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April 8, 2014

Honorable Charles W. Johnson  
Washington State Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504-0929

RE: PROPOSED RULE ON JUVENILE PERSONAL  
RESTRAINTS JuCR 1.6

Dear Justice Johnson:

As President of the Superior Court Judges' Association (SCJA), I submit this letter in opposition 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.

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 the health and wellbeing of youth in our care and custody. The rule ignores that the role of administration of justice, as codified in the Washington Court Rules, gives judicial officers the authority to administer their courts, and that policy and procedures are a primary responsibility of juvenile court administrators and detention managers.

The GR 9 cover sheet, paragraph 3, discusses the newly adopted court rule in Chelan, which permits shackling only when deemed necessary by the juvenile court judge or commissioner. However, it doesn't discuss the procedure where, prior to going to court, the detention facility completes a worksheet, which scores the youth for restraint purposes. Ten or more points results in restraints. Less than ten points can result in restraints with a supervisor's override. If a juvenile enters the courtroom in restraints, the first action is for judicial review of the restraint decision. Findings, conclusions, and an order requiring or prohibiting restraints are entered. If restraints are prohibited, the juvenile is briefly taken out of the courtroom so

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that his or her restraints may be removed. It is much easier to take off physical restraints than to put them on. Youth can get angry when the judge rules against them. On the other hand, if the court orders restraints off of them, youth are typically cooperative.

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 in small rural courts, have nothing besides the judge, probation, and court staff to maintain security in the courtroom. We are mindful that court facilities 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 and their families, as well as victims and other related participants. Restraints give detention officers the ability to control one element of the situation and help assure the control and safety of the respondent. Mandating that a potentially lengthy hearing process must be held before restraints of any kind are used will increase security risk and 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 courtrooms, 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,

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and a field and custody counselor. While supervising youth in transit to court or detention, staff are prepared to deal with possible escape attempts or assaults, suicide attempts, self-mutilation, and other physically self-destructive behavior.

**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, the SCJA will continue to oppose passing a rule or legislation that prohibits the use of restraints in juvenile court.

Sincerely,



Charles R. Snyder  
President Judge, SCJA

cc: SCJA Board of Trustees  
Ms. Janet Skreen