



April 13, 2023

Chief Justice Steven C. González  
c/o Clerk of the Supreme Court  
Washington State Supreme Court  
PO Box 40929  
Olympia, WA 98504-0929

**RE: Letter In Opposition to Rescinding JuCR 7.16**

Dear Chief Justice González:

I am writing on behalf of The Gault Center (formerly the National Juvenile Defender Center), to oppose rescinding Juvenile Court Rule 7.16: Quashing and Issuing Warrants. The Gault Center is a nonprofit, non-partisan organization dedicated to promoting justice for all children by ensuring excellence in youth defense. Through our work on issues related to youth justice, we engage with defenders, advocates, judges, and other professionals across the country to educate decisionmakers on reform that encompasses developmental research, racial justice, and current best practices.

In 2020, we advocated in support of this Court adopting JuCR 7.16. This rule limits issuing of warrants against youth and the use of detention by requiring a judicial finding that detention is “necessary to the immediate preservation of public or individual safety.” This requirement ensures that youth do not face detention for technicalities such as missing court or incomplete probation conditions, unless the individual circumstances pose a serious threat to public safety. The Gault Center supports limiting detention because it reduces the harms of the juvenile legal system and advances racial justice.

**Detention harms, not protects youth.** Decisions to detain youth too often fail to consider the risks associated with incarceration: increased victimization and trauma, recidivism, lower educational attainment, and long-term physical and mental health issues.<sup>1</sup> Any period of detention, whether it’s a few days or a few months, separates youth physically and emotionally from their families and communities during a crucial period of adolescent development. Research consistently shows that youth who experience disruptions in their education due to incarceration are significantly less likely to complete school. Youth booked in Washington

detention centers, even for a short time, can be strip searched which can cause long-lasting effects such as anxiety, depression, sleep disturbances, phobic reactions, shame, and guilt.<sup>2</sup> In fact, the State Legislature has found that “Washington has been using the valid court order exception of the juvenile justice and delinquency prevention act, a loophole in federal law allowing judges to detain status offenders for disobeying court orders, **more than any other state in the country.**”<sup>3</sup>

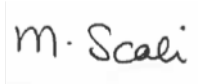
**Keeping JuCR 7.16 will advance racial justice by reducing detention, which disproportionately impacts Black, Native/Indigenous, and Latino/a youth.** Deeply rooted systemic biases within the juvenile legal system lead to disproportionate arrest, charging, and adjudication of Black, Native/Indigenous, and Latino/a youth in Washington.<sup>4</sup> In Washington, Black youth are more than 5 times more likely Native/Indigenous youth are 3 times more likely than white peers to be incarcerated.<sup>5</sup> One study showed that decisionmakers with the authority to hold youth prior to adjudication are more likely to detain Black youth than white youth—even when the youth are arrested for similar offenses or have similar offense histories.<sup>6</sup> Black youth are further harmed by allowing further judicial discretion due to confirmed bias that makes them more likely to be perceived as dangerous or older than their true age,<sup>7</sup> which can result in more detention decisions. Because the juvenile legal system unfairly exploits Black, Native/Indigenous, Latino/a, and other youth who experience disparate treatment because of their race or ethnicity, limiting the circumstances under which a youth can be detained through the juvenile legal system due to a warrant protects youth and enables a more racially-just future.

Some proponents for rescinding this rule have argued that the rule limits courts’ ability to issue arrest warrants for youth who fail to appear for a court hearing or violate a court order.<sup>8</sup> However, youth should not be detained to ensure their appearance at future court dates, 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 access to community-based supports and services as needed. Additionally, the proponents are asking for authority to issue warrants on cases for which detainment would not have originally been permitted such as for youth who oppose mental health court orders, miss court-ordered counseling, or even miss school.<sup>9</sup> However, detention makes mental illness—particularly depression and suicide idealization—worse. Researchers have found that for one-third of incarcerated youth diagnosed with depression, the onset of depression began *after* their detention.<sup>10</sup>

Indeed the National Conference of Juvenile and Family Court Judges urges judges not to use detention unless there are serious concerns about court appearance and public safety.<sup>11</sup> Detention increases recidivism and “even one or two days of detention may be traumatic, expose youth to negative influences, and have the unintended consequence of a youth self-identifying as an offender.”<sup>12</sup>

Washington state has long been a leader in juvenile justice reform.<sup>13</sup> We strongly urge this Court not to take a dangerous step back by rescinding JuCR 7.16.

Respectfully,



Mary Ann Scali  
Executive Director

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<sup>1</sup> JUST. POL'Y INST., [STICKER SHOCK 2020: THE COST OF YOUTH INCARCERATION](#) (2020).

<sup>2</sup> [AM. BAR. ASSOC., PREVENTING STRIP SEARCHES OF CHILDREN AND YOUTH: WASHINGTON STATE SUPPLEMENT](#) (2022).

<sup>3</sup> Wash. Rev. Code Ann. § 7.21.080 (West 2019) (emphasis added).

<sup>4</sup> [WA State Juvenile Law Enforcement Data Analysis Dashboard](#); then click “Dashboard by Demographics.”

<sup>5</sup> The Sentencing Project, [Racial Disparities in Youth Incarceration Persist](#) (2022).

<sup>6</sup> JUST. POL'Y INST., [THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES](#) (2022).

<sup>7</sup> Phillip Atiba Goff, et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. OF PERSONALITY & SOC. PSY. 526 (2014).

<sup>8</sup> [Suggested Amendment to the Washington State Juvenile Court Rules](#) (2022).

<sup>9</sup> *Id.*

<sup>10</sup> JUST. POL'Y INST., [THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES](#), *supra* note 5, at 8.

<sup>11</sup> NAT'L CONF. OF JUV. AND FAMILY CT. JUDGES, [APPLYING PRINCIPLES OF ADOLESCENT DEVELOPMENT IN DELINQUENCY PROCEEDINGS](#) (2021).

<sup>12</sup> *Id.*

<sup>13</sup> See, e.g., *Matter of Miller*, 21 Wash. App. 2d 257 (2022) (holding sentencing court should consider the child's youthfulness and potential biases against “Black children, Indigenous children, and children of color to avoid the real bias that has long plagued our justice system”); [Act of May 18, 2021](#), 2021 WASH. LAWS 1140; *Matter of Monschke*, 197 Wash. 2d 305 (2021) (finding mandatory life without parole is unconstitutional for youth under age 21); *State v. Houston-Sconiers*, 188 Wash.2d 1 (2017) (holding courts sentencing youth must have discretion to impose sentence below statutory range and enhancements).

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**From:** Katrina Goodjoint <[KGoodjoint@defendyouthrights.org](mailto:KGoodjoint@defendyouthrights.org)>  
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Good afternoon:

Attached please find the Gault Center's comments in regard to the proposed changes to JuCR 7.16—Quashing and Issuing Warrants.

Respectfully,

Katrina



**Katrina L. Goodjoint**

*(she/her)*

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