

SARAH DUNNE  
LEGAL DIRECTOR

LA ROND BAKER  
NANCY TALNER  
VANESSA TORRES -  
HERNANDEZ  
STAFF ATTORNEYS

MARGARET CHEN  
FLOYD AND DELORES JONES  
FAMILY FELLOW



April 16, 2014

Clerk, Washington Supreme Court  
ATTN: Denise Foster  
P.O. Box 40929  
Olympia, WA 98504-0929  
[denise.foster@courts.wa.gov](mailto:denise.foster@courts.wa.gov)

Re: Proposed JuCR 1.6 Limiting Routine In-Court Shackling of Juvenile  
Offenders and Status Offenders  
Comment Deadline 4/30/14

AMERICAN CIVIL  
LIBERTIES UNION  
OF WASHINGTON  
FOUNDATION  
901 FIFTH AVENUE #630  
SEATTLE, WA 98164  
T/206.624.2184  
F/206.624.2190  
WWW.ACLU-WA.ORG

JEAN ROBINSON  
BOARD PRESIDENT

KATHLEEN TAYLOR  
EXECUTIVE DIRECTOR

Dear Honorable Justices,

The American Civil Liberties Union of Washington (ACLU) urges the Court to approve Proposed JuCR 1.6 in its current form. The proposed new rule would properly limit in-court shackling of juveniles to cases where a judicial officer determines there is an individual need for it. As indicated in the GR 9 cover sheet for the suggested rule, while the larger counties in Washington do not shackle juveniles in court, the majority of Washington counties do routinely shackle all juveniles in court, including status offenders in civil cases such as truancies. The proposed JuCR 1.6 is necessary to end this harmful and unnecessary practice.

Both the United States Supreme Court and the Washington courts have recognized differences in the brain development of juveniles, while at the same time recognizing that juveniles require no less due process protection in the legal system than adults. The trend in recent case law favors less punitive approaches to juveniles involved with the court system. The proposed JuCR 1.6 limiting shackling of juveniles is a timely proposal consistent with the trend in the case law.

Moreover, as noted in the GR 9 cover sheet for the suggested new rule, shackling causes proven long-lasting harm to juveniles, in the form of increased trauma and stigma. Being required to appear shackled in public before peers, authority figures, and others in their community surely increases the offenders' feelings of hopelessness, when they are already experiencing a stressful event in their lives as a result of being involved with court proceedings. Thus routine shackling of juveniles in court reduces the chances of a successful outcome to the legal proceedings.

Additionally, many youth involved in the court system have already suffered extreme traumatic experiences such as violence in their families, and routine shackling

April 16, 2014

Page 2

exacerbates the symptoms of post-traumatic stress they may have. We urge you to prevent these harms in the future by adopting proposed JuCR 1.6.

Routine shackling of juveniles in court is also not necessary for any legitimate governmental purpose. While safety, security and avoidance of flight risk are legitimate governmental interests, many larger counties in Washington have recognized that in- court safety can be achieved without routine shackling of juveniles. Chelan County has adopted a model rule presumptively prohibiting shackling of juveniles with no impact on courtroom budgets or safety. Other states and counties have prohibited shackling, and that has not caused a need for increased security staffing.

The proposed rule retains the authority of courts to utilize shackling in cases where individual circumstances justify it. Contrary to other comments submitted about the proposed rule, it would not prohibit shackling in all cases. The Court should approve the proposed rule so that shackling of juveniles in court is appropriately limited to the few cases where it is necessary and is the least restrictive alternative that will satisfy the government's interests based on the particular facts of each case.

Finally, there is pervasive disproportionate minority contact in the juvenile court system in Washington, which was documented by a Minority and Justice Commission study issued in December 2012 (available at [www.courts.wa.gov/wscsr/DMC](http://www.courts.wa.gov/wscsr/DMC)). The Chief Justice of the Washington Supreme Court, the Superior Court Judges' Association and the Washington Association of Juvenile Court Administrators are all working to reduce racial disparities in Washington's juvenile justice system. Routine shackling of juveniles in court is a practice that is incompatible with these efforts.

For all of the above reasons, we urge you to adopt proposed JuCR 1.6, in its current form.

Sincerely,

A handwritten signature in black ink that reads "Nancy L. Talner". The signature is written in a cursive, flowing style.

NANCY L. TALNER

Staff Attorney

ACLU of Washington Foundation