THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO JuCR 7.16—QUASHING AND ISSUING WARRANTS	**O R D E R** NO. 25700-A-1465

The Superior Court Judges' Association, having recommended the suggested amendments to JuCR 7.16—Quashing and Issuing Warrants, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2023.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2023. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 15th day of July, 2022.

For the Court

González, C.J.

GR 9 COVER SHEET

Suggested Amendment to the
WASHINGTON STATE JUVENILE COURT RULES (JuCR)

JuCR 7.16: Quashing and Issuing Warrants

Submitted by the Superior Court Judges' Association and

Washington Association of Juvenile Court Administrators

June 7, 2022

A. **Name of Proponent:** Superior Court Judges' Association
Washington Association of Juvenile Court Administrators

B. **Spokesperson:** Jennifer Forbes, President, SCJA
David Reynolds, President, WAJCA

C. **Purpose:**

The Superior Court Judges' Association (SCJA) and Washington Association of Juvenile Court Administrators (WAJCA) respectfully ask the Supreme Court to rescind JuCR 7.16.

JuCR 7.16 was originally authorized as part of an Emergency Order in response to the COVID-19 pandemic. (*See* Sec. 1, below, Rulemaking Chronology of JuCR 7.16). As a permanent rule, it removes substantive authority granted to the Superior Court by the Legislature. This action contravenes GR 9's purpose to "provide necessary governance of court procedure and practice and to promote justice by ensuring a fair and expeditious process." GR 9(a).

JuCR 7.16 conflicts with RCW 13.40.040 (*See* Sec. 2.c, below, Substantive Policy vs. Procedure), as well as JuCR 7.5(b) and (f). As provided by JuCR 6.6, "RCW 13.40.040 and RCW 13.40.050 are the only authority for taking a juvenile into custody and holding the juvenile in detention." In conformity with RCW 13.40.040, JuCR 7.5(b) and (f) authorize an arrest warrant "to prevent serious bodily harm to the juvenile or another …." A court rule cannot abrogate substantive authority granted by the Legislature.

If the Supreme Court is unwilling to rescind JuCR 7.16, the proponents renew their suggested amendments that were rejected by Supreme Court Order No. 25700-A-1393 on December 3, 2021. These amendments include:

- Delete the emergency quashing provisions retained from the Emergency Order to the final rule.
- Make explicit that the rule addresses ex parte bench warrants.

- Make explicit that a bench warrant can be issued to protect the safety of the juvenile as well as the public.
- Provide graduated procedures to respond to a juvenile's failure to appear at a scheduled court hearing, ranging from juvenile department staff locating the juvenile and scheduling new court dates, authorizing a "catch and release" warrant to be served by law enforcement, to detention for commission of a new offense or threat to the safety of the young person or the public.

These suggested amendments, at a minimum, are necessary for several reasons. First, no evident procedural justification existed to convert an Emergency Order to a permanent rule on an accelerated basis as the conditions created by COVID-19 subsided. Second, the Rule needs clarification so it is applied uniformly across the state and does not restrain the inherent judicial authority to enforce court orders. Third, the process associated with rejection of the proposed amendments prevented a meaningful opportunity to address the concerns raised by SCJA and WAJCA. Consequently, proponents ask the Rules Committee to openly consider these suggested Rule amendments and provide a process for a meaningful dialogue.

SCJA and WAJCA are committed to what we believe was the original intent of JuCR 7.16. Courts across Washington have worked diligently for years to reduce juvenile detention rates. A widely-recited narrative to the contrary is inaccurate and dismissive of the dedicated juvenile court staff and judges who every day devote themselves to helping youth, families, and the communities they serve. The juvenile court divisions of Washington's judicial branch deserve to be heard on at least an equal basis as community-based system partners.

1. Rulemaking Chronology of JuCR 7.16

JuCR 7.16 did not exist before the COVID-crisis began in 2020. The genesis of the rule began with Supreme Court Emergency Order No. 25700-B-606, Amended No. 25700-B-607 on March 20, 2020, to ensure that juveniles were not brought to congregate care detention centers on outstanding warrants, some of which were old and no longer valid. It also limited the court's ability to issue a warrant for juvenile offenders who failed to appear for a court hearing or violation of a court order "unless necessary to the immediate preservation of public or individual safety."

On March 26, 2020, the Washington Defender Association and Washington Association of Criminal Defense Lawyers proposed emergency rule JuCR 7.16, labeled as "*during the COVID-19 Public Health Emergency* …" *See* GR 9 Cover Sheet (emphasis added). Chief Justice Stephens asked SCJA and WAJCA for comments. Before responding, SCJA and WAJCA representatives from across Washington conferred and uniformly agreed that suggested JuCR 7.16 was unnecessary. In our March 30, 2020 letter to Chief Justice Stephens the SCJA and

WAJCA explained, among other things, that juvenile courts already had taken measures to address the serious health emergency. Detention rates were at historic lows. Detained youth were being held primarily on serious offenses including murder and attempted murder, rape, robbery, assault, and juveniles being prosecuted as adults. Local prosecutors, defense counsel, and courts also were quashing warrants to prevent unnecessary detentions and were not issuing new warrants except where the circumstances posed a serious risk to public safety. Accordingly, conditions to justify a suggested rule were already under intense review and being addressed on a local level. *See*, March 30, 2020 Letter to Chief Justice Stephens.

On July 9, 2020, Order No. 25700-A-1303 was entered, "*In the Matter of the Proposed New Rule JuCR 7.16 - Governing Warrant Quashes During COVID-19 Public Health Emergency*." By this Order, proposed JuCR 7.16 was published for comment, with submissions due by September 30, 2020. Importantly, the phrase "or individual safety" was removed from the sections that specify conditions under which a warrant could be issued for violation of a court order.

Between summer 2020 and March 2021, JuCR 7.16 was a discussion topic during the Court Recovery Task Force Juvenile Law Committee meetings. Suggestions for tiered warrants and other steps to take before a warrant was issued were being considered by all stakeholders. In public comment, SCJA again highlighted the challenges posed by removing individual safety as a condition justifying issuance of a bench warrant. These discussions were abruptly stopped by other stakeholders when JuCR 7.16 was made permanent.[1]

Effective February 1, 2021, JuCR 7.16 in its current form became the *permanent* court rule, not an *emergency* rule (as it was proposed) subject to ongoing review and termination as determined by the course of the emergency justifying its adoption. Since then, SCJA and WACJA have been seeking clarification, surveying consequences, and discussing responses.

On October 13, 2021, SCJA submitted under GR 9 suggested amendments to JuCR 7.16 that retain the spirit of the rule, as we understood it, but clarified its application and provide meaningful and practical alternatives. As part of our initial GR submission, SCJA and WAJCA gathered examples from across the state of ways in which confusion and restrictions inherent in the rule have resulted in genuine harm to young people.

[1] SCJA and WAJCA membership remained (and continue to remain) open to discussions for addressing juvenile warrants. It has been recommended that we obtain the support of the original JuCR 7.16 proponents in order for our amendments to have a path forward. However, based on our prior experience, detailed above, we believe that such an effort would be futile without this Court demonstrating a willingness to consider an amendment in the first place. While we respect the value of having input from various stakeholders, the positions of agencies that represent one aspect of the continuum of care should not control whether those charged with balancing facts and fairly implementing court rules have an opportunity to present our concerns to this Court.

On December 3, 2021, without response to SCJA or comment by the Rules Committee, the Supreme Court entered Order No. 25700-A-1393, *In the Matter of the Suggested Amendments to JuCR 7.16 – Quashing and Issuing Warrants*, in which by majority vote of the Supreme Court, SCJA's suggested amendments to JuCR 7.16 were "rejected." The Order no longer was titled as "During COVID Public Health Emergency," as it had been when published for comment. *See* Order No. 25700-A-1303, July 9, 2020.

Absent any explanation or comment by the Rules Committee or the Court itself, then-current SCJA and WAJCA Presidents sought to speak with Justices Johnson and Yu, Rules Committee Co-Chairs, to understand the process by which the suggested amendments were rejected by a majority of the Supreme Court. We wanted to understand the basis for its "rejection," on the chance it involved a procedural failing that could be corrected. Justice Johnson; Justice Yu; Barbara Carr, WAJCA; and Judge Judith Ramseyer, SCJA, held a "virtual" conference on January 3, 2021. The Justices explained that the Rules Committee did not have a favorable view of the suggested amendments, so it was submitted to the full Supreme Court for discussion en banc. Consequently, the rejection was issued by Supreme Court order, signed by Chief Justice González, not by the Rules Committee. The Justices responded to concerns raised about disparate enforcement across the state, stating that this issue can be addressed by the courts through judicial education. They noted that disparate enforcement is not unique to JuCR 7.16. They reported the Court does not support the detention of "at-risk youth." Additionally, Justices Johnson and Yu stated that they felt SCJA's proposed amendments related to "substantive policy" rather than proposed procedures. Each of these concerns is addressed below.

In January 2022, Chief Justice González attended WAJCA's winter meeting. Concerns again were expressed about JuCR 7.16. Chief Justice González appeared open to discuss these concerns with WAJCA and SCJA. On March 7, 2022, Judges Rachelle Anderson and Jennifer Forbes met with Chief Justice González and shared their concerns in more detail. He reiterated his position – that persons with comments on court rules may advocate their concerns with the Justices. The Chief Justice offered that SCJA and WAJCA could present their concerns to the Supreme Court at one of its administrative en banc meetings. Consequently, SCJA President-Elect Judge Jennifer Forbes (now President) asked to discuss JuCR 7.16 with the Justices at an en banc meeting. The date was set for July 2022. On April 22, 2022, however, Chief Justice González sent Judge Forbes an email cancelling the meeting due to the need to "respect the rules committee process."

Through each of these efforts, and with this submission, the SCJA and WAJCA come to the Court in good faith with an earnest hope that the Court will be open to understanding our concerns and consider our proposed amendment. The SCJA and WAJCA are confused by the process and frustrated by our inability to discuss

substantive issues concerning JuCR 7.16. This submission results from this confusion and frustration. Because it remains unclear whether this request should be submitted by the Supreme Court bench for reconsideration of Order No. 25700-A-1393 and/or whether the matter should be resubmitted to the Rules Committee we have elected to do both.

2. Problems with the Current Rule

a. Disparate Interpretation and Enforcement

Juvenile Court judges, administrators, and staff have the "responsibility for, being accountable for, and responding to the needs of youthful offenders and their victims." RCW 13.40.010. We are responsible to provide "necessary treatment, supervision, and custody" for offenders in the juvenile justice system. *Id.* These responsibilities are not limited to one segment of juvenile offenders, but to all who live in Washington, regardless of whether they are low, medium, or high-risk offenders and regardless of the causes for the behavior that led to their juvenile court involvement. Without question, causes for behavior are a substantial factor in all aspects of juvenile court supervision and adjudication, including a preference for community responses when consistent with public safety. Nonetheless, the court is responsible to adjudicated youth and to the public despite individual circumstances. *Id.* JuCR 7.16 unnecessarily prevents judges and juvenile court partners from effectively performing their statutory responsibilities.

As noted above, JuCR 7.16 is not enforced uniformly in juvenile courts across the state. In some counties, the provisions that allow warrants to issue for failure to appear for court proceedings or for violations of court orders only where "individual circumstances … pose a serious threat to public safety" are interpreted to mean a threat to the public at large, but not the safety of the juvenile offender. Others interpret the rule to allow a warrant to issue for failure to appear or violation of a court order if the individual circumstances include serious threat to the juvenile offender involved, as well as other public members. This means that depending on the county in which the young person is supervised, the court may or may not seek to locate them in response to violation of a court order and establish circumstances as to their safety. It is unacceptable that a young person is protected or not protected, held accountable or not held accountable, based on the county in which they are supervised.

Contrary to the suggestion noted above that this disparate enforcement can be cured by judicial education, judges do not issue warrants *sua sponte*. They are sought by prosecution or defense counsel. If either of these representatives believes a warrant is prohibited by the rule, one may not be sought, and the court's authority is called into question, or, at a minimum, a lack of clarity and disparate treatment is allowed to continue.

b. Detention of At-Risk Youth

The Supreme Court's concern that the proposed rule amendments will lead to the detention of at-risk youth is mistaken. JuCR 7.16 applies *only* to youth under pretrial conditions of release or adjudicated for *criminal* offenses. It does not apply to non-offender matters, such as at-risk-youth.[2]

As has been a trend for many years, juveniles who engage in low-level offenses are diverted from juvenile court and not under court supervision. Until the Legislature determines that juveniles are not subject to criminal laws, the court is responsible to hold them accountable for their actions and to respond to their needs.

The idea that JuCR 7.16 prevents the detention of low-risk youth also reveals a lack of accurate information about juvenile detention practices in Washington. Detention of juveniles in Washington has for many years been much lower than national statistics. Approximately 80% of the country detains youth at higher rates than Washington.[3] During the COVID-19 pandemic, juvenile courts on their own initiative revised local booking standards to limit intake, as they have been doing for years. See RCW 13.40.038. Detention populations were reduced to historic lows.[4] While serious crime, including crimes committed by juveniles, has been increasing nationally and in Washington during the pandemic, Washington detention centers continue to reflect this commitment to maintaining low detention rates.

A snapshot of detention statistics from the Administrative Office of the Courts (AOC) before, during, and in our current improving stages of the public health crisis, support the reality that Washington courts do not excessively detain juvenile offenders. A narrative to the contrary is incorrect.

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[2] The Legislature has enacted specific statutes that establish policy governing the detention of at-risk youth. *See* RCW 13.32A.250. Indeed, even at-risk youth, who are not alleged to have committed a criminal offense, are subject to a warrant if there is probable cause that arrest is needed to prevent serious harm to the youth. RCW 13.32A.250(5).

[3] Rovner, J. (February 2021) Racial Disparities in Youth Incarceration Persist. Washington, D.C.: The Sentencing Project. Available at: https://www.sentencingproject.org/wp-content/uploads/2021/02/Racial-Disparities-in-Youth-Incarceration-Persist.pdf.

[4] In 2020, Washington detention rates decreased by 49%. Gilman, A.B., & Sanford, R. (2021) Washington State Juvenile Detention 2020 Annual Report, Olympia, WA: Washington State Center for Court Research, Administrative Office of the Courts.

Detention Counts by Primary Offense: 2/1/2020, 2/1/2021, 2/1/2022

	2/1/2020	% Felony	2/1/2021	% Felony	2/1/2022	% Felony
Statewide*	**298**	**65%**	**180**	**71%**	**129**	**91%**
King Co**	**31**	**84%**	**19**	**90%**	**24**	**100%**

*Unknown offenses, reported by WSCRR on holds for adult court, Tribal courts, and JR, have been excluded
****** King County numbers are **included** in statewide totals

Detention rates for King County, Washington's most populace county, are included in the statewide numbers, but are listed separately to illustrate how detention is used in Washington. Offenses for which juveniles were detained in King County on February 1, 2022 are: Assault 1, Bomb Threats, Burglary 2, Child Molestation 1, Att. Drive by Shooting, age 16 or 17, Kidnap 1, Att. Murder 1, Murder 2, Rape 2, Rape 3, Rape of a Child 1, Robbery 1, Att. Robbery 1, Robbery 1, age 16 or 17, Robbery 2, Unlawful Possession of Payment Instruments, Unlawful Possession of a Firearm 2. While youth are detained for gross misdemeanors and violation of court orders, a perception that this response is used excessively is not supported by the facts.

c. Substantive Policy vs. Procedure

SCJA and WAJCA do not agree that their proposed amendments deal with substantive law or policy. Our proposed amendments were drafted in response to the current Court rule and relate to the issuance of warrants in a manner that is consistent with state law. The rule itself, however, substantively restricts a trial judge's statutory authority. On this basis it should be rescinded.

JuCR 7.16 prohibits a judge from issuing a warrant for the arrest of a juvenile who has violated a judge's order to appear or to comply with conditions of release, except under specific circumstances showing serious threat to the public. Superior Court judges, however, have broader authority. By statute, a judge may take juvenile offenders into custody and detain them with probable cause when a juvenile has violated terms of a disposition order, **and**

- is unlikely to appear for further proceedings, **or**
- to protect the juvenile from him or herself, **or**
- is a threat to public safety ….

See RCW 13.40.040. In other words, Superior Court judges have statutory authority to enforce their disposition orders without the individualized circumstances JuCR 7.16 requires. They also explicitly may detain a juvenile offender who violates a disposition order when acting to protect the young person from harm. *Id.*

The Supreme Court exceeds its rulemaking authority when it substantively denies Superior Courts authority granted by the Legislature. JuCR 7.16 was enacted by emergency order to address emergency conditions. Through an opaque process, inconsistent with GR 9(a)(2), a more restrictive version of the proposed rule than was originally proposed was converted from emergency to permanent status. Accordingly, SCJA and WAJCA ask the Supreme Court to rescind JuCR 7.16.

If the Supreme Court declines to rescind the Rule on substantive grounds, it should nonetheless adopt the proposed procedural amendments. They make explicit that the phrase "poses a serious threat to public safety" includes threat to the individual youth as well as the public at large. This clarification will correct procedural confusion leading to disparate application of the rule and restore court authority granted by RCW 13.40.040. Further, SCJA and WAJCA propose graduated interventions to secure a juvenile's attendance at a court hearing and enforcement of a court order, up to and including warrant and detention where serious circumstances persist.

3. Unintended and Dangerous Consequences of JuCR 7.16

Although widely asserted, scant empirical evidence exists to conclude that short-term detention is traumatic for juveniles.[5] Indeed, the cited Washington State review published by Administrative Office of the Courts in 2021 found that most published studies on the effect of detention include adult and juvenile samples, and/or do not distinguish between short-term detention in local facilities and longer-term incarceration.[6] Juvenile courts also know from extensive experience the severe trauma some young people endure – physical abuse, sexual abuse, interpersonal and community violence – can be life-altering. This violent trauma can have both immediate and long-lasting consequences, including death, injury, and physical and emotional disability. Research repeatedly links trauma of this nature experienced by youth with poor physical health, substance abuse, and mental illness in adulthood.[7] Thus, a judge's ability to intervene to protect a juvenile offender's safety is as important as it is for the protection of any other public member.

When JuCR 7.16 became effective February 1, 2021, SCJA and WAJCA wanted to understand how the rule affected pending juvenile offender cases. Beginning in March 2021, juvenile courts began collecting information related to its real-life application. Over a four-month period, SCJA and WAJCA received twenty reports detailing challenges faced by vulnerable youth and their families due to the

[5] Gilman, A., Walker, S., Vick, K., & Sanford, R. (2021). *The Impact of Detention on Youth Outcomes: A Rapid Evidence Review*, *Crime and Delinquency*. Sage Publications.
[6] *Ibid.*
[7] *See* RCW 70.305.010(1); *Adverse Childhood Experiences* (ACES). BRFSS 2015-2017, 25 states, CDC Vital Signs, November 2019. CDC. https://www.cdc.gov/vitalsigns/aces/index.html.

requirements of JuCR 7.16.[8] A sampling of these reports was included in the proposed amendments submitted in October 2021; they are repeated here.

- In Mason County, a father submitted a declaration to the local juvenile court seeking detention of his child who had threatened and assaulted him and was refusing court-ordered mental health treatment. A warrant pursuant to JuCR 7.16 was denied as the threat to the father was not immediate. The next day, the youth was arrested for stabbing an adult male at a local park. He subsequently was adjudicated for Assault in the Second Degree.[9]

- In Snohomish County, a mother of a 15-year-old repeatedly asked for help from social service providers and the court to get treatment for her child's co-occurring mental health diagnoses and substance use disorder. Her daughter, who is under juvenile court supervision, consumes drugs in the home. A warrant for violation of probation was denied under JuCR 7.16, and the whereabouts of the child now are unknown. The mother states,

  > Just by engaging in the lifestyle she does currently proves she is danger to herself and those around her, and especially her family. Where is our protection? She desperately needs mental and substance abuse help.[10]

- In Whatcom County, a 14-year-old child under court supervision for adjudication of assault and property crimes missed their court-ordered counseling and school. The child has a history of mental health disorders and substance abuse, and the parent believes the child is vulnerable to sex trafficking.[11] A warrant for violation of probation was denied under JuCR 7.16. The parent writes, "I think its [sic] ridiculous that the law only cares about the safety of the city and not the safety of the child…. Now I have to worry about her safety all the time."

- Behavioral health service providers also face difficulty discussing with clients the limitations on warrants under JuCR 7.16 and how to navigate the court system. One substance use disorder professional writes:

  > Often, I have youth repeatedly ask about potential legal consequences for actions and am unable to stress the importance of following probation requirements and laws in a tangible way to them. I have found that clients

[8] The JuCR 7.16 outcome data collection form, is referred to in the following references as a Story Form. The form was developed by the Washington Association of Juvenile Court Administrators and distributed to juvenile court professionals statewide for use following court proceedings.
[9] Dunn, M. (2021) Mason County. JuCR 7.16 Story Form. Unpublished.
[10] Carlson, J. (2021) Snohomish County. JuCR 7.16 Story Form. Unpublished.
[11] Mobley, K. (2021) Whatcom County. JuCR 7.16 Story Form. Unpublished.

have become more confused following these changes and often do not know what is expected of them.[12]

- In Spokane County, a youth known to the court escalated their dangerous behaviors. In 2019, the youth was placed under court supervision for assault and property offenses. While under supervision, the youth failed to stay in contact, a warrant was issued, and the youth eventually was arrested on new charges of assault and property offenses. The youth was sentenced to Juvenile Rehabilitation (JR) in March 2020 and, with credit for time served, released in the Fall. The youth again failed to stay in contact, and a warrant was issued in October 2020. The warrant was quashed early 2021 due to JuCR 7.16. In May 2021, the youth was arrested and charged with Murder in the First Degree.[13]

Since our October 2021 submission, the impacts of JuCR 7.16 remain ongoing. Many of those impacts would be repetitious of the examples given above, and therefore are not included in this submission. One unfortunate incident, however, demonstrates the true life-and-death nature sometimes at play in the work of juvenile courts and how JuCR 7.16 can impede the important role courts play in aiding families and children.

- In Okanogan County a mother sought treatment and help for her 17-year-old daughter who was under court supervision on 3 different cases involving malicious mischief and assaultive behavior with a history of co-occurring mental health and substance use. The youth was at treatment, then aborted treatment unsuccessfully and returned to Okanogan county. Once home, she immediately slipped back into her old life style and a violation was filed. A hearing was set for 1/12/22, instead of a warrant being issued, pursuant to JuCR 7.16. She failed to appear for her court date on 1/12/22 and, again, a warrant was not issued due to JuCR 7.16. Instead, another court date was set for 1/26/22. At the second “failure to appear” hearing a warrant was again requested and finally issued. On February 14, 2022, it was reported by her mother that the youth reached Lewiston, Idaho, got access to a firearm and had shot herself on February 11, 2022.[14]

SCJA and WAJCA have collected these and more stories from juvenile probation counselors, behavioral health partners, and parents. While the original intent of JuCR 7.16 was to address the COVID-19 crisis and health risks posed by congregate care, it now enacts a policy-decision that the court cannot act to protect the safety of a young person under its authority. This policy fails to recognize that the risk of harm youth can pose to themselves exposes them to grave danger, leaves families in crisis, and squanders an opportunity to engage behavioral

[12] Goldner, H. (2021) Catholic Community Services Recovery Centers, Skagit County. *Letter regarding ruling 7.16*. Unpublished.
[13] McPherson, J. (2021) Spokane County. JuCR 7.16 Story Form. Unpublished.
[14] Rabidou, D. (2022) Okanogan County. JuCR 7.16 Story Form. Unpublished.

support. The result often is that the youth next appears in court on new charges, exacerbating court involvement rather than reducing it. The young people who fall into this category are not a majority of juvenile offenders. For those in this group, however, the court's ability to intervene is critically important.

Proposed amendments have been carefully drafted to respect the underlying intent of the rule, keeping juveniles out of detention absent a serious safety risk. The amendments also expressly recognize – as all who work in juvenile court recognize – there are times when the danger to a youth posed by remaining at large is more severe than that experienced by short-term detention.

4. Amendments to JuCR 7.16(a)

Proposed amendments to JuCR 7.16(a) shift the focus on quashing warrants, as was its purpose when the rule first was issued in response to COVID-19, to authorizing a bench warrant for alleged violation of a court order in limited circumstances. To issue an *ex parte* bench warrant, the court expressly must find a warrant is necessary to preserve "public" safety (which as noted has been variously interpreted) OR the personal safety of the young person. The court must articulate facts specific to the case that justify the warrant. JuCR 7.16(a)(1) also allows the court to toll community supervision in proceedings if a warrant is not issued. SCJA and WAJCA strongly assert these revisions are necessary for courts to interrupt emergent danger to the youth involved and the public at large, and for accountability under conditions of supervision.

5. Amendments to JuCR 7.16(b)

Proposed amendments to JuCR 7.16(b) tighten the procedures a court must use before issuing a warrant for failure to appear for a scheduled court hearing. Subsection (b)(1) requires the court to order the juvenile department to determine why the youth failed to appear and to make concrete efforts to resolve barriers to attendance. The court must reschedule the hearing and allow for extensions, with the intent of overcoming any specific barriers to the youth's participation. Only after this process has been exhausted may the court issue a warrant to compel the individual's attendance at a missed hearing.

For juveniles charged with offenses against a person, such as assault, robbery, or sexual assault, the court can issue a warrant after attempting to locate the youth as described above. In all cases, the court also is authorized to issue a warrant directing law enforcement to locate the young person and their parent/guardian(s) to provide notice of the next court date. This limited warrant serves several important purposes: (1) courts can access the valuable assistance of law enforcement; (2) it provides the youth and the family with explicit notice to keep the offender on track; and (3) it keeps the youth out of detention. If a juvenile offender fails to appear after having been served with this notice, only then would the court have discretion to issue a warrant to enforce compliance with its orders.

SCJA and WAJCA further propose to remove the original language of subsection (b)(2) pertaining to CrR 3.3(c), to eliminate confusion over the applicability of JuCR 7.8(c) in these circumstances. New language maintains the court's ability to issue a warrant to preserve individual or public safety – as was provided in the original Emergency Order -- once a youth fails to appear for a juvenile offender proceeding. Taken together, the proposed amendments to JuCR 7.16(b) create clear and uniform procedures to resolve barriers to court attendance.

The proposed amendments to JuCR 7.16 are not made lightly but are made with the thoughtful contributions of juvenile court staff and judges who confront every day the challenge of serving these youth, their families, and the community. SCJA and WAJCA support continued reductions in juvenile detention, particularly the disproportionate detention of youth of color. Some counties are fortunate to have robust services such as mental health and substance abuse treatment, housing, family reunification, and school support available to youth outside of the court system. A majority of counties, however, do not have access to adequate community support programs or secure crisis centers where a young person can safely access services. Absent adequate resources for youth outside of the justice system, courts must use all available tools to responsibly balance specific threats to individual and public safety with the potential harm of short-term detention.

D. **Hearing:** A hearing is requested for a meaningful discussion on issues raised.

E. **Expedited Consideration:** Due to the irregular process that has delayed full consideration of the proposed amendments, expedited consideration is requested.

JuCR 7.16
~~QUASHING AND~~ ISSUING WARRANTS

(a) ~~Quash Warrants Issued for~~ Violation of Court Order Related to Juvenile Offense Proceedings. ~~For all juvenile offense proceedings, all outstanding warrants due to an alleged "Violation of a Court Order" shall be quashed by the court within 10 days of this court rule being enacted unless a finding of serious public safety threat is made in the record of the case to support the warrant's continued status. No new warrants~~ The Court shall not issue an ex parte emergency bench warrant for a juvenile in a juvenile offense proceeding based on an alleged violation of a court order unless ~~a finding is made that the individual circumstances of the alleged "Violation of a Court Order" pose a serious threat to public~~ the court finds that the warrant is necessary for the preservation of public or individual safety.

(1) ~~Following the quashing of a warrant related to a community supervision matter~~ If the Court does not find cause to authorize a warrant, 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 videoconference.

(2) 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 juvenile offense proceeding shall be quashed by the court within 10 days of this court rule being enacted unless a finding of serious public safety threat is made in the record of the case to support the warrant's continued status.~~ No ~~new~~ bench warrant~~s~~ shall issue ~~unless a finding is made that the individual circumstances of the Failure to Appear poses a serious threat to public safety.~~ for a juvenile who fails to appear for a scheduled court hearing in a juvenile offense proceeding except as follows:

(1) ~~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.~~ If a juvenile fails to appear for a scheduled court hearing after being given notice to attend, the Court shall order the juvenile department to attempt to locate the juvenile to discover the reason for non-attendance, and the juvenile department shall make efforts to work with the juvenile to resolve the barriers to court attendance. The Court shall re-schedule the hearing within 14 days. Additional hearings may be set or time extended if necessary to ensure compliance. If reasonable attempts to secure the juvenile's attendance have failed, or if the juvenile department has been unable to locate the juvenile after diligent effort, the Court may issue a warrant to ensure the juvenile's attendance as follows:

(a) If the youth is charged with or has been convicted of a crime against a person, the court may issue a warrant authorizing arrest and detention of the youth;

(b) For any offense, the court may authorize a warrant directing law enforcement to locate the juvenile and the juvenile's parent or guardian and provide the juvenile and the parent or guardian with a new court date at which the juvenile shall appear. If the youth thereafter fails to appear at the new court date, the court may then issue a warrant authorizing arrest and detention of the youth.

(2) Notwithstanding the requirements of paragraph (1), if a juvenile fails to appear for a scheduled court hearing after being given notice to attend, the Court may immediately issue a warrant if the court finds that juvenile's circumstances or behavior pose a threat to the juvenile or another person's safety.

~~(2) Pursuant to CrR 3.3(c), the new commencement date shall be the date of the respondent's next appearance in person, by phone, or by videoconference.~~