

# Pierce County

Office of Prosecuting Attorney

REPLY TO:  
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March 25, 2014

Supreme Court of Washington  
P.O. Box 40929  
Olympia, Wa.  
98504-9828

Received  
Washington State Supreme Court

MAR 31 2014  
Ronald R. Carpenter  
Clerk

Re: Proposed JcCR 1.6

Dear Clerk of the Supreme Court:

The proposed rule that would prohibit the use of restraints on respondents in Juvenile court, while well intentioned, is neither necessary nor workable. The Pierce County juvenile court employs the use of restraints in the court room for those respondents who are in detention when they appear before the court for hearings ranging from arraignment through trial. These respondents appear exclusively before judicial officers, and never before a jury. The judicial officer is well aware that the restraints are used as a matter course, and the respondent is not prejudiced in the eyes of the court.

It is important to remember that not all counties have facilities and available personnel that would address the obvious safety concerns that are raised by the proposed rule. While some courts, for example, may have a full deputy in each courtroom, there is presently one deputy sheriff for the entire facility here in Pierce County. (Until recently, budget restrictions resulted in the lack of regular law enforcement presence, and budget concerns are always present.) The courtrooms themselves are very confined, with the public only a couple feet away from the participants in the proceedings, to include the detained respondent. In the courtroom where criminal trials are held, the witness stand is only a couple feet away from where the respondent sits. The exit door is an equally short distance from the respondent's seat at counsel table. Restraints under these circumstances are necessary to ensure the safety of the public as well as the participants to the proceedings before the court.

Additionally, the proposed rule leaves questions unanswered. If the court is to hold a hearing prior to restraints being used, is the respondent to be present for that hearing? If so, does the respondent appear with shackles, or without, based on subsection (a) of the proposed rule? Is the hearing held in the absence of the respondent? The current rule also

permits “any party” to be heard on the restraint issue, including unrelated non participants. This could result in lengthy hearings on an already very busy court calendar. Further, the rule limits the discretion of the court to consider factors such as available personnel, facility limitations, or other factors unique to a given case. Limitation of this discretion is neither warranted nor wise.

Presently Pierce County uses leg restraints on each respondent that appears before the court. This policy considers the facility restrictions, the personnel limitations, and the need to keep the respondent, court personnel, and the public safe while the court’s business is conducted. This proposed rule, while possibly feasible in some courtroom settings, creates an increased safety risk and unnecessary strain on available resources. For the reasons stated, this proposed rule should not be adopted.

Very truly yours,



Kevin S. Benton  
Chief, Juvenile Division  
Deputy Prosecuting Attorney  
Pierce County Prosecuting Attorney’s Office  
(253) 798-3410

Cc: Mark Lindquist, Pierce County Prosecuting Attorney  
Kitty-Ann Van Doorninck, Presiding Judge, Pierce County Juvenile Court