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May 15, 2013

Ms. Paula C. Littlewood
WSBA Executive Director
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539

RE: PROPOSED RULE ON JUVENILE SHACKLING JUCR 1.6

Dear Ms. Littlewood,

As the presidents of the Superior Court Judges' Association (SCJA) and Washington Association of Juvenile Court Administrators (WAJCA), we jointly submit this letter stating both Associations' objection to the proposed rule that contemplates creating a strong presumption against any form of restraints used on juveniles in court proceedings. The rule also creates a required procedure before any juvenile may be restrained before the court. We understand that the rule draft is in its early stages, so we are hopeful the outline of objections below will encourage your body to reject the proposed rule.

The practical reality is that youth appearing in court are not in front of a jury, and it is reasonable to presume that judicial officers are not influenced by the use of restraints. Our juvenile court system is based on equal parts public safety and health/wellbeing of youth in our care and custody. The rule draft ignores that the role of administration of justice, as codified in Washington Court Rules, gives Judges the authority to administer their courts and that policy and procedures are a primary responsibility of Juvenile Court Administrators and Detention Managers.

In the words of a veteran Juvenile Court Administrator from a small, rural county, "In my experience there's less chance of someone being hurt if they are softly restrained having been brought before the court through legal process. Someone always gets hurt when you have to battle a person into restraints. Our juvenile staff are, by statute, part of a different system of responsibility, trained to work effectively with youth and do."

Facility

Many of the juvenile courts have bifurcated courtrooms and detention centers that offer secure holding. Some courts have law enforcement officers, video surveillance and immediate response from law enforcement when a disturbance threatens the safety of the public, courtroom personnel and litigants.

Other courtrooms, especially small rural courts, have nothing besides the judge, probation and court staff to maintain security in the courtroom. We are mindful that court complexes are used for various proceedings daily, aside from juvenile offender court. The physical layout might put the public gallery within a couple feet of the litigants (including the respondent, defense counsel, probation or detention staff, court staff and the judicial officer).

These small facilities handle very volatile matters involving youth, their families, as well as victims and other related participants. Restraints give detention officers the ability to control one element of the situation and helps assure the control and safety of the respondent. Mandating that a potentially lengthy hearing process be held before restraints of any kind are used will increase security risk, potential for injury, as well as interfere with the efficient operation of the daily courtroom dockets.

Small County Consideration

Several counties do not have detention centers. This creates an additional security problem. Without secure holding of any type, juvenile court staff escort youth back and forth between offices and court rooms, through public areas, and detain youth in an office pending transport by law enforcement or pending subsequent hearings. To add context to this situation, there are often multiple youth who are possibly under the influence of drugs and/or alcohol, threatening, belligerent, aggressive, assaultive, and/or mentally ill. Also, regardless of what other court business may be ongoing in the immediately adjoining offices, we must maintain custody of youth who are actively attempting or are contemplating escape.

Unlike in a large court, where staff duties are compartmentalized, staff in small courts are expected to fulfill numerous duties that include case management, custody supervision, field and custody counselor. While supervising youth in transit to court or detention, staff are prepared to deal with possible escape attempts or assaults on family members, family members on youth, suicide attempts, self mutilation, and other physically self destructive behavior.

Objectionable Language

The language in the coversheet is subjective, generalized, and actually inflammatory in some areas.

“gratuitously punitive...and psychologically harmful?” are weighted words applied to the staff who are selected, then trained and certified by the State of Washington and in a culture of care for kids as exemplified by our CMAP process. (GR 9 cover sheet page 1, quotation from Dr. Marty Beyer, Ph.D)

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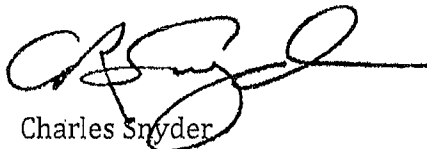
- ⇒ “embarrassing” and “shameful” suggest intentionally uninformed or argumentative verbiage not generally applicable (if at all justifiable) yet generally stated. (GR 9 cover sheet page 2)
- ⇒ “It is not unduly cumbersome” is a gross assertion considering how courts are governed and the impacts caused by the rule, e.g. judicial officer time, due process structure, support staff to accomplish review, personnel hired, trained and present to meet the requirements for a function already performed by statutorily authorized and empowered staff. (GR 9 coversheet page 2)
- ⇒ The use of “equal access to justice” is inappropriately applied. It is an important value in the Court system but there are other principles which sometimes override treating all the same, such as the safety of the youth, the justice professionals and public subject to the behavior which brought the youth to the court. (GR 9 coversheet page 2)
- ⇒ The term “present behavior” needs clarification. This kind of vague terminology is subjective and can be interpreted differently. (rule draft section 1 (c))

Resources

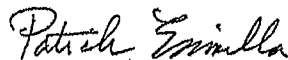
The rule as drafted requires additional judicial process in every instance. Those processes require considerable support and resources. County court resources differ dramatically across our State and keeping everyone safe needs flexibility.

Our judges have been elected for practice of wisdom and are guided by statute and court rules. Let them use that wisdom. Until such time as the circumstances articulated above can be mitigated through proper resources, such as more staff and proper facilities, our Associations will continue to oppose passing a rule or legislation that prohibit the use of restraints in juvenile court.

Sincerely,



Charles Snyder
President, Judge SCJA



Patrick Escamilla
President, WAJCA