

March 26, 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:

We write, on behalf of TeamChild, the King County Department of Public Defense, the WACDL/WDA COVID-19 Response Taskforce and the below organizations, to ask this Court to issue the attached proposed order for all juvenile criminal matters in Washington State in response to the COVID-19 public health emergency. We respectfully ask the Court to issue our attached proposed Order, summarized below, to protect our clients, their families, and our community.

On March 20, 2020, the Washington State Supreme Court issued an Amended Order addressing the Statewide Response by Washington State Courts to the COVID-19 Public Health Emergency. In paragraph 14, the Court said it would consider additional proposals regarding juvenile matters.

One of the purposes of the Juvenile Justice Act of 1977 is to provide for the handling of juvenile offenders by communities whenever consistent with public safety. RCW 13.40.010. Among the stated purposes of the Act, the following are included:

- Protect the citizenry from criminal behavior
- Make the juvenile offender accountable for his or her criminal behavior;
- Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
- Provide for the rehabilitation and reintegration of juvenile offenders;
- Provide necessary treatment, supervision, and custody for juvenile offenders;
- Provide for the handling of juvenile offenders by communities whenever consistent with public safety.

The COVID-19 pandemic crisis is unprecedented in our State and presents a grave risk to individuals in congregate settings, like juvenile detention or juvenile rehabilitation. Because of this grave risk, the COVID-19 pandemic jeopardizes the critical goal of the Juvenile Justice Act to provide for the rehabilitation and reintegration of juvenile offenders.

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 the racial disproportionality existing at each stage of the juvenile justice system.

Because of the grave risk of the COVID-19 pandemic poses, which falls disproportionately on youth of color in the juvenile legal system and their families, and in order to advance the unique legal and ethical obligations that juvenile defense attorneys have to their youthful clients,¹ we make the following requests:

¹ See CrR 3.1 Standards for Indigent Defense; Section 4.15 (d) Post Disposition Matters, Performance Guidelines for Juvenile Offender Representation, Washington State Bar Association, November 16, 2017 which states, “While

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 purported 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 community safety.
3. 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. 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. In addition,
4. All juvenile respondents sentenced to 30 days or less shall have a hearing before the Superior Court, within 3 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. 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.

Sincerely,



Christie Hedman
Executive Director, WDA

Signed on behalf of:

WACDL and WDA Members (note: all members of the taskforce are also members of WACDL and/or WDA)

Hillary Behrman (Director of Legal Services, WDA)

the client is a juvenile, counsel should help the client to obtain representation on issues raised by the client that relate to the validity of the conviction and could lead to a motion to set aside the conviction or a habeas corpus petition or a personal restraint petition, as well **as issues relating to the safety of the client or conditions of the client’s confinement.**” (emphasis added).

Elissa Brine (Member, WACDL and WDA)
Robert D. Butler (President, WACDL)
Patricia Fulton (Past President, WACDL)
Emily Gause (Board Member, WACDL)
Amy Hirotaka (Executive Director, WACDL)
Larry Jefferson (President-Elect, WACDL)
Gregory Scott (Past Vice President-East, WACDL)
Katherine Hurley (Member)
Travis Stearns (Member)
Nicole McGrath (Member)

KING COUNTY DEPARTMENT OF PUBLIC DEFENSE

Anita Khandelwal (Director)

ACLU-WA

Michelle Storms (Executive Director)
Kendrick Washington (Youth Policy Director)

TEAMCHILD

Annie Lee (Executive Director)

COLUMBIA LEGAL SERVICES

Merf Ehman (Executive Director)

LEGAL COUNSEL FOR YOUTH AND CHILDREN (LCYC)

Erin Lovell (Executive Director)

CHOOSE 180

Sean Goode (Executive Director)

CREATIVE JUSTICE

Aaron Counts
Nikkita Oliver

COMMUNITY PASSAGEWAYS

Dominique Davis, CEO & Co-Founder