

February 25, 2022

Honorable Charles W. Johnson
Honorable Mary I. Yu
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Re: Comment in Support of Adopting Proposed Changes to GR 31 and CrR 2.1

Comment in Support of Adopting Proposed Changes to GR 31

Dear Justice Johnson, Justice Yu, and Rules Committee Members:

We urge you to adopt the proposed changes to GR 31 and CrR 2.1, which would prohibit the public online dissemination of juvenile court records and require the use of a young person's initials, rather than their name, in the case caption and pleadings. The proposed changes will help mitigate the harm of the juvenile legal system and are consistent with national efforts to protect youth records from online dissemination to the public.

- Adopting proposed changes to GR 31 and CrR 2.1 will limit (though not eliminate) the long-lasting consequences of juvenile records, which disproportionately affect Black youth, Indigenous youth, and Youth of Color (BIPOC).

Because of the public online availability of many Washington State juvenile records, youth often do not “have a meaningful opportunity to put delinquency behind them.”¹ The impact of juvenile court involvement and “the longevity and availability of juvenile court records directly interfere with the very things that help young people succeed.”² In addition to limiting young people's access to education and meaningful employment, juvenile records impede young people's ability to find housing. Although “Public Housing Authorities (PHAs) cannot legally obtain juvenile records... [T]hey frequently use informal methods to obtain information about juvenile records.”³ They use this information to deny housing to families of young people with criminal legal involvement.

¹ 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 16.

² See Nat'l Juv. Def. Ctr., *CAUTION: Collateral Consequences Obstructing the Pathway to Young People's Success* (2019), <https://njdc.info/wp-content/uploads/Collateral-Consequences-One-Pager-Web.pdf> (last accessed Feb. 10, 2022).

³ Off. of Juv. Just. & Delinq. Prevention, *Expunging Juvenile Records: Misconceptions, Collateral Consequences, and Emerging Practices*, 1, 8 (2020), <https://ojjdp.ojp.gov/publications/expunging-juvenile-records.pdf> (last accessed Feb. 1, 2022).

The consequences of juvenile records are particularly acute for BIPOC youth who are disproportionately prosecuted and incarcerated in Washington’s juvenile legal system.⁴ “One of the most consistent findings in the research on the juvenile justice system is that race matters...[t]he pattern of disproportionate minority contact is a persistent one across time.”⁵ In the same way life-long consequences of juvenile records follow youth, so do racial inequities.

- Adopting the proposed changes to GR 31 and CrR 2.1 will ensure that juvenile records are treated the same throughout Washington State.

Adopting the proposed changes is consistent with how the Washington State Administrative Office of the Courts (AOC) treats juvenile court records in its Data Dissemination Policy (“The AOC shall not display any information from an official juvenile offender court record on a publicly-accessible website that is a statewide index of court cases”). In addition, adopting the proposed change to CrR 2.1 is consistent with how cases are captioned at the appellate level in RAP 3.4(f).

- Adopting proposed changes to GR 31 and CrR 2.1 aligns with the stated goals of the juvenile legal system.

The Juvenile Justice Act requires that the juvenile legal system “provide for the rehabilitation and reintegration of juvenile offenders.” RCW 13.40.010. In 2010, the American Bar Association passed a resolution “recognizing that extra effort must be made to reduce the stigma and discrimination faced by youth involved in the juvenile justice system.”⁶

In 2020, the Juvenile Law Center studied laws impacting youth records, including expungement, confidentiality of juvenile records, and whether youth court records are available to the public and online.⁷ Nationally, Washington ranks as one of the worst states (within the bottom five) for protecting juvenile records.

The disproportionate and harmful consequences of having a juvenile record are not collateral in the least – they are costly and lasting. “When states fail to protect juvenile records either by granting broad access or by making expungement and sealing costly and inaccessible... the disproportionate impact on Black and Brown youth compounds the systems of discrimination in our education, employment, and housing systems.”⁸

While the proposed amendments to GR 31 and CrR 2.1 do not remedy the fundamental harm of open juvenile court records, they are an important step to mitigating the harms of juvenile court involvement and to ensuring that juvenile records are handled consistently throughout the state. We urge you to adopt them.

⁴ See Juvenile Justice and Racial Disproportionality, *supra* note 1 at 11, 16; See also Report and Recommendations to Address Race in Washington’s Juvenile Legal System: 2021 Report to the Washington Supreme Court, Fred T. Korematsu Center for Law and Equality, December 2021, at pages 12, 13.

⁵ See Juveniles Sentenced as Adults in Washington State, 2009-2019, Univ. of Wash., June 14, 2021, at pages 1-2.

⁶ Juvenile Justice and Racial Disproportionality, *supra* note 1, at 16.

⁷ Juv. Law Ctr. & Troutman Pepper, *Failed Policies, Forfeited Futures: Revisiting a Nationwide Scorecard on Juvenile Records* (2020), <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/executive-summary-2020.pdf> (last accessed Feb. 1, 2022).

⁸ *Id.*

Sincerely,

King County Department of Public Defense	The Washington Chapter of the American Academy of Pediatrics	Juvenile Law Center
Partners for Our Children	Washington Defender Association	What's Next Washington
Pierce County Department of Assigned Counsel	Washington Association of Criminal Defense Lawyers	Columbia Legal Services
The Gault Center	Law Offices of Dena Alo-Colbeck	American Civil Liberties Union of Washington
CHOOSE 180	Community Passageways	Northwest Community Bail Fund
The Mockingbird Society	Legal Counsel for Youth and Children (LCYC)	Legal Voice
The Defender Initiative, Seattle University School of Law	Fred T. Korematsu Center for Law and Equality, Seattle University School of Law	TeamChild
Center for Children & Youth Justice	Washington State Office of Public Defense	Freedom Project
Public Defender Association	Creative Justice	Snohomish County Public Defender Association
Paul Holland	Dr. Dennis Pang	Emily Hiskes
Kim Ambrose	Sarah Cusworth Walker	

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Hello,

Attached please find a Comment in Support of:

- Adopting Proposed Changes to GR 31/CrR 2.1 and
- Adopting Proposed Changes to GR 31.

Thank you,
Katie

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