

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:

As our community fights the deadly public health crises of COVID-19 and racial injustice, we urge you to adopt proposed Juvenile Court Rule 7.16 – Governing Warrant Quashes. The proposed court rule will ensure that youth subject to juvenile offense proceedings are not incarcerated for behaviors 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.

COVID-19 has seriously sickened and killed many people, including the young. The disease disproportionately harms communities of color.<sup>1</sup> 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.”<sup>2</sup> 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.”<sup>3</sup>

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 our youth, their loved ones, and our community.

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<sup>1</sup> COVID-19 places a disproportionate burden of illness and death among racial and ethnic minority groups’ especially African American communities. A University of Washington Study published May 7, 2020 found the national death rate for people infected with Coronavirus to be 1.3% compared to the flu at 0.1%.

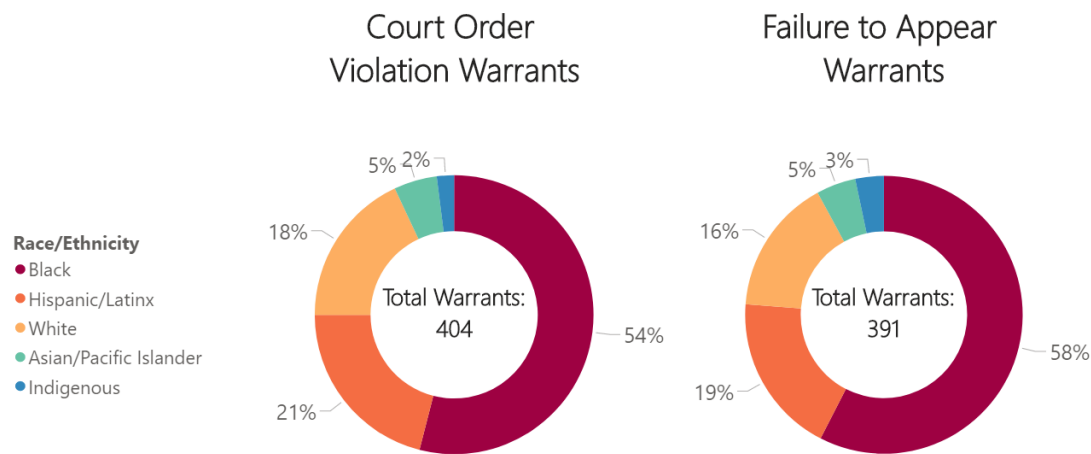
<sup>2</sup> Letter from Physicians for Criminal Justice Reform, to State Governors, State and Local Juvenile Detention and Correctional Departments, and Juvenile Court Judges and Magistrates at 1 (Mar. 22, 2020), <https://bit.ly/3az51sz>.

<sup>3</sup> 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.

The long-standing and deadly public health crisis of racism, which has been linked to birth disparities, mental health diagnoses in children of color, and overrepresentation in the criminal legal system,<sup>4</sup> has come to the forefront since the murder of George Floyd. In Washington, 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--



In March 2012, a statewide multi-disciplinary task force examined racial disproportionality in Washington State’s Juvenile Justice System.<sup>5</sup> The task force recommended limiting “the use of secure confinement on failure to appear warrants by creating policies and funding strategies that address the underlying reasons for failures to appear in juvenile court matters.”<sup>6</sup>

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 who face incarceration, providing community supports and services rather than jails and police officers.

<sup>4</sup> Id.

<sup>5</sup> See Juvenile Justice and Racial Disproportionality: A Presentation to the Washington State Supreme Court, the Task Force on Race and the Criminal Justice System, March 28, 2012, at page 2.

<sup>6</sup> Id. at page 20 (Local government/Courts – Recommendation #3).

Statewide data shows that warrants are frequently issued because of violations of court orders and low-level misdemeanors. A 2018 study by Washington’s Juvenile Justice System Improvement Planning Grant found that more than half of all incarcerated youth received either a technical violation/contempt or a misdemeanor as their highest charge.<sup>7</sup> Judges were allowed to do that because they were not required to make a finding that the youth posed a serious risk to public safety before issuing an arrest warrant.

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<sup>8</sup>, 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 our response to youth in the juvenile legal system from a punitive one of arrest and incarceration to a restorative one of support and care.

Justice González recognized in *State v. B.O.J.* that “[i]ncarceration harms children.” 194 Wn.2d 314, 332, 449 P.3d 1006 (2019) (concurring opinion). While progress has been made in other areas of juvenile justice, critical work remains as the juvenile legal system continues to disproportionately incarcerate – and harm – Black youth, Indigenous youth and youth of color. Because the juvenile legal system is built on racism that unfairly exploits BIPOC youth, limiting the circumstances under which a youth can be incarcerated due to a warrant in a juvenile offense proceeding protects our youth and enables a more racially just future. As a result, the undersigned stakeholders strongly urge 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,

Community Passageways	CHOOSE 180	Creative Justice
Collective Justice	United Better Thinking	Seattle Center Racial Equity Cohort
Snohomish County Equity Alliance	What's Next Washington	Northwest Community Bail Fund

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<sup>7</sup> *Washington’s Juvenile Justice System Improvement Planning Grant*, (2018) p 41 last viewed at <https://www.dcyf.wa.gov/sites/default/files/pdf/WashingtonTaskforceMeetingAssessmentPresentation.pdf>

<sup>8</sup> If a youth leaves an approved placement, they can be brought home rather than to detention under RCW 43.185C.260.

Annie Blackledge, Executive Director, The Mockingbird Society	Seattle Center Race & Social Justice Initiative Change Team	Partners for Our Children
Urban League of Metropolitan Seattle	National Juvenile Defender Center	Juvenile Law Center
Fred T. Korematsu Center for Law and Equality	King County Department of Public Defense	Juvenile Law Section of the WSBA
TeamChild	Legal Counsel for Youth and Children	Center for Children & Youth Justice
Northwest Immigrant Rights Project	ACLU of Washington	Columbia Legal Services
Washington Association of Criminal Defense Lawyers	Washington Appellate Project	Washington Defender Association
Public Defender Association	Counsel for Defense Spokane	The National Lawyers Guild Seattle Chapter
Joanne Moore, Director, Washington State Office of Public Defense	Alina Santillan, Director of Racial Equity, Seattle Community Police Commission Commissioner & Fabian's Fund Board member	Director Michael Kawamura, Pierce County Department of Assigned Counsel
Simmie Baer, Attorney, Cowlitz County	Kevin Flannery, Attorney Yakima County	Michael P. Brodsky, Attorney, Whatcom County
Megan Manlove, Attorney, Spokane County	Dena Alo-Colbeck, Attorney, Pierce County	Krista Elliott, Attorney, Spokane, DiNenna & Associates

Paul Holland, Professor,  
Seattle University School of  
Law Youth Advocacy Clinic

Nicole McGrath, Juvenile  
Attorney, King County

Kimberly Ambrose, Teaching  
Professor, Director, UW Law  
School Race and Justice  
Clinic (in personal capacity)

Bob Boruchowitz, Professor  
from Practice, Director, The  
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University School of Law

Washington State  
Psychological Association

Dr. Eric W. Trupin,  
Professor, University of  
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G. Andrew H. Benjamin, JD,  
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Dr. Benjamin Danielson,  
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Professor of Pediatrics,  
University of Washington

Dr. Anthony Bui, Pediatrician  
and Public Health Researcher  
in King County

Dr. Michael Arenson,  
Pediatrician in King County

Cathryn Burby, Community  
Member

Dr. Hannah Deming,  
Pediatrician, King County

Dr.  
Anthony Bui, Pediatrician,  
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Dr. Madeline Wozniak,  
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Dr. Lilian McKinley,  
Pediatrician, King County

Dr. Alexandra Perkins,  
Pediatrician, King County

Dr. Kelly Shontell,  
Pediatrician, King County

Dr. Jessica E. McDade,  
Pediatrician, King County

Dr. Chinenyenwa  
Mpamaugo, Pediatrician,  
King County

Dr. Dennis Pang, University  
of Washington Department of  
Pediatrics

Dr. Caitlin Hopeman,  
Pediatrician, King County

Snohomish County Music  
Project

Dr. Kenny S Ferenchak,  
Pediatrician, King County

Uptown Arts & Culture  
Coalition

Cal Van Zee- University  
Unitarian Church Juvenile  
Justice Team

Skate Like A Girl

King FM

Nabra Nelson, Community  
Member

Chris Moore, Community  
Member

Tara Wefers, Community  
Member

Rev. Beth Chronister,  
University Unitarian Church

Dr. LéTania Severe, Plumb  
Research Services

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Linford, Tera](#)  
**Cc:** [Tracy, Mary](#)  
**Subject:** FW: Comment supporting Juvenile Court Rule 7.16  
**Date:** Wednesday, September 30, 2020 8:06:36 AM  
**Attachments:** [Ltr Supporting Proposed Juvenile Court Rule 7.16 \(9.29.20\).pdf](#)

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**From:** George Yeannakis [mailto:George.Yeannakis@opd.wa.gov]  
**Sent:** Tuesday, September 29, 2020 5:58 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment supporting Juvenile Court Rule 7.16

Chief Justice Stevens and Justice Johnson,

Please find attached a comment supporting the adoption of proposed Juvenile Court Rule 7.16.

Will you kindly confirm receipt of the comment.

Thank you,

George Yeannakis and Katherine Hurley