

March 31, 2020

Chief Justice Debra L. Stephens
Washington State Supreme Court
P.O. Box 40929 Olympia, WA 98504-0929

Via email to supreme@courts.wa.gov

Dear Chief Justice Stephens and Members of the Washington State Supreme Court:

On March 26, 2020, the WACDL/WDA COVID-19 Response Task Force sent the Court a letter and proposed juvenile court order responsive to the Court's Emergency Orders issued on March 18 and 20, 2020. Since that time and per Justice Stephens' request, we have been in communications with the Washington Association of Prosecuting Attorneys ("WAPA"). We also have reviewed the March 30, 2020 letter to the Court from the Superior Court Judges' Association (SCJA) and the Washington Juvenile Court Administrators (WJCA). We provide this letter to share supplemental information for the Court's consideration.

In addition, Marybeth Queral, Assistant Secretary of Juvenile Rehabilitation (JR) for DCYF, provided the following information to the Task Force, which was then shared with WAPA.¹ Ms. Queral reports that as of March 30, 2020, there are 433 youth incarcerated in JR facilities. The numbers of youth by county are provided in Appendix A of this letter.

Today, March 31st, the Task Force learned of the first known case of a juvenile testing positive in a JR facility – on March 23rd at Green Hill JR.² As José Marti reminds us, ***"It is for the children that we work, for they are the ones who know how to love, for they are the hope of the world."***

At this time, we ask the Court to adopt the following:

1. Regarding warrants issued for "Violation of a Court Order" related to juvenile offense proceedings, we request that the Court enact a Juvenile Court rule, under expedited consideration, that would require outstanding warrants be quashed unless a finding is made that the individual circumstances of the alleged "Violation of a Court Order" pose a serious threat to public safety. *See* Appendix B.
2. Regarding bench warrants issued for "Failure to Appear" for a court hearing related to a juvenile offense proceeding, we request that the Court enact a Juvenile Court rule, under expedited consideration, that would require outstanding warrants to be quashed unless a finding is made that the individual circumstances of the alleged "Failure to Appear" pose a serious threat to public safety. *See* Appendix B.
3. Regarding all juvenile respondents committed to juvenile rehabilitation (JR) who have less than six months remaining on their disposition, we request that an Order be issued

¹ Please note the request made to DCYF Asst. Secretary Queral was informational only and the Task Force did not ask JR to take a position regarding the proposals.

² <https://www.dcyf.wa.gov/coronavirus-covid-19/confirmed-cases>

that they shall have a hearing before the Superior Court, within 10 days of this order subject to the consideration of the right of the victim to participate, for the Court to decide whether the youth shall be re-sentenced and allowed to return to the community. *This emergency rule shall not apply to youth incarcerated at JR serving a Department of Corrections (DOC) sentence.* In light of this public health crisis and the grave risks that our community faces, the Court finds that a new disposition hearing is authorized pursuant to CrR 7.8(b)(5). A juvenile respondent has the right to waive this resentencing and can do so by notifying the Court. The respondent and parties' appearance by video or phone is authorized during this public health crisis. At that disposition hearing, this Court urges the Superior Court to consider the grave risk that congregate settings present to incarcerated youth, their families and our community. *See Appendix C.*

Please note the our Task Force has withdrawn its former proposal regarding local sanction-based dispositions as most of these dispositions (up to 30 days maximum) will have likely been served by the time this Court renders its order.

Thank you for considering this supplemental information. Please contact Christie Hedman at hedman@defense.net if you have any questions or require further information.

Sincerely,



Christie Hedman,
Executive Director, WDA
On behalf of the WDA/WACDL COVID-19 Response Taskforce

cc: Washington Association Prosecuting Attorneys

Washington State Superior Court Judges' Association

APPENDIX A

Numbers of juveniles and youth incarcerated at JR as of March 30, 2020

County	Numbers of total youth	Of the total from this county, how many adult/DOC sentences
Adams	2	-
Asotin	4	-
Benton	30	4
Chelan	7	1
Clallam	2	-
Clark	38	7
Cowlitz	12	-
Douglas	3	-
Ferry	2	1
Franklin	5	2
Grant	11	1
Grays Harbor	10	1
Island	1	-
King	99	21
Kitsap	8	1
Kittitas	4	1
Klickitat	2	-
Lewis	11	-
Lincoln	1	-
Mason	3	-
Okanagan	1	-
Pacific	6	-
Pierce	47	16
Skagit	11	4
Snohomish	26	7
Spokane	25	6
Stevens	2	-
Thurston	11	-
Walla Walla	6	-
Whatcom	17	-
Whitman	2	-
Yakima	21	6
Unassigned*	3	

*parole revocations

APPENDIX B

**GR9 COVER SHEET
JUVENILE COURT RULES**

JuCR 7.16—Governing Warrant Quashes During COVID-19 Public Health Emergency

Submitted by the Washington Defender Association and the Washington Association of Criminal Defense Lawyers

Suggested Juvenile Court Rule 7.16 addresses the significant public health issue of outstanding juvenile court bench warrants during the COVID-19 Public Health Emergency. The Washington Defender Association (WDA) and the Washington Association of Criminal Defense Lawyers (WACDL) submit this rule for expedited consideration pursuant to GR 9(e)(2)(E). This rule is adopted to eliminate disparate procedure across the state and to ensure all juveniles are treated the same.

On March 20, 2020, the Court entered Order No. 25700-B-607, and said it would consider additional proposals regarding juvenile matters under paragraph 14. On March 23, 2020, after a number of Emergency Proclamations regarding COVID-19, Governor Inslee issued an Executive Order directing all residents immediately to heed public health directives to stay home and prohibiting public and private gathering of any size.

Congregate settings, like juvenile detention centers, present significant risks to the health and well-being of juveniles, their families and their community due to the ease with which viruses, like the novel coronavirus, can spread in those settings. This proposed court rule would advance public safety by ensuring that respondents who do not pose a threat to public safety are not incarcerated in juvenile detention centers due to bench warrants issued before March 20, 2020. This proposed court rule is responsive to the rights and needs of juvenile respondents, their families, and our community as well as upholds the goals of the Juvenile Justice Act during this COVID-19 public health emergency.

This proposed court rule advances the position of the Superior Court Judges' Association (SCJA) and the Washington Juvenile Court Administrators (WJCA), as articulated in their March 20, 2020 letter regarding the "Defense Coalition Request for Supreme Court Order". In that letter the leaders of those organizations stated that "[l]ocal action has been taken to deal with the first two proposals made by the coalition."³ The leaders of the SCJA and WJCA furthermore indicated

³ On March 26, 2020, the WACLE/WDA COVID-10 Task Force submitted a proposed order regarding juvenile court matters and included the following-- (1) For all juvenile criminal matters, all warrants currently outstanding for probation matters, including warrants issued for "Violation of a Court Order," shall be quashed within five (5) days of the date of this order unless a finding is made that the alleged probation violation poses a serious threat to public safety. (2) For all juvenile criminal matters, all warrants currently outstanding for a missed court appearance shall be quashed within five (5) days of the date of this order unless a finding is made that juvenile presents a serious threat to public safety. *See* Hedman, Christie. "Re: Proposed WACDL/WDA COVID-19 Taskforce Proposed Order Related to

that “as represented on our telephone conference, warrants of this nature that would result in detention are not being issued at this time with the exception of individual circumstances that pose a serious threat to public safety”.

Furthermore, this court rule will ensure geographic consistency in how warrants related to juvenile offense proceedings are handled by Superior Courts in Washington State and combat the endemic issue of “justice by geography” whereby juvenile respondents in different regions are treated differently.

To establish consistency statewide, this juvenile court rule (JuCR 7.16) would ensure that warrants issued for failures to appear for juvenile offense proceedings or for an alleged violation of a court order, related to a juvenile offense proceeding, must be quashed within 10 days of this court rule being enacted, unless the Superior Court finds that individual circumstances pose a serious threat to public safety.

JuCR 7.16 QUASHING WARRANTS DURING COVID-19 PUBLIC HEALTH EMERGENCY

The Washington Supreme Court adopts this court rule, on expedited consideration, due to the State of Emergency proclaimed by Governor Inslee on February 29, 2020 related to the novel coronavirus disease (COVID-19) outbreak in Washington State, and pursuant to the joint request of the Washington Defender Association and the Washington Association of Criminal Defense Lawyers. The Court recognizes that Superior Court Judges Association and the Washington Juvenile Court Administrators report that Superior Courts across Washington State have already been quashing warrants issued prior to the COVID-19 State of Emergency unless individual circumstances present a serious threat to public safety.

This court rule will be in effect until the Governor Inslee's February 29, 2020 Proclamation of Emergency is terminated. *See* RCW 43.06.210.

- (a) Quash Warrants Issued for Violation of Court Order Related to Juvenile Offense Proceedings.** For all juvenile offense proceedings, all outstanding warrants issued before 3/20/20 due to an alleged 'Violation of a Court Order' shall be quashed within 10 days of this court rule being enacted unless a finding is made that the individual circumstances of the alleged 'Violation of a Court Order' pose a serious threat to public safety.
- a. Following the quashing of a warrant related to a community supervision matter, the Court may make a finding that community supervision is tolled until the next court hearing where the respondent is present either in person, by phone, or by video.
 - b. If a future court date is set, the Superior Court shall make best efforts to provide written notice to the respondent of the new court date.
- (b) Quash Warrants Issued for Failure to Appear for a Court Hearing Related to Juvenile Offense Proceedings.** For all juvenile offense proceedings, all outstanding warrants issued for a Failure to Appear a juvenile offense proceeding shall be quashed within 10 days of this court rule being enacted unless a finding is made that the individual circumstances of the Failure to Appear pose a serious threat to public safety.

- a. Following the quashing of the warrant, the Superior Court shall make best efforts to provide written notice to the respondent of the new court date.
- b. Pursuant to CrR 3.3(c), the new commencement date shall be the date of the respondent's next appearance in person, by video, or by phone.

APPENDIX C

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE)
BY WASHINGTON STATE COURTS TO THE) ORDER RE: JUVENILE
COVID-19 PUBLIC HEALTH EMERGENCY) OFFENDER CASES
) NO.
)
_____)

WHEREAS, on March 20, 2020, the Court entered Order No. 25700-B-607, and said it would consider additional proposals regarding juvenile matters under paragraph 14; and

WHEREAS, requests have been submitted by the Washington Defender Association, TeamChild, and the King County Department of Public Defense to adopt this order to ensure the safety and well-being of young people, their families and their communities

WHEREAS, on March 23, 2020, Governor Inslee issued an Executive Order directing all residents immediately to heed current State public health directives to stay home and prohibiting public and private gathering of any size.

WHEREAS, congregate settings, like detention centers and juvenile rehabilitation facilities, present grave risks to the health and well-being of young people, their families and their community due to the ease with which viruses, like the novel coronavirus, can spread in that setting;

WHEREAS, the Court finds the suggested additions to its March 20, 2020 Order to be responsive to the rights and needs of juvenile respondents and the goals of the Juvenile Justice Act during the present public health emergency;

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of the courts, personnel, litigants, and the public, it is hereby ORDERED:

All juvenile respondents committed to juvenile rehabilitation (JR) who have less than six months remaining on their disposition shall have a hearing before the Superior Court, within 10 days of this order subject to the consideration of the right of the victim to participate, for the Court to decide whether the youth shall be re-sentenced and allowed to return to the community. This emergency rule shall not apply to youth incarcerated at JR serving a Department of Corrections (DOC) sentence. In light of this public health crisis and the grave risks that our community faces, the Court finds that a new disposition hearing is authorized pursuant to CrR 7.8(b)(5) . A juvenile respondent has the right to waive this resentencing and can do so by notifying the Court. The respondent and parties' appearance by video or phone is authorized during this public health crisis. At that disposition hearing, this Court urges the Superior Court to consider the grave risk that congregate settings present to incarcerated youth, their families and our community.

DATED at Olympia, Washington this ____ of April, 2020.

For the Court