



SUPERIOR COURT *of* WASHINGTON  
Cowlitz County

(360) 577-3085

Fax (360) 414-5506

Deaf Relay Service TTY (800) 883-6388 or 711

<http://CowlitzSuperiorCourt.us>

Hall of Justice - 312 SW First Avenue - Kelso, WA 98626

**JUDGES**

*Gary B. Bashor  
Michael H. Evans  
Marilyn K. Haan  
Stephen M. Warning*

April 11, 2014

**COURT  
ADMINISTRATOR**

*Chadwick M. Connors*

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

**ADMINISTRATIVE  
DEPUTIES**

*Gayle M. Engkraf  
Alice H. Millward  
Danyel M. Paul  
Jill Alton*

Re: Proposed Rule on Juvenile Personal Restraints JuCR1.6

Dear Justice Johnson:

As a unified bench of Superior Court in Cowlitz County, we 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 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 that his or her restraints may be removed. It is much easier to take off physical restrains 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 in 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 is, 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 risk 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 contemplating escape.

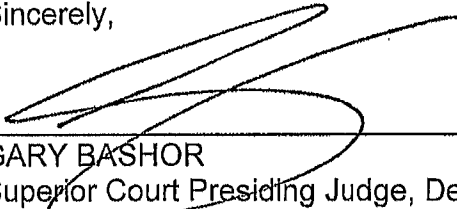
Unlike in a large court, where staff and duties are compartmentalized, staff in small courts are expected to fulfill numerous duties that include case management, custody supervision, and a field and custody counselor. While supervising youth in transit to court or detention, staff are prepared to deal 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. Like many jurisdictions, Cowlitz County Superior court has gone through serious budget reductions over the past years forcing us to reduce staff and supportive services thus hindering our ability to add to our workload, which is exactly what will occur if this rule is adopted.

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 circumstance articulated above can be mitigated through proper resources, such as more staff and proper facilities, the Superior Court bench of Cowlitz County will continue to oppose passing a rule or legislation that prohibits the use of restraints in juvenile court.

Sincerely,




---

GARY BASHOR  
Superior Court Presiding Judge, Dept. 1



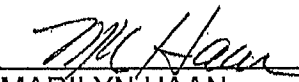
---

STEPHEN WARNING  
Superior Court Judge, Dept. 2



---

MICHAEL EVANS  
Superior Court Judge, Dept. 3



---

MARILYN HAAN  
Superior Court Judge, Dept. 4