

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED NEW)
RULE JuCR 7.16—GOVERNING WARRANT)
QUASHES DURING COVID-19)
PUBLIC HEALTH EMERGENCY)
_____)

ORDER

NO. 25700-A-1303

Washington Defender's Association, TeamChild, et al., having recommended the proposed new rule JuCR 7.16—Governing Warrant Quashes During COVID-19 Public Health Emergency, and the Court having approved the proposed new rule for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed new rule as attached hereto is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in July 2020.

(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 September 30, 2020. 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.

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ORDER

IN THE MATTER OF THE PROPOSED NEW RULE JuCR 7.16—GOVERNING WARRANT
QUASHES DURING COVID-19 PUBLIC HEALTH EMERGENCY

DATED at Olympia, Washington this 9th day of July, 2020.

For the Court


CHIEF JUSTICE

**GR9 COVER SHEET
JUVENILE COURT RULES**

JuCR 7.16—Governing Warrant Quashes

**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 and the need to ensure that warrants are not issued for juvenile court proceedings absent a serious threat to public safety. The Washington Defender Association (WDA) and the Washington Association of Criminal Defense Lawyers (WACDL) submit this rule for expedited consideration as allowed by GR 9(e)(2)(E). This rule is proposed to eliminate different procedures across the state and to ensure all youth are treated the same wherever they live.

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 several 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 gatherings of any size. On April 29, 2020, the Court entered Order No. 25700-B-618. This order recognized the state of emergency due to the novel coronavirus outbreak in Washington and the continued need to follow the Center for Disease Control and Washington State Department of Health public health recommendations to protect Washington community members.

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 suggested 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 for technical violations and failures to appear. 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."¹ The leaders of the SCJA and WJCA furthermore

¹ 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

indicated 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, the juvenile defense community and other legal and community stakeholders have previously documented the harmful effects of incarceration on juveniles and youth, as well as that racial disproportionality exists at each stage of the juvenile justice system. See *Juvenile Justice and Racial Disproportionality: A Presentation to the Washington State Supreme Court, the Task Force on Race and the Criminal Justice System*, March 28, 2012.

Nor has the Washington State Supreme Court hesitated to recognize that racial disproportionality has impacted Washington’s black juveniles and their families. The Court stated: “We continue to see racialized policing and the overrepresentation of black Americans in every stage of our criminal and juvenile justice systems. Our institutions remain affected by the vestiges of slavery: Jim Crow laws that were never dismantled and racist court decisions that were never disavowed.” See *Judicial Legal Community Letter by the Washington State Supreme Court*, June 4, 2020.

This juvenile court rule (JuCR 7.16) would ensure that warrants issued for failures to appear for juvenile offense proceedings or an alleged violation of a court order, related to a juvenile offense proceeding, must be quashed within ten days of this court rule enactment and that no new warrants shall issue unless the Superior Court finds that individual circumstances pose a serious threat to public safety.

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 Juvenile Court Matters, Message to Chief Justice Stephens and Members of the Washington State Supreme Court. 26 March 2020. E-mail.

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 within ten days of this court rule being enacted and no new warrants shall issue 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 ten days of this court rule being enacted and no new warrants shall issue unless a finding is made that the individual circumstances of the Failure to Appear poses 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.