

RESOURCES TO ADDRESS PUBLIC TRIAL RIGHTS DURING COVID-19

Washington courts are committed to ensuring the constitutional guarantee of open public access to court proceedings at the same time we have restricted proceedings to observe emergency mandates imposed to protect the health and safety of parties, counsel, victims, witnesses, court employees, members of the public, and judicial officers. Open access to courts may be restricted to balance conflicting interests, like holding court during a public health crisis, so long as restrictions are narrowly drawn to respond to the compelling need and appropriate findings are made.

The demands on and capabilities of courts across the state vary widely, yet Washington courts have implemented creative measures to maintain public access while reducing court operations to the most critical matters. The following tools are offered as resources to help courts develop public court access procedures and modalities tailored to a court's unique circumstances.

- All restrictions on public access to courts begins with the legal analysis required under *State v. Bone Club*, 128 Wn.2d 254 (1995) and *The Seattle Times v. Ishikawa*, 97 Wn.2d 30 (1982). The 4-step legal analysis to impose limitations on public access is stated on the Court-Media Relations Bench Card, found [here](#).
- Restrictions on public access must be based on compelling reasons, narrowly drawn, rooted in specific facts before the court. A sample script of this analysis and findings to be made on the record, can be found [here](#).
- A number of courts have arranged for the public to join courtroom proceedings remotely through telephone and video access. A variety of remote access platforms are being used, such as Skype, WebEx, Zoom, GoToMeeting, and so on. A notice is posted on the court website where the public may be further directed to a court calendar or the specific judge's webpage for instructions on how to remotely access hearings. A sample notice posted on a judge's website to instruct on public access is found [here](#).
- If in-person hearings are being conducted, restrictions may be required to observe social distancing and hygiene measures to reduce risk of exposure to the virus. For courtroom observers, seating may be restricted by taping an **X** or sheet of paper at each location that can be occupied with proper social distancing. Notices can be posted on court websites and courtroom doors that instruct spectators to observe specific measures. A telephone number or email address should be posted for public members to obtain information if unable to enter a courtroom or needing to check in for a proceeding. A sample notice for a courtroom door in found [here](#).
- The National Center for State Courts is compiling and updating measures being taken by courts across the county. It is a valuable resource to learn how courts are dealing with, among other things, jury trials, entering courts, virtual hearings, and the variety of software platforms being used for virtual hearings. NCSC is available at www.ncsc.org.

- AOC will conduct a Friday Forum video presentation on April 17, 2020, noon – 1:30 p.m., on the topic of telephone/video hearings and open court access. Call-in information will be circulated and posted on the AOC website.

Additional resources you would like to offer to Washington judges to respond to the requirement of open public access to court proceedings can be directed to Crissy Anderson, Crissy.anderson@courts.wa.gov.

Questions can be directed to the Bench Bar Press Fire Brigade, c/o Fire Brigade Chief Judith.ramseyer@kingcounty.gov.