



September 29, 2020

Chief Justice Debra L. Stephens
Justice Charles W. Johnson
Washington State Supreme Court
P.O. Box 40929 Olympia, WA 98504-0929

Re: Letter in Support of Adopting Proposed JuCR 7.16

Dear Chief Justice Stephens and Justice Johnson:

The National Juvenile Defender Center (NJDC) is writing to express our strong support of Proposed Juvenile Court Rule 7.16-Governing Warrant Quashes in Washington. NJDC is a non-profit organization dedicated to promoting justice for all children, by ensuring excellence in juvenile defense. NJDC has worked for decades to strengthen children's legal protections and access to counsel, through juvenile defense assessments, training, technical assistance, and policy reform efforts in every state. NJDC simultaneously works to build the capacity of the juvenile defense bar to improve outcomes for youth.

Advancing racial justice is central to all of NJDC's work. Over the past seven months NJDC has been working to provide resources to defenders to fight against the disparate treatment of youth of color and assist in ensuring due process protections for young people as the country fights the COVID-19 epidemic. We urge you to adopt proposed Juvenile Court Rule 7.16 – Governing Warrant Quashes. The proposed court rule will ensure that youth do not face incarceration for technicalities like missing court or violating probation, unless the individual circumstances pose a serious threat to public safety. This rule will promote public health, advance racial justice, and reduce the harm of the juvenile legal system.

Adopting JuCR 7.16 will protect youth from the heightened risk of COVID-19 incarceration creates.

As NJDC put forth in our COVID-19 statement dated April 2, 2020, “the United States is facing a public health crisis unlike anything experienced in our lifetimes. As public entities responsible for the safety and wellbeing of their communities, all decisionmakers in the juvenile legal system must act immediately to mitigate the devastating impact the pandemic will have on our nation's most vulnerable youth, their families and communities, and their fellow juvenile legal system professionals. Each point of contact between the juvenile legal system and a youth—from interaction with law enforcement through court hearings, incarceration, and supervision—represents an opportunity to

interrupt the exponential growth of the COVID-19 pandemic. The juvenile legal system must intentionally reduce its impact on youth at every touchpoint until the pandemic has been resolved.”¹

According to The Sentencing Project, “COVID-19 has infected hundreds of youth housed in and staff working in juvenile facilities” with COVID-19 cases of detained youth reported in at least 35 states, the District of Columbia, and Puerto Rico, and cases among staff reported in at least 41 states and the District of Columbia.²

The Centers for Disease Control and Prevention explains that correctional facilities “present unique challenges for control of COVID-19 transmission among incarcerated/detained persons, [detention center] staff, and visitors.”³ As a result, medical professionals have called on state governors, courts, and departments of corrections to “[i]mmediately release youth in detention and correctional facilities who can safely return to the home of their families and/or caretakers, with community-based supports and supervision, in order to alleviate potential exposure to COVID-19.”⁴

Adopting proposed JuCR 7.16 will ensure that youth cannot be jailed for a warrant unless a judge finds that incarceration is needed to protect against a serious threat to public safety. Enacting this proposed rule is an essential step towards safeguarding the well-being of Washington’s youth, their loved ones, and their community.

¹ Statement, Nat’l Juvenile Defender Ctr., National Juvenile Defender Center Statement on COVID-19 Pandemic & Urgent Need for Juvenile Legal Systems to Act (Apr. 2, 2020) (available at <https://njdc.info/wp-content/uploads/NJDC-COVID-19-Statement.pdf>).

² Josh Rovner, *COVID-19 in Juvenile Facilities*, THE SENTENCING PROJECT, <https://www.sentencingproject.org/publications/covid-19-in-juvenile-facilities/> (last visited Sept. 29, 2020).

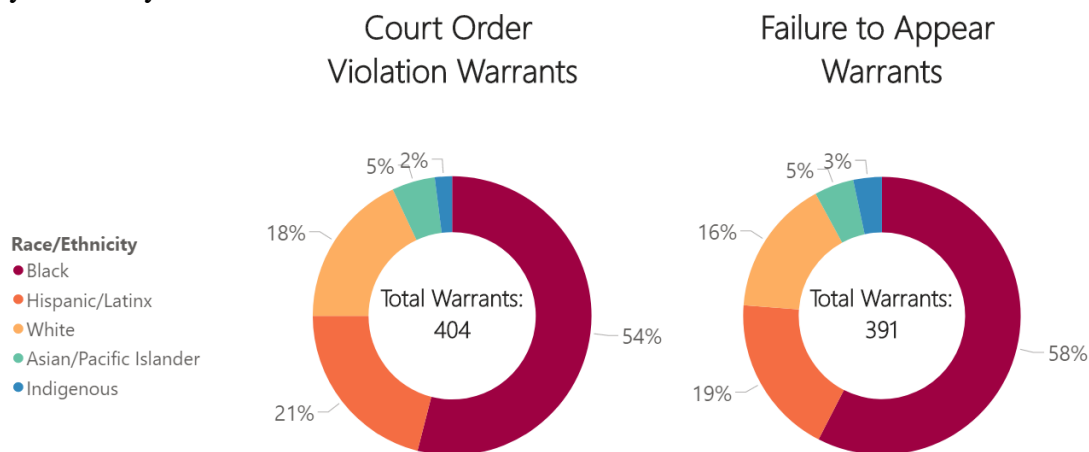
³ Letter from Physicians for Criminal Justice Reform, to State Governors, State and Local Juvenile Detention and Correctional Departments, and Juvenile Court Judges and Magistrates at 1 (Mar. 22, 2020), <https://bit.ly/3az51sz>.

⁴ *Id.*

Adopting JuCR 7.16 will advance racial justice by reducing the harms of incarceration, which disproportionately impact Black youth, Indigenous youth, and Youth of Color.

To promote justice for *all* children, everyone who works in the juvenile legal system must actively work to counteract the deeply rooted systemic biases that disproportionately impact Black, Latinx, Asian, Native, Indigenous, and all youth who experience disparate treatment because of their race or ethnicity at every stage of the system. In Washington, as is true across the country, we know that Black youth, Indigenous youth, and youth of color are disproportionately prosecuted and incarcerated in the juvenile legal system.

Last year in King County, for example, 404 warrants were issued for Violation of a Court Order and 391 warrants were issued for a Failure to Appear (FTA) in court (about 174 of those FTA warrants did not require the incarceration of the youth). Overall, between 82-84% of the warrants issued last year in King County were for Black youth, Indigenous youth and youth of color--



Because the harms of the juvenile legal system, including the issuance of warrants, disproportionately fall on Black youth, Indigenous youth, and youth of color, clear limitations must be set for when an arrest warrant can be issued for a youth. Enacting this rule will advance the health and safety of all youth and especially youth of color.

- **Adopting this rule will shift how the juvenile legal system responds to youth by moving away from over incarceration and toward providing community supports.**

In our COVID-19 statement, NJDC calls for juvenile legal systems to: stop the influx of new cases into the juvenile court system; release from detention facilities all youth who

can safely return home to their families or caregivers; and release from secure commitment facilities all youth who were committed for status, misdemeanor, or non-violent felony offenses or for technical parole or probation violations, and youth who have a pending release date in the next 180 days. Of particular relevance to support Washington's Proposed JuCR 7.16, "Youth should not be detained prior to adjudication to ensure their appearance at future court dates, because they may present a risk to themselves or to property, or because their families cannot afford to pay for monetary bail or other forms of conditional release, like electronic monitoring. Youth should be home with their families or in a safe, home-like setting with caregivers and receive free, community-based, COVID-19 compliant supports and services as necessary."⁵

This rule should be adopted because a youth's family and community supports—rather than incarceration-- are best positioned to provide youth with safe and stable housing, access to education, access to medical and behavioral health services, mentorship, and job and vocational training. If this rule is adopted, it will help shift the response to youth in the juvenile legal system from a punitive one of arrest and incarceration to a restorative one of support and care. And, increase overall community safety by reducing both the spread of the COVID-19 and the risk for further legal system involvement.

Because the juvenile legal system unfairly exploits Black, Latinx, Asian, Native, Indigenous, and all youth who experience disparate treatment because of their race or ethnicity, limiting the circumstances under which a youth can be incarcerated through the juvenile legal system due to a warrant protects youth and enables a more racially just future. As a result, the NJDC strongly urges the Washington Supreme Court to adopt this proposed juvenile court rule -- JuCR 7.16 – Governing Warrant Quashes- and protect youth from incarceration for non-criminal behaviors that do not seriously threaten public safety.

Sincerely,

Mary Ann Scali, Executive Director
National Juvenile Defender Center

⁵ Nat'l Juvenile Defender Ctr., *supra* note 1.

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Cc: [Tracy, Mary](#)
Subject: FW: Comment re: Proposed WA JuCR 7.16-Governing Warrant Quashes
Date: Tuesday, September 29, 2020 11:14:28 AM
Attachments: [NJDC Ltr re Proposed WA JuCR 7.16 2020.pdf](#)

From: Christina Gilbert [mailto:cgilbert@njdc.info]
Sent: Tuesday, September 29, 2020 11:07 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment re: Proposed WA JuCR 7.16-Governing Warrant Quashes

Hello,

Please see the attached public comment regarding proposed Juvenile Court Rule 7.16 on behalf of the National Juvenile Defender Center.

Thank you.

Christina J. Gilbert, Esq.

(Pronouns: She, her)

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