

Tracy, Mary

From: Foster, Denise
Sent: Thursday, March 06, 2014 9:37 AM
To: Tracy, Mary
Subject: FW: Comment on JuCR 1.6

rule comment

From: David B. Mendoza [dbmendoza@gmail.com]
Sent: Tuesday, March 04, 2014 5:42 PM
To: Foster, Denise
Subject: Comment on JuCR 1.6

Ms. Foster,

On behalf of the Latina/o Bar Association I would like to submit our comment (pasted below) on JuCR 1.6. Please let me know if you have any questions or concerns about this comment.

Sincerely,
David B. Mendoza
2014 LBAW President

Dear Justice Johnson and Members of the Rules Committee:

The Latina/o Bar Association of Washington would like to express its support of a policy requiring individualized determination whether restraint of juveniles is necessary to maintain order and prevent injury in the courtroom. The indiscriminate shackling of juveniles in the court room threatens the due process rights of these individuals, and can be traumatizing to a young person in an already highly stressful situation. The routine practice of shackling youth can cause emotional, psychological, and physical harm and is, in most cases, unjustified.

Juveniles may feel additionally ostracized when forced to appear in shackles in the courtroom, which is counterproductive to the special rehabilitative function of the juvenile justice system. Physical restraints imply guilt or a violent nature of the detained person. These juveniles, as a group, are made to feel dangerous, and deserving of humiliation. Neither of these sentiments is conducive to a rehabilitative approach to justice.

As a minority bar association, we recognize the bias that youth of color face in the courtroom. No young person should be unnecessarily burdened by an additional perception hurdle by appearing shackled. These children deserve a presumption of innocence.

LBAW supports a uniform procedure for judges to determine whether there are no less restrictive means to maintain safety and order in the courtroom proceedings of a juvenile. Allowing each judge the discretion to determine on a case-by-case basis whether restraint is absolutely necessary will address the concerns for courtroom safety and decorum. These should be rare instances, where a judge has made a determination based on the facts of the individual case.

We urge the adoption of proposed rule JuCR 1.6, and an end to the practice of indiscriminate juvenile shackling. Physical restraints are often unnecessary and should be removed prior to the youth's appearance in juvenile court.