

The Superior Court of the State of Washington
County of Kitsap

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PORT ORCHARD, WASHINGTON 98366
(360) 337-7140

TINA ROBINSON, JUDGE
Department No. 1

MELISSA HEMSTREET, JUDGE
Department No. 3

JEFFREY BASSETT, JUDGE
Department No. 5

JENNIFER A. FORBES, *PRESIDING JUDGE*
Department No. 7

KEVIN HULL, *AST. PRESIDING JUDGE*
Department No. 6

MICHELLE ADAMS, JUDGE
Department No. 2

WILLIAM HOUSER, JUDGE
Department No. 4

SALLY OLSEN, JUDGE
Department No. 8

April 27, 2023

Clerk of the Supreme Court
Attn: Supreme Court Rules Committee
P.O. Box 40929
Olympia, WA 98504-0929
Sent via Email to: supreme@courts.wa.gov

We write to support the SCJA's request that the Supreme Court rescind JuCR 7.16.¹

JuCR 7.16 was adopted as a *permanent* rule without the benefit of public comment.² From the wording of the rule, it is apparent that those who drafted and proposed the rule did not intend that it become permanent. In the absence of a meaningful public comment opportunity, the rule — as drafted — seriously undermines our ability to serve the needs of youth in our community.

The Kitsap County Superior Court is committed to reducing the number of young people in detention. Our detention rates reflect this commitment.³ The rescission or amendment of JuCR 7.16 would not alter this ongoing commitment.

We respect the position of many juvenile justice advocates who believe that detention, without exception, is detrimental to youth. However, despite the legitimate concerns about the overuse of detention, **JuCR 7.16 is not about detention**. The issuance of a warrant does not correlate to an extended stay in detention. Any young person picked up on a warrant is seen by a judge on the same or next judicial day and the standards for holding them in detention⁴ are the same regardless of whether the young person came before the court on a warrant or walked into court voluntarily.

Our primary concern with JuCR 7.16 is that it can prevent courts from taking steps that may interrupt a young person's dangerous behavior in order to engage them in services. As has been argued quite

¹ If the Court does not rescind JuCR 7.16, we support the adoption of alternative language proposed by the SCJA.

² It was put out for public comment as an emergency rule. We did not have concerns with the rule being adopted temporarily to address the COVID-19 pandemic state of emergency.

³ See attachment A.

⁴ See RCW 13.40.040(2) and 13.40.050. The Juvenile Justice Act has been repeatedly updated by the legislature since it was adopted in 1977. The legislature has established clear guidelines for juvenile courts and juvenile probation services to ensure that we respond appropriately to the needs of young people.

eloquently by advocates seeking to expand juvenile court jurisdiction to include young persons over 18, juvenile courts provide meaningful services and support to young people in crisis.⁵ The young people who are *most in need of services* are the same young people who are harmed by the court's inability to provide those services. In the absence of other options, engagement in services may require a warrant to be issued. We believe that, on rare occasions, warrants may be the only method for saving a young person's life. Here are some examples⁶:

- We have seen a significant increase in young people who are in danger of serious and irreversible injury or death from heroin and fentanyl use. A case example includes a 15-year-old who repeatedly ran away from his home. His parents report that on several occasions they located him living in the woods with other homeless young persons. They attempted to bring him home but he immediately ran away. The pull of his addiction was beyond his capacity to resist. During this time, he was using methamphetamine and heroin — both laced with fentanyl. Over a number of months, the young man overdosed numerous times — but fortunately recovered. His parents were desperate to get him into treatment, but they could not get him to stay home long enough to get him into a residential program. This young man was not a danger to the public — but was a danger to himself. A warrant was the only option for getting him off the streets so that he would go into treatment.
- We are seeing young people who have not engaged in services — in part due to the inability to connect over the pandemic — who now face charges as adults. One particular young man was on probation and assigned to a therapeutic court. He failed to engage with probation, treatment, or the courts. The young man turned 18 last summer and was recently convicted of his *third* adult felony, with all three charges filed separately over about a nine-month period. He was recently sentenced to a prison term. This young man will be going to prison *before* his 19th birthday. The absence of engagement in the juvenile system meant that this young man did not receive services that may have given him the tools to avoid this adult court involvement.

As the use of diversion has increased, the types of cases that go to court are narrowed and increasingly involve young people in real crisis. Juvenile courts are sometimes the last failsafe for desperate families. On a regular basis we look into the eyes of caregivers who are begging us to help them save their child's life. In the absence of any other alternatives, we need a tool to intervene. While some counties may have alternative services that reduce the risk to young people under these circumstances, many smaller counties like Kitsap do not. The young people in these smaller counties are just as deserving of our care and support.

As with most issues that confront the courts, there are rarely absolutes. While we accept that detention is not optimal and should be used sparingly, we do not agree that the trauma inflicted by homelessness, medical crisis caused by overdosing, ongoing criminal conduct, or sexual exploitation is less severe than a brief stay in a detention facility. Our detention facility, like many others, is more

⁵ JuCR 7.16 has been argued as a reason not to expand juvenile court jurisdiction as it operates to undermine the court's ability to hold young people accountable and provide important services.


⁶ Although warrants were ultimately issued in both cases, they exemplify the types of cases that cause us concern regarding JuCR 7.16. These two cases stand out in our memories among dozens of others that present similarly tragic circumstances.

like a hospital than a jail. It is staffed with trauma informed staff, who endeavor to connect with youth. We invite the members of the Rules Committee to tour our detention facility.


Like many other courts, we are further concerned that juvenile courts are losing jurisdiction over cases due to JuCR 7.16 and the inability to process pending offender matters. If juvenile courts cannot compel pre-adjudication attendance in courts, the opportunity to resolve the case under the JJA can be lost. Once the young person turns 18, the juvenile court loses jurisdiction and the cases will be dismissed to potentially be refiled in adult court. Some of these cases involve felonies that would have been eligible for vacating and sealing under the juvenile court rules.

We know the Rules Committee will consider the SCJA’s proposed rule change with an open mind. The adoption of JuCR 7.16 without public input needs to be reversed. Any meaningful systemic changes deserve our full attention and robust dialogue. We thank you for considering our comments.

Sincerely,




TINA ROBINSON, JUDGE
Department No. 1



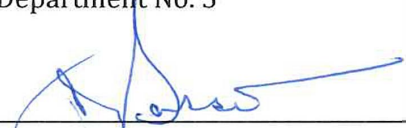
MICHELLE ADAMS, JUDGE
Department No. 2

Approved for Signature

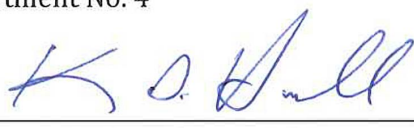
MELISSA HEMSTREET, JUDGE
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JEFFREY BASSETT, JUDGE
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KEVIN HULL, *AST. PRESIDING JUDGE*
Department No. 6



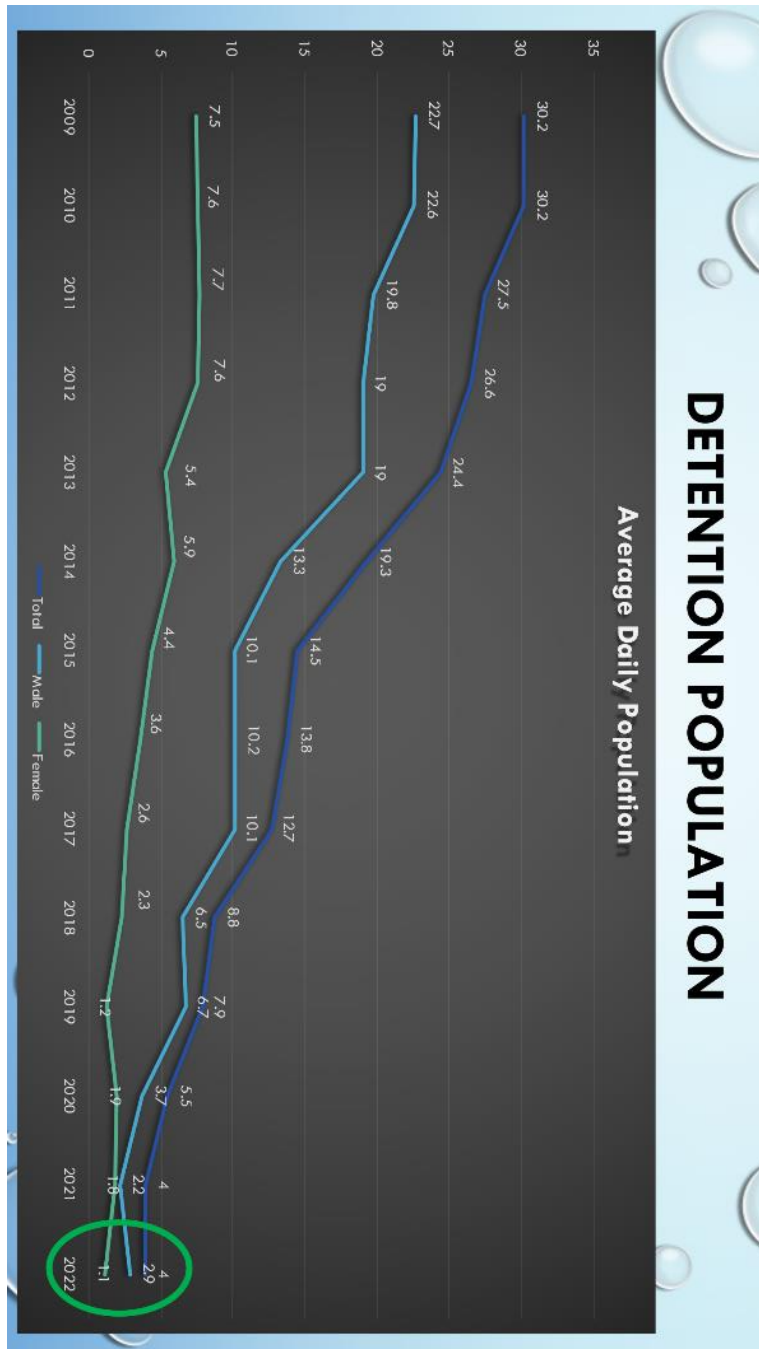
JENNIFER A. FORBES, *PRESIDING JUDGE*
Department No. 7

Approved for Signature

SALLY OLSEN, JUDGE
Department No. 8

ATTACHMENT A

Kitsap County Detention



From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Kitsap County Superior Court - Comment on JuCR 7.16
Date: Thursday, April 27, 2023 1:04:34 PM
Attachments: [Kitsap Ltr to Rules on JuCR 7.16 04272023.pdf](#)

From: Jennifer Forbes <jforbes@kitsap.gov>
Sent: Thursday, April 27, 2023 1:02 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Benway, Jennifer <Jamanda.Benway@courts.wa.gov>; Valdez, Andrea <Andrea.Valdez@courts.wa.gov>; Lee Muller, Allison <Allison.LeeMuller@courts.wa.gov>; Jessica Robison <jlrobison@kitsap.gov>; Frank Maiocco <FMaiocco@kitsap.gov>; Michael Merringer <mmerringer@kitsap.gov>
Subject: Kitsap County Superior Court - Comment on JuCR 7.16

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Please see attached public comment on proposed JuCR 7.16.

Sincerely,

Judge Jennifer Forbes

Presiding Judge

Kitsap County Superior Court
614 Division Street, MS-24
Port Orchard, WA 98366
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