Superior Court of the State of Washington
for Snohomish County

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JUDGE CINDY A. LARSEN
JUDGE JENNIFER R. LANGBEHN
JUDGE PAUL W. THOMPSON
JUDGE PATRICK M. MORIARTY

SNOHOMISH COUNTY SUPERIOR COURT

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April 28, 2023

Erin L. Lennon
Washington State Supreme Court Clerk
PO Box 40929
Olympia, WA 98504-092
supreme@courts.wa.gov

Re: Suggested changes to Washington State Juvenile Court Rule (JuCR) 7.16 "Quashing and Issuing Warrants"

Ms. Lennon,

Thank you for the opportunity to provide suggested changes to JuCR 7.16.
The Juvenile Justice Act of 1977 established a court system that was designed to be specific to distinct circumstances of juvenile offenders. The Act declared that youth were to be held accountable, consistent with thirteen equally important purposes:

> (a) Protect the citizenry from criminal behavior;
> (b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;
> (c) Make the juvenile offender accountable for his or her criminal behavior;
> (d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
> (e) Provide due process for juveniles alleged to have committed an offense;
> (f) Provide for the rehabilitation and reintegration of juvenile offenders;
> (g) Provide necessary treatment, supervision, and custody for juvenile offenders;
> (h) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;
> (i) Provide for restitution to victims of crime;
> (j) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels;
> (k) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services;

(l) Provide opportunities for victim participation in juvenile justice process, including court hearings on juvenile offender matters, and ensure that Article I, section 35 of the Washington state Constitution, the victim bill of rights, is fully observed; and
(m) Encourage the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process.

Only purpose (m) can be met without the presence of the youth, and those parents and guardians are participating, and they are begging for help we cannot give them under the current language of JuCR 7.16. Our youth are overdosing, they are being trafficked, they are living in terrifyingly unsafe situations, and in many circumstances, we have been left without a means to bring them before the Court so they can be referred for medical care, substance use disorder treatment, mental health counseling, family counseling, housing resources, educational resources, etc. The presence of fentanyl use in our youth has reached an alarming level and the issuance of a warrant for these youth can be a matter of life and death. This is not hyperbole. A youth that was subject of an At-Risk Youth Petition in our court recently died of an opiate-related overdose.

Our court is unequivocally familiar with the various studies and reports regarding the harmful effects of long-term incarceration on youth. We are also mindful of the disproportionate rates of incarceration on youth of color and the ways in which this affects our minority communities. However, it is important to remember that JuCR 7.16 is not about detention.

Whether a youth appears before us on their own, or because they are arrested and booked for their alleged offense, or they are returned on a warrant, they see a Judge who will consider their release or detention consistent with RCW 13.40.040(2). Our juvenile court judges oversee this difficult process of determining when detention must be employed to preserve the safety of our kids, families and communities. The same diligence is afforded to request for warrants. Thankfully our court has made groundbreaking efforts at using detention as a last option. This is reflected in our detention population statistics over the last 10 years, an objective indicator of our collective effort to use detention only when all other remedies are no longer effective. JuCR 7.16 eliminates youth as a consideration for issuing warrants. Because this policy leads to tragic results, we believe that JuCR 7.16 should be rescinded in its entirety.

The decision to use detention is best left to the discretion of our judicial officers through a careful balancing of the individualized facts in each case. JuCR 7.16 removes our ability to consider safety issues that directly affect the youth, including the youth's own self-destructive decision-making. Our court and others around the state have provided specific examples of how our inability to issue warrants relating to the safety of a youth has resulted in negative outcomes. The legislature has already established good reasons that judges may consider for detaining youth. RCW 13.40.040(2) and RCW 13.40.050 both address this. We have all embraced the science relating to youth brain development. We also agree that youth shouldn't have life-lasting impacts for delinquent decisions they make with their developing brains. This value has been shared by all stakeholders of the juvenile justice system. We believe the same consideration should be afforded while discussing youth that are harming themselves or making decisions that impact their own safety. These self-harming behaviors can also carry life-lasting impacts. The legislature has empowered juvenile courts to intervene when teens pose a danger to themselves or others. JuCR 7.16's removal of our ability to control self-endangering youth doesn't comport with our shared understanding of the undeveloped teenage brain.

Aside from the hazardous circumstances that JuCR 7.16 perpetuates with our youth, it undermines public confidence and trust. The family is an integral part of a youth's pro-social development. The family is also vital to a youth's ability to exit the juvenile justice system. Our families seek support from our juvenile court, asking for accountability and consequences when their youth fails to follow rules. JuCR 7.16 has placed our juvenile court in the unacceptable position of telling families that

their youth will receive no immediate consequences for self-endangering behavior. This will hold true for parents that inform us their youth has runaway from home, is actively using opiates, or is participating in sexual trafficking activity. You can imagine the types of responses that we receive from parents when we are forced to refuse a request for a warrant in these circumstances. It is no secret that communities of color possess a level of mistrust towards the criminal justice system. JuCR 7.16 reinforces this mistrust when our minority families are unable to receive the assistance they need to supervise and hold their children accountable. Continuing the historical practice of allowing juvenile courts to consider safety concerns of youth places us in the best position to promote access to justice and ensure that all our communities receive the relief to which they are entitled through the courts.

The rule also presents unintended legal consequences to juveniles. In some instances, JuCr 7.16 keeps youth cases open and in "Failure To Appear" status until some of them turn 18 and juvenile court loses jurisdiction. This puts them at greater risk of legal jeopardy because some felony cases could be refiled in adult court where the penalties and consequences of conviction are more long lasting. These youth lose the benefit of Engrossed House Bill 1324 which excludes certain juvenile convictions from being counted as points against an individual being sentenced in adult court. Cases refiled in adult court that result in conviction will count towards the offender's criminal score for sentencing purposes. Equally as important is the fact that as we look toward alternatives to detention using evidence-based programs with Juvenile Probation, the court has no way of ensuring compliance with these programs if the youth stop participating in the programs and also fail to appear at show cause hearings scheduled to address these violations.

Our court is committed to reduced incarceration. The majority of the youth that we serve never see the inside of a detention center and never have a warrant issued for their arrest. Unfortunately, we have youth that commit serious crimes and participate in behavior that puts their own lives and well-being at serious risk. Disregarding these circumstances and failing to intervene when we see self-endangering behavior from youth is unacceptable. We urge you to rescind JuCR 7.16 and restore our court's ability to care for our youth.

Andrew Somers, Court Administrator
on behalf of the Snohomish County Superior Court Juvenile Committee

From:	OFFICE RECEPTIONIST, CLERK
To:	Martinez, Jacquelynn
Subject:	FW: Snohomish County Juvenile Committee public comment response to proposed rule JuCR 7.16
Date:	Monday, May 1, 2023 8:18:33 AM
Attachments:	JuCR 7.16 public comment response - FINAL (1).pdf

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From: Somers, Andrew <Andrew.Somers@co.snohomish.wa.us>
Sent: Saturday, April 29, 2023 9:27 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Snohomish County Juvenile Committee public comment response to proposed rule JuCR 7.16

Hello Ms. Lennon,

Attached you will find our Snohomish County Superior Court Juvenile Committee's public comment response to proposed rule JuCR 7.16. Will you please confirm that you have received this?

Thank you very much.

Andrew Somers
Court Administrator
Snohomish County Superior Court