvenile offender information to data aggregators, the County Clerks have no objection.

WSACC opposes the proposed edits as outlined in paragraphs 1 and 2 above concerning GR 31 and how information is handled within the daily operations of the court and asks that you NOT adopt those proposed edits.

Sincerely,



Kimberly A. Allen, WSACC President
and Grant County Clerk

:kaa
cc: WSACC Membership

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: WSACC Comments on proposed amendments to GR 31
Date: Monday, February 28, 2022 8:10:49 AM
Attachments: [WSACC Comments Re GR 31 amendments.pdf](#)

From: Kimberly Allen [mailto:kallen@grantcountywa.gov]
Sent: Friday, February 25, 2022 4:57 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Re: WSACC Comments on proposed amendments to GR 31

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Please accept the attached letter on behalf of the Washington State Association of County Clerks commenting on proposed amendments to GR 31.

Thank you.

Kim

Kimberly A. Allen, Grant County Clerk
P.O. Box 37
Ephrata, WA 98823

Phone: 509-754-2011 ext. 2818
Email: kallen@grantcountywa.gov

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Email: opd@opd.wa.gov

**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**

(360) 586-3164
FAX (360) 586-8165

September 17, 2021

via email: supreme@courts.wa.gov

The Honorable Justice Charles W. Johnson
The Honorable Justice Mary Yu
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed amendments to GR 31 (Access to Court Records) and CrR 2.1 (Use of Initials)

Dear Justices Johnson, Yu and Members of the Rules Committee:

As the Director of the Office of Public Defense, I write to express my support for the proposed amendment to rule GR 31 which governs the distribution of juvenile court records. The proposed amendment will protect young people from the unnecessary and harmful electronic distribution of these records.

I also support the amendments to CrR 2.1 and GR 31 to require the use of initials in all trial level pleadings. Both of these amendments will enhance a young person's ability to gain access to educational, employment and housing opportunities.

I respectfully urge you to adopt proposed amendments to rule GR 31 and CrR 2.1.

Best regards,

Larry Jefferson
Director

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Letter in Support of Proposed Rule Amendments
Date: Friday, September 17, 2021 10:15:00 AM
Attachments: [OPD LETTER IN SUPPORT.pdf](#)

From: Tracy Sims [mailto:Tracy.Sims@opd.wa.gov]
Sent: Friday, September 17, 2021 10:06 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: George Yeannakis <George.Yeannakis@opd.wa.gov>
Subject: Letter in Support of Proposed Rule Amendments

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Good morning.

Please see the attached letter from OPD Director, Larry Jefferson, supporting proposed amendments to GR 31 and CrR 2.1.

Thank you,

Tracy Sims, Executive Assistant (she/her)
Washington State Office of Public Defense
PO Box 40957 Olympia, WA 98504-0957
Desk: (360) 586-3164 ext. 128
Cell: (360) 515-8711

Our mission is to implement the constitutional and statutory guarantees of counsel and to ensure the effective and efficient delivery of indigent defense services funded by the state.

May 3, 2022

Chief Justice Steven Gonzalez and Supreme Court Justices
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Amendments to GR 31 and CrR 2.1, Access to Juvenile Records

Dear Chief Justice Gonzalez and Justices of the Supreme Court,

TeamChild provides civil legal services to youth ages 12 to 24 years old. We have supported thousands of youth who are impacted by the juvenile court system, impacts that often follow them for years after they have completed the court intervention. One of the ways the system continues to follow them is through the dissemination of their juvenile court records. In our internet age, the life of a juvenile court record is exponential. The Washington State Supreme Court's adoption of two new court rules related to juvenile court records does not violate open court principles but will have a significant impact on supporting our state's goals of ensuring that young people can rebuild their lives after juvenile legal system involvement.

Since the adoption of these new rules, there has been backlash to the new rules that raise false arguments. There was a clear and public process that allowed everyone to articulate concerns, impacts, and supports for the new rules. Even those who are currently trying to slow or stop the rule change had an opportunity to weigh in during the public process. This rule change is also aligned with over a decade of work in Washington State, led by legislators, judges, attorneys, and most importantly, communities that have been impacted by the juvenile legal system. All of these groups have been working on protecting juvenile records, to align with the intent of rehabilitation, from the realities and risks of documents that exist in the Internet Age.

The new court rules will continue to allow all juvenile court hearings to be open and available to the public, ensuring that access and scrutiny of the legal system remains uncovered and exposed. Anyone can access an unsealed juvenile court record at the clerk's office, as has been true since before the internet was invented. The county clerks across the state are already implementing the rule to prevent juvenile court records from being made easily accessible to the public online. It only took a few days for them switch systems so that these records would not be released electronically. The second rule requires that a youth's initials, instead of their full name, appear on court records and pleadings. This is already happening in the Court of Appeals and provides some additional layers of protection to

youth. The impact of a juvenile court record on a young person's life is significant, and it has a disproportionate impact on Black and Brown youth due to the layers of systemic discrimination in the court, education, employment, and housing systems. For example, in King County last year 49.6% of King County Juvenile Court cases involved Black youth, even though they constitute only 10% of the population.

Those who are raising concerns suggest that somehow police, prosecutors, probation officers, and others who have to help supervise and support youth involved in juvenile court will not know who these youth are or how to identify them. That is absurd. Each youth is assigned a unique number and all the databases can align to that unique identifier. This will actually add clarity to the vast array of systems that track a youth who is court involved. Nothing will change in the way that the court system responds to youth who are charged with crimes and how that youth is held accountable.

What has changed is that it is no longer assumed that everyone or anyone can easily search for a youth who has had juvenile legal system involvement on the internet from their seat on the couch. What is intended is that when a young person completes their court obligations and is moving forward to become the person who they are growing up to be, that the mistakes of their youth do not live on infinitely and prevent education, housing, employment and other opportunities.

We appreciate the work of the Supreme Court Justices in creating a process for making these significant rule changes.

Sincerely,

s/ Marcos Martinez
Executive Director
TeamChild

s/ Karen Pillar
Director of Policy and Advocacy
TeamChild

s/ Sara Zier
Director of Legal Services
TeamChild



May 3, 2022

Chief Justice Steven González and Supreme Court Justices
Washington State Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Court Rules GR 31 and CrR 2.1

Honorable Chief Justice González and Justices of the Supreme Court,

I'm writing today on behalf of The Mockingbird Society in continued support of court rules GR 31 and CrR 2.1. The Mockingbird Society joined community partners, led by the King County Department of Public Defense, in submitting a letter of support for these changes during the four-month public comment period on the proposed rules. Youth advocates at The Mockingbird Society have consistently identified our system's flawed approach to handling juvenile records as a major stumbling block for young people moving on from youthful mistakes into thriving adulthood. The changes envisioned in GR 31 and CrR 2.1 correct some of those flaws and move us closer to a truly rehabilitative system of juvenile justice.

The Mockingbird Society has worked on several pieces of legislation designed to strengthen the juvenile record sealing process. However, we have consistently discovered that the goals of record sealing are undermined due to the public dissemination of juvenile records prior to sealing. In the age of the internet, it is extremely difficult to unring the bell of publishing juvenile record information online. Young people are told when they seal a record that they may proceed as if no record exists, but if a record has been published online or sold to a third-party background check company, that is a false promise that undermines the very premise of sealing a record.

These rule changes do not represent radical new policy. GR 31 simply codifies recommendations from the Administrative Office of the Courts' data dissemination committee. CrR 2.1 extends the practice already in place in appellate proceedings of using initials to identify juveniles. Additionally, it is our understanding that implementation of these court rules is already underway, and parts of them are indeed in effect as of this weekend.

We urge you to maintain these rule changes and to not delay in fully implementing them.

Sincerely,

Liz Trautman
Director of Public Policy & Advocacy

Feedback from SCJA Spring Conference Colloquium, *Pathways to a More Equitable Justice System*

Overall:

Participants had largely very positive things to say about the entire afternoon. Professor Muhammad's presentation, and the discussion session he facilitated with Jeff Robinson, received particularly positive feedback: "This was a truly fantastic presentation." "The highlight of the conference." "Return engagement requested."

While the audience very much liked the family law and dependency/child welfare sessions, the feedback indicated that participants were a bit overwhelmed by that point in the afternoon, and felt that we crammed a bit too much into one day. That's reasonable feedback, and fodder for future planning.

A few specific comments that I thought were noteworthy:

Praise for new presenters, who weren't part of the usual and expected conference teachers.

Praise for diversity: "Diversity was included in everything from the PowerPoint to the discussion to the examples." This was re: the child welfare session. "Good inclusion of issues of diversity within the hypotheticals." This was re: the family law session.

Participants valued the opportunity to have breakout discussions and to engage with the material.

There were a couple of negative comments that suggested the presentation was "partisan," and a "call for judicial activism." This is not surprising and, frankly, was a smaller minority than I had predicted.

One participant noted that it was unfair to insist that everyone had cameras on, when to do so ignores "the lifelong challenge that BIPOC individuals have of being watched or a spectacle during these types of conversations." I thought that was interesting feedback re: the use of video presentation platforms.

Suggestions for future education:

Incorporate this session (or something similar) into Judicial College.

Bench guides and other "nuts and bolts" tools for implementing the ideas presented during the sessions.

Trainings on assessment of credibility- who we believe and why

Creation of a better clearinghouse of information we can rely upon. This could include an update to AOC website to make materials more easily accessible.

Improved GAL trainings.

More cultural competency training. Example: How do different cultures approach the use of physical discipline in parenting?

Suggestions for future community engagement/partnership:

Release and sentencing decisions:

Partner with stakeholders to tell the stories of people who experienced life successes after “lenient” judicial decisions; the current zeitgeist focuses on release and sentencing decisions that lead to recidivism.

“Coming up with a way to ensure we feel we have the support of each other and the community for making potentially unpopular decisions of release or sentencings.”

Ask our stakeholder partners to do outreach to the media about pretrial release, and the laws that govern release decisions.

Trainings for prosecutors and defenders:

“Prosecutors and defense counsel need to see this presentation.”

“Continue to train prosecutors as to the secondary impacts of their sentencing recommendations.”

Training for defenders on how to present data on systemic racism

Trainings for defenders and prosecutors on what judges do and how we make rulings

Stakeholder collaboration:

“Whatcom County Superior Court has inaugurated a quarterly criminal bar roundtable consisting of all stakeholders to discuss issues such as court process, charging and sentencing.”

Better data collection, and better distribution of relevant data.

“A local and/or statewide conversation between the bench, prosecution, and defense (and possibly law enforcement/jail) to determine how to better gather statistics and ‘check ourselves’ in real time when bail/sentencing issues come up.”

Family law and child welfare:

Better studies/data on what parenting plans work and which ones don’t.

Better input from all parties in family law/dependency cases about a child’s particular cultural beliefs or practices.

More culturally competent parenting classes for families.

Suggestions for legal reform:

Judicial Canons:

“Hard look at the Code of Judicial Conduct e.g. CJC 2.4 and how it is so readily used to shut down meaningful dialogue and progress on these issues; rarely used to prevent more punitive actions.”

SRA:

“I think the time has come to re-visit standard ranges. I believe that the SRA committee is doing that, but I hope it happens quickly. If our system was more like the federal system, and the guidelines were advisory, I believe that the outcomes would be more equitable.”

Make sentencing memoranda routine/mandatory

Release decisions:

More information about individuals and their support systems at the time that release decisions are made

Better diversion programs and pre-trial release options

Better tracking of warrant data. For example, does a person have a warrant for “failing to appear” when they were actually incarcerated? This information is relevant in assessing flight risk.

Change CrR 3.2 and CrRLJ 3.2; explore whether we should have bail at all, or perhaps only for certain crimes.

Treatment courts:

Allow “violent” crimes to be addressed in treatment courts

Judicial resources:

More judicial officers, and therefore more time allotted for each hearing
Better access to interpreter services, including at courthouse facilitator programs.

Family law/child welfare:

Redefine/clarify what “best interest of the child” means
Modify statutes/rules of evidence in family law cases to allow GAL to report what they learn (including hearsay from children) without necessarily making recommendations.
Amend family law statute to recognize the importance of extended family for children.
Amend local rules to allow unrepresented parties in family law matters to give sworn, oral information, even if their pleadings are deficient.
Amend RCW 26.09.187 to reflect cultural competency. For example, the premium placed on stability may discriminate against lower income people and some communities of color.
Increased access to civil legal aid in family law matters.

Abolish judicial elections

Suggestions for personal changes in the manner in which judicial officers do their work:

There were many, many comments that indicated judicial officers were interested in referencing systemic racism when analyzing criminal law issues. Related to this issue, many participants reflected that they appreciated knowing more about the history of our justice system as the people called upon to implement it. Many judicial officers commented that they would less passive about accepting agreed sentencing recommendations without inquiry and analysis.

Participants commented that they were inspired to figure out how to be “braver,” and to demand the information they needed -from both prosecutors and defenders- to make sentencing decisions.

“In criminal matters, I will attempt to find the time to review all of the PC statements of those cases that are scheduled for a change of plea so if there is an agreed recommendation in front of me, I might be able to better assess the actual conduct of the defendant to weigh against the sentencing recommendation.”

“In family law, I will try to make sure that I ask more questions about why a proposed visitation schedule might work better for a child to see if there are some cultural issues at play that I might not be aware of and that may not be explained to me.”

“More freely question GAL recommendations/conclusions.”

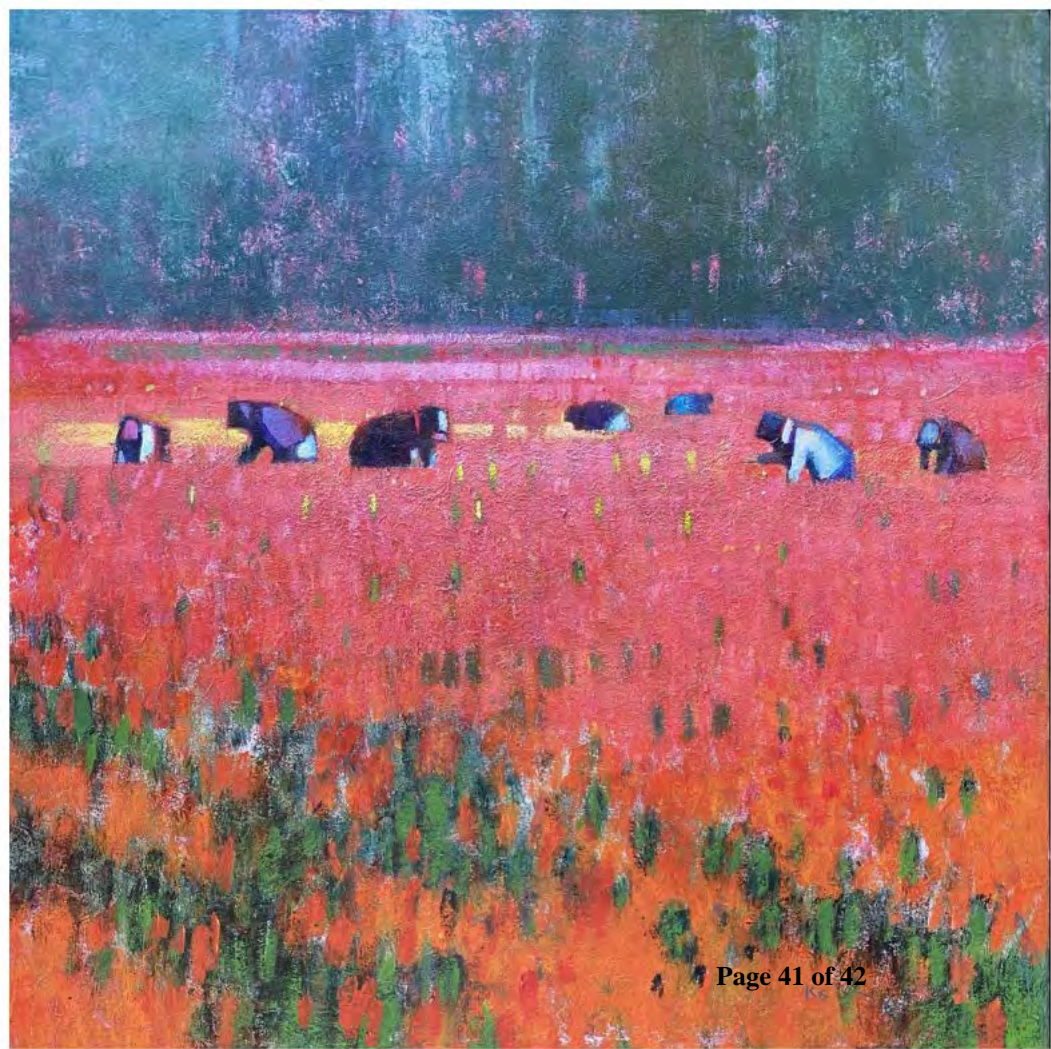
Use written findings and conclusions more frequently so that the parties know what the court has considered and the bases for our decisions.

“I will strive more for cultural competency.”

“I will be more mindful about treating every family as an individual unit with its own culture.”

Johanna Bender

Judge, King County Superior Court
516 3rd Ave., W-739
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Pronouns: She/Her





Charles Z. Smith Heritage Symposium:

Justice and Equality for Intersectional Communities

A Minority and Justice
Commission virtual event honoring
law students who exemplify
Justice Charles Z. Smith's legacy of
demonstrated leadership for
justice, equality, and public service

Program:

- *Presentation of the Justice Charles Z. Smith law student awards*
- *Keynote by Justice G. Helen Whitener, followed by discussion and Q&A with Prof. Gail Hammer, Lincoln LGBTQ+ Rights Clinic at GU Law*

Hosted by Gonzaga Law School



Justice G. Helen Whitener Keynote Speaker



Wed, May 18, via Zoom
5:30pm to 6:45pm

Registration

<https://tinyurl.com/2022-CZSmith>

