



Washington State Bar Association  
**COUNCIL ON PUBLIC DEFENSE**

March 14, 2014

The Honorable Justice Charles W. Johnson  
Rules Committee Chair  
Washington Supreme Court  
Temple of Justice  
P.O. Box 929  
Olympia, WA 98504

Re: Comments on Proposed Rule JuCR 1.6, Physical Restraints in the Courtroom, as Published January 2014

Dear Justice Johnson:

The Washington State Bar Association Council on Public Defense (CPD) is charged by the Washington State Bar Association to review changes in the criminal justice system which might impact public defense or the ability to provide public defense services. Our members include representatives from the bar, prosecutors, private and public criminal defense counsel, academics, the bench, elected officials and the public. The CPD recommends that the Court adopt proposed rule JuCR 1.6 prohibiting the indiscriminate shackling of youth in Juvenile Court proceedings. The rule will provide juvenile courts with a standardized procedure for determining when to require a respondent to appear in restraints. This rule is consistent with the purpose of the Juvenile Justice Act to provide for the rehabilitation of youth and will ensure that youth can exercise their constitutional right to due process and a fair trial.

The CPD has championed other juvenile court rule changes including the recently adopted amendment to JuCR 9.2 requiring certification by attorneys to the Standards for Indigent Defense and the juvenile waiver of counsel rule JuCR 7.15 adopted in 2008. These rule changes have significantly improved not only the access to counsel for indigent youth but also the quality of representation. Eliminating the practice of presumptively shackling youth appearing in well over half the juvenile courts in our State will not only improve the communication between the attorney and client, but also project the presumption of innocence of the respondent to the court and observers.

The process is not burdensome and will not jeopardize the safety of court staff. One Eastern Washington Juvenile Court that enacted a general rule creating a presumption against shackling three years ago has been able to maintain a safe orderly courtroom.

Other states have recently adopted court rules or legislation requiring an individualized showing of need to the court before allowing a youth to be shackled in the courtroom. The GR 9 form submitted by the WSBA Board of Governors with proposed JuCR 1.6 lists several states that have barred presumptive shackling. Most recently, California, Connecticut, Florida, New Mexico, North Dakota, North Carolina and Vermont no longer allow the routine shackling of juveniles as a result of State Supreme Court decisions, rule changes, or statutes that prohibit unnecessary restraints.

The CPD engaged in a thorough vetting of the issue before unanimously supporting Proposed JuCR 1.6 limiting the use of physical restraints in juvenile courtrooms.

Sincerely,

Jacqueline McMurtrie, Chair  
Brooks Holland, Vice Chair

cc: Justices of the Washington Supreme Court