

# **BJA COURT RECOVERY TASK FORCE**



**WASHINGTON  
COURTS**

## **MEETING PACKET**

**APRIL 15, 2021  
2:00 – 4:00 P.M.**

**VIDEOCONFERENCE**



# BJA Court Recovery Task Force

April 15, 2021, 2:00-4:00 pm

ZOOM Meeting

## AGENDA

<p>1. <b>Welcome</b> (5 minutes)  <b>Approve February 17 Minutes</b> p. 3</p>	<p>Chief Justice Steven González  Judge Judith Ramseyer</p>
<p>2. <b>Statewide Updates</b> (20 min)  Statewide Orders  Local Rules (what do we need to develop to ensure items are in place when emergency rules expire)  Vaccinations   Association Updates   Federal Funding</p>	<p>Chief Justice Steven González      Judge Jeff Smith  Judge Judith Ramseyer    Dawn Marie Rubio</p>
<p>3. <b>Presentation:</b> (15 min)  Courthouse facilitators/case managers during COVID</p>	<p>Elizabeth W. Halsey  San Juan County   Kelvin Brown  Pierce County Superior Court</p>
<p>4. <b>Presentation:</b> Interpreter Commission (15 min)  Survey and other activity sharing</p>	<p>Luisa Gracia  James Wells  Robert Lichtenberg</p>
<p>5. <b>Task Force Administration/Logistics</b> (10 min) p. 8  <a href="#">Website</a>  <a href="#">Court Recovery Task Force Master Work Plan</a>  Commonalities across committees  E-signature feedback</p>	<p>Jeanne Englert</p>
<p>6. <b>Committee Updates</b> (50 minutes)  <i>Share your sticking points, breakthroughs, data collection efforts, and policy changes needed – <u>include local court orders, general rules, RCW changes needed to keep moving forward past the pandemic.</u></i></p> <ul style="list-style-type: none"> <li>• Family Law p. 10</li> <li>• Child Welfare p. 11</li> <li>• Technology Considerations</li> <li>• General Civil Litigation p. 13</li> <li>• Appellate Courts</li> </ul>	<p>Terry Price  Linnea Anderson   Dawn Marie Rubio/Judge David Estudillo  Alice Brown   Judge Lisa Sutton</p>

<ul style="list-style-type: none"> <li>• Lessons Learned p. 14</li> <li>• Criminal Matters <ul style="list-style-type: none"> <li>○ Juvenile Criminal Civil p. 15</li> <li>○ Therapeutic p. 17</li> <li>○ Adult p. 23</li> </ul> </li> <li>• Facilities and Logistics</li> </ul>	<p>Judge Judith Ramseyer</p> <p>Judge Scott Ahlf  Judge Ruth Reukauf  Judge Jeff Smith  Amy Muth</p> <p>Chief Justice Steve González</p>
<p>7. <b>Next Steps</b> (5 minutes)</p>	<p>Chief Justice Steve González</p>
<p>5. <b>Future Meetings</b></p> <ul style="list-style-type: none"> <li>• June 9, 2:30–4:30</li> <li>• August 4, 2:30–4:30</li> <li>• October 4, 3:00–5:00</li> <li>• December 6, 3:00–5:00</li> </ul>	
<p>6. <b>Adjourn</b></p>	
<p>Persons with a disability, who require accommodation, should notify Jeanne Englert at 360-705-5207 or <a href="mailto:Jeanne.englert@courts.wa.gov">Jeanne.englert@courts.wa.gov</a>. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested.</p>	



**Board for Judicial Administration (BJA)  
Court Recovery Task Force (CRTF)  
Wednesday, February 17, 2021, 2:00 – 4:00 p.m.  
Videoconference**

**DRAFT MEETING MINUTES**

**Participants:**

Chief Justice Steven González, co-chair  
Judge Scott Ahlf, co-chair  
Judge Judith Ramseyer, co-chair  
Vivienne Alpaugh  
Linnea Anderson  
Jim Bamberger  
Justin Bingham  
Bobbie Brady  
Cindy Bricker  
Alice Brown  
Christy Carpenter  
Theresa Cronin  
Cynthia Delostrinos  
Todd Dowell  
Ambrosia Eberhardt  
Wendy Ferrell  
Laurie Garber  
Patrick Grabicki  
William Hairston  
Vanessa Hernandez  
Chris Hoxie  
Judge Carolyn Jewett  
Katrin Johnson  
Ray Kahler  
Mike Killian  
Kathryn Leathers  
Bob Lichtenberg  
Judge Mary Logan  
Chris Love

Lassana Magassa  
Jill Malat  
Sophia Byrd McSherry  
Judge Rich Melnick  
Ryan Murrey  
Jennifer Ortega  
Glen Patrick  
Judge Rebecca Pennell  
Terry Price  
Ellen Reed  
Judge Ruth Reukauf  
Dawn Marie Rubio  
P. Diane Schneider  
Jason Schwarz  
Judge Jackie Shea-Brown  
Judge Jeff Smith  
Justice Debra Stephens  
Judge Lisa Sutton  
Paul Weideman  
Judge Bruce Weiss  
David Wheeler  
George Yeannakis

**Administrative Office of the Courts  
(AOC) Staff:**

Jeanne Englert  
Penny Larsen  
Caroline Tawes

Call to Order

Chief Justice González called the meeting to order at 2:02 p.m. and welcomed the participants.

Approval of December 17, 2020, Meeting Minutes

The December 17, 2020, minutes were deemed approved. Chief Justice González asked members to e-mail any corrections or changes.

## Statewide Updates

The Supreme Court is reviewing the court-wide orders, including suggested amendments to RAP 18. The amendments will be considered at en banc tomorrow.

There have been proposed changes to GR 11.3 and 11.4 through the Interpreter Commission. Judges and administrators are aware of these changes. The Rules are available on the courts' website.

Presiding judges and justice partners should have received the vaccination letter template. The state is not yet at the stage where judicial branch employees are able to be vaccinated unless they qualify for another reason, such as age. If anyone has questions, please contact Dawn Marie Rubio at the AOC or the judicial branch contact at the Department of Health (DOH). Chief Justice González thanked Dawn Marie Rubio for her work on the vaccinations letter and communications to the judicial branch.

Dawn Marie Rubio reviewed the application information, request categories, and remaining funding for the Coronavirus Aid, Relief, and Economic Security (CARES) Funding. The CARES funding work group looked at the remaining funds and pivoted to focus on requests for conducting remote and in-person hearings and trials to address case backlogs. Beginning February 5, 2021, the request categories were pared down to address case backlogs; pro tem judicial officers; off-site facilities acquisition; jury services; non-judicial court and clerk staff, including overtime and temporary staff; and security/bailiff serves. The work group is approving requests in two-month blocks to focus on short term needs. They are waiting to see if there will be additional funding.

## Association Updates

The District and Municipal Court Judges' Association (DMCJA) held a webinar on February 9 to discuss GR 3.4. There will also be a case management system seminar on e-filing. The DMCJA and the Washington State Bar Association (WSBA) will hold pro tem trainings on February 26, March 5, and March 13. The DMCJA is also working on legislation, particularly HB 1320 on protection orders.

The Superior Courts are getting ready to resume jury trials. Most courts are resuming jury trials now through the end of March in a variety of ways based on resources. Some jury trials will be remote, and some will be a hybrid of in-person and remote proceedings.

The Superior Court Judges' Association (SCJA) is working on legislation. There is concern about imposing sweeping reforms on the justice system while the judicial branch is still struggling with a backlog, and they are concerned about the lack of funding. The SCJA is looking for ways to collaborate with others.

## Presentation on Remote Jury Trials Work Group

Judge Rebecca Pennell is chair of the Remote Jury Trials Work Group. Various representatives were charged with putting together recommendations for remote jury trials. The Work Group hopes their end product will provide resources and list of recommendations that will be added to the Washington Courts' COVID website. Suggestions for questions that the work group should consider may be sent to Judge Pennell. In addition to sending out surveys, the Work Group will hold a training for trial judges on conducting remote voir dire on February 25 from 12:15-1:15 p.m. There may be more trainings in the future.

Judge Keenan and other judges who have held remote jury trials are available for questions.

The Work Group hopes to complete their information gathering next month.

#### COVID Impact on Effective Criminal defense

In December, a statewide survey of public defense attorneys was conducted to understand their experience during the COVID public health emergency. There were 390 responses, and they hope to formally report results soon. Katrin Johnson and Jason Schwarz shared some of the survey highlights. The presentation slides and executive summary will be emailed to CRTF members next week.

#### Commonalties across committees

Jeanne Englert is working with Dirk Marler on e-signatures and will have more information by the next meeting.

#### Committee Updates (See meeting packet for additional information on committee work)

##### Technology Considerations Committee

The Technology Committee is working on reconciling the Access to Justice (ATJ) Technology Principles with the National Center for State Courts Technology Principles to create principles appropriate for Washington courts. The report will not identify specific platforms but will create guidelines for choosing and using technology. It should be complete in next few weeks.

Long term, the Technology Committee is developing a statewide snapshot of technology from an inventory of technology in each court. The information will be summarized and provided to the CRTF.

##### Facilities and Logistics Committee

The Courthouse Security Network is online. This Committee will add questions and resources, and will work out continued maintenance.

##### Public Outreach and Communication Committee

This Committee is working on a website with ATJ and continues to work on the Washington Courts' COVID website. Sticking points for this Committee include providing uniform information for courts in a non-unified system and reaching people who need services and translations with no funding available. Wendy Ferrell reminded participants of the resources available on the Washington Courts' website. This Committee will meet later this month to work on long-term goals.

#### Family Law Committee

This Committee is focused on informal family relations trials and family law hearings. The Committee is discussing HB 1320, a rewrite of protective order bills, especially section 14 which calls out technology; implementation of new case management system for the courts of limited jurisdiction which will have e-filing and more resources for self-represented litigants; and e-signatures, where the rules vary widely by county.

#### Child Welfare

This Committee will focus on short term deliverables, including recommendations to support the bench and child welfare participants. They will focus on reducing barriers to resolve cases. Long term goals include investing time and resources to improving access, ways to manage child welfare cases, improve access, and timely resolutions.

#### General Civil Litigation Committee

This Committee is focused on encouraging as many remote processes as possible. They submitted to the Supreme Court some provisions to authorize all phases of civil trials to be conducted remotely, remote discovery parameters, and remote services of process. A lot of best practices are being developed. There is a subcommittee developing resources and templates for courts. This Committee is also sharing resources with Remote Jury Trials Work Group.

#### Appellate Courts Committee

Judge Sutton and Judge Chris Lanese testified in favor of SB 5225, which has passed the Senate Law and Justice Committee and is headed to the Rules Committee. This Committee is looking at the workload impact.

#### Lessons Learned Committee

This Committee is finalizing their next survey and working on translation issues for that survey. This Committee hopes to be repository for surveys. The other CRTF Committees were invited to send their surveys to the Lessons Learned Committee for synthesis.

#### Criminal Matters Committee/Juvenile Criminal/Civil

This Committee is beginning to synthesize short- and long-term goals. They plan to focus on priorities that may be shared with other committees, and would like to collaborate with other committees on e-signatures and hearings. Their long-term focus is on increasing positive outcomes through equity lens and looking at practices to bring more equity, health, and language services.

Criminal Matters Committee/Therapeutic Courts

This Committee has completed their survey and synthesized the answers. They have developed a list of recommendations including exploring funding for substance abuse; exploring funding for technology; and looking at how to communicate strategy to reach out to private attorneys to remind them that courts are still open. They will meet again in March.

Criminal Matters Committee/Adult Criminal

This Committee is working on two surveys, for jurors and for defendants, to assess their reaction to adaptations for COVID. The next step will be gathering local court rules or procedures for hearings and producing a manual for best practices.

Next steps

The BJA team will create a grid to capture the work of committees, and to track priorities and progress on those priorities. This document will be sent to the committee chair listserv for additional information.

The next CRTF meetings will be April 15 and June 9.

For those getting questions about when counties are starting jury trials, information may be found on the Washington courts' website. All court orders are online. There is also a virtual court directory.

There being no further business, the meeting was adjourned at 3:40 p.m.

**Action Items from the February 17, 2021, Meeting**

<b>Action Item</b>	<b>Status</b>
Jeanne Englert is working with Dirk Marler on e-signatures and will have more information by the next meeting.	
The BJA team will create grid to capture the work of committees, tracking priorities, and progress on those priorities. This document will be sent to the committee chair listserv for additional information.	



## **Court Recovery Task Force E-signatures/Wet Signatures Feedback and Recommendations April 2021**

*The following information was collected from Court Recovery Task Force and Committee members and through members' additional outreach to their own organizations.*

### **What is an electronic signature?**

“Electronic signature” is an electronic image of the handwritten signature or other electronic sound, symbol, or process, of an individual; attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record, including but not limited to “/s/ [name of signatory]”. GR 30(a)(4).

### **What is the effect of an electronic signature?**

“An electronic document filed in accordance with this rule shall bind the signer and function as the signer’s signature for any purpose, including CR 11. An electronic document shall be deemed the equivalent of an original signed document if the filer has complied with this rule. All electronic documents signed under penalty of perjury must conform to the oath language requirements set forth in RCW 9A.72.085 and GR 13.” GR 30(d)(3).

### **What forms require ink? By statute? By risk level? What rationale do courts use to decide?**

Courts reportedly require “wet signatures” for:

- Protection orders
- Judgment & Sentence
- Guilty pleas
- Witness declarations (Note: As amended February 1, 2021, GR 13(a) authorizes electronic signatures on statements under penalty of perjury)

### **How are e-signatures happening?**

- DocuSign (seems most used and favorably noted)
- Adobe
- Email → Print → Sign → Scan → Email (big barrier to court users)
- Smartphone photo of signature can suffice, poor image quality
- eFiling (most CLJs and many Superior Courts implement File & Serve in 2021)
- Zoom e-signing instructions from Spokane County District Court

### **Additional Feedback**

- Courts that have established eFiling seem to have good e-signing procedures in place.
- Jurisdictions handle this differently across the state. Some courts and clerks are not accepting digital signatures. Some have adopted policies/practices that are working very well.
- Delays and continuances are commonly noted consequences.
- Fear that e-signatures could be grounds for an appeal.
- GR17 declaration must accompany some e-signatures – why fax transmission rule?
- E-signing can be cumbersome, especially during a proceeding.
- In-custody defendants don’t have the same access to e-signing.
- Some litigants/parties do not have printers, scanners or other equipment to print, sign, and scan back.
- E-signatures can be even more challenging for unrepresented litigants.

**Existing statewide solutions:**

- Supreme Court Emergency Order 25700-B-646 Sections 13 & 21
- Upcoming e-filing system capabilities

**Possible Next steps**

1. Confirm types of documents that, by statute or court rule, require “wet” signatures.
2. Ask courts and clerks that do not accept e-signatures what is the barrier to doing so.
3. Establish best practices/guidelines/considerations around use of e-signatures and ask courts to adopt them in order to better serve the parties that come before them.
4. Court Rules/Court Orders – review current emergency orders and determine what other steps need to be taken to ensure e-signatures can be used moving forward. (Specifically review and update as needed GR 17 and GR 30).
5. Revisit following Odyssey File and Serve implementation.

**Court Recovery Task Force  
Family Law Committee Report  
April 15, 2021**

**Progress on Goals and Activities**

(Attach work products and recommendations for the Task Force to consider)

**Short Term Goals**

Activities

Informal Domestic Relations Trials—continue to monitor whether Supreme Court Rules Committee approves for posting for Notice and Comment, consider discussing with stakeholders once posted

Monitor progress of HB 1320 with overhaul of protective orders

**Long Term Goals**

Activities

e-Filing for self-represented litigants/Odyssey notifications for litigants (email/text)—these are now on Courts IT Governance radar (11/18/20, 12/4/20), no more for this committee to do

**Challenges**

Digital variance among courthouses

**Data Collection Efforts**

Await responses to self-represented litigant survey just sent out

**Local orders, statewide court orders, and/or RCW's that need to be addressed before the emergency orders end**

GR 30 for self-represented litigants—keep pandemic-era flexibility, AOC could provide a single point of contact for the state for self-represented litigants to register for a digital signature

**Court Recovery Task Force  
Child Welfare Committee Report  
April 15, 2021**

**Progress on Goals and Activities**

(Attach work products and recommendations for the Task Force to consider)

**Short Term Goals**

Activities

- **Develop best practice guidelines for management plan for discovery, trial documents and witnesses.** A statewide sample order is being developed to be used at pre-trial to assist with organizing who will be showing up virtually, including a witness list and how each witness will appear (in-person, video, phone) and will include guidance for the judicial officer regarding items to be considered. Also developing discovery recommendations specific to child welfare, along with recommendations for exhibits to prepare for any party participating remotely.
- **Recommend a safe, efficient and effective method for circulating and receiving electronic signatures for court orders.** Determined need for a Child Welfare Committee member to participate in e-signature discussions with the Technology Committee to ensure child welfare voice is included in the decision making process. Preparing to assess child welfare process for obtaining signatures on orders at the local level in order to share best practices.

**Long Term Goals**

Activities

- **Develop recommendations to provide for flexibility for court participants to participate remotely in hearings.** Committee discussed the importance of continuing flexibility for parents, children, court participants and witnesses to participate remotely in hearings. The following are some of the reasons:
  - Resolves the need to continue a hearing.
  - Court accessibility for parents in 6 month in-patient treatment.
  - Parent not wanting to see the other parent in-person for safety reasons.
  - In rural/remote areas, parent representation program can find conflict attorneys within their program rather than hire outside.
  - Assist social workers to spend less time in court and traveling to court so they can perform their other duties.

And through a multidisciplinary lens, it was determined that the ability for remote participation in child welfare cases should continue and the committee will draft a court rule for consideration.

**Challenges**

Virtual and remote options are not universal and there are concerns to mitigate, we feel drafting flexible court rules with complimentary best practice guidelines and resource mapping may assist in this effort to reduce the challenge.

**Data Collection Efforts**

**Local orders, statewide court orders, and/or RCW's that need to be addressed before the emergency orders end**

As detailed above, the ability for remote participation in child welfare cases should continue. While the Child Welfare Committee is drafting a court rule for consideration, we are requesting that a statewide court order allow continuation of the ability for remote participation.

**Court Recovery Task Force  
General Civil Litigation Committee Report  
April 5, 2021**

**Progress on Goals and Activities**

This Committee's scope is general civil litigation, i.e. other than in family law, dependency and termination, civil commitment and special proceedings. The committee has met regularly since July 2020, addressing challenges in litigating civil cases including service of process, discovery, pre-trial motions and trial.

**Current Activities**

To date our committee's work has focused on:

1. Compiling sample trial orders and best practices guidance for utilizing remote discovery, alternative dispute resolution, and pre-trial processes.
2. Recommending updates to the Supreme Court emergency orders in the areas of remote hearings and trials, conducting depositions remotely, establishing presumption of electronic service, etc.

While our committee will continue to monitor these areas and to update as needed, at our most recent meeting we shifted our focus to long-range planning. With a view toward coordinating with the Washington State Bar Association working group on rules and the Supreme Court's rulemaking process, we are now turning to what rule changes might be made permanent or rescinded beyond the pandemic

Our consideration as a committee groups is only just beginning, but possibilities for further exploration include:

- CR 30: Depositions Upon Oral Examination
- GR 19: Video Conference Proceedings
- GR 35: Official Certified Superior Court Transcripts

Our committee will also be looking into concerns about using AI transcription services such as StoryCloud where access to court reporters is an issue. Members are reaching out to their stakeholder groups on additional issues of concern and to hear their experiences with modified rules for discovery and in-court proceedings during the pandemic.

**Court Recovery Task Force  
Lessons Learned Committee (LL) Report  
4/15/2021**

**Progress on Goals and Activities**

(Attach work products and recommendations for the Task Force to consider)

**Short term Goals:**

**Coordinating and implementing surveys:** The Lessons Learned Committee will conduct surveys as identified by the group. The LL Committee will be a clearinghouse and assist in coordinating surveys where possible so that committees don't duplicate efforts and overload our respondents.

**Activities**

LL opened the unrepresented litigant's survey that focuses on the court user's access (technology and getting help) and their experiences of what is working or not working. The survey is available in English, Spanish, Russian, Vietnamese and available digitally by a survey link and QR code and in paper copy.

**Long term Goals**

**Identifying lessons learned:** LL will work with other committees to identify lessons learned and/or identify our own priorities.

LL will start collecting lessons learned/what's working in the next few months from the other committees.

**Identify and recommend innovations and best practices:** LL will compile and help identify/recommend innovations and best practices.

**Challenges**

N/A this reporting period.

**Data Collection Efforts**

[Court Users without an Attorney Survey](#) has been distributed via listservs and is on the website.

**Court Recovery Task Force  
Juvenile Criminal Civil Subcommittee Report  
April 15, 2021**

JCC Mission: The Juvenile Criminal Civil Committee (JCC) will identify and make recommendations on the short-term operation modifications needed to recover from the pandemic and the opportunities for long-term juvenile criminal and civil system changes. This committee will consider race, gender, equity, access to justice, practices that align with the science of health youth development, technology, and funding needs when developing committee goals and activities to ensure positive outcomes for youth.

**Progress on Goals and Activities**

(Attach work products and recommendations for the Task Force to consider)

Share information on local orders, statewide court orders, and/or RCW's that need to be addressed before the emergency orders end.

**Explore barriers to remote hearings, including fingerprinting issue**

See attached recommended policy change.

**Recommend diversion statute changes to have continued flexibility with diversion extensions to help juveniles be successful.**

1) **The diversion statute RCW 13.40.080(5)** can be amended to read:

*(5)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the diveree.*

*(b) If additional time is necessary for the juvenile to complete **the terms of the agreement** or restitution to a victim, the time period limitations of this subsection may be extended by an additional six months **provided the juvenile agrees to the extension.***

***(d) A diversion agreement may be completed by the juvenile anytime prior to an order terminating the agreement, even if completed after the initial six month period and/or any extension.***

**Long Term Goals**

- 1) Identify what we need to preserve for youth and families to access services and the court remotely  
Activities – TBD
- 2) Explore what the consequences, processes, and expectations are as people move through the system as it relates to changing systems resulting from COVID  
Activities – TBD

**Data Collection Efforts**

N/A



## Bill Draft Eliminating Fingerprints at Juvenile Dispositions

AN ACT Relating to eliminating fingerprints at a juvenile court disposition, modifying RCW 10.64.110.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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**Sec. 1.** RCW 10.64.110 is amended to read as follows:

### **10.64.110. Fingerprint of a Defendant in Felony Convictions**

Following June 15, 1977, there shall be affixed to the original of every judgment and sentence of a felony conviction in every court in this state ~~and every order adjudicating a juvenile to be a delinquent based upon conduct which would be a felony if committed by an adult,~~ a fingerprint of the defendant ~~or juvenile~~ who is the subject of the order. When requested by the clerk of the court, the actual affixing of fingerprints shall be done by a representative of the office of the county sheriff. The clerk of the court shall attest that the fingerprints appearing on the judgment in sentence, ~~order of adjudication of delinquency,~~ or docket, is that of the individual who is the subject of the judgment or conviction, order, or docket entry.

**Court Recovery Task Force  
Therapeutic Courts Subcommittee Report  
April 15, 2021**

**Progress on Goals and Activities**

(Attach work products and recommendations for the Task Force to consider)

**Short Term Goals**

Address immediate impacts of COVID on courts and court users and identify what changes should move forward.

**Activities**

- 1) Actively remind public defenders/private bar and prosecutors that therapeutic courts are open and available for hearings and services.
  - a. The Committee distributed [materials](#) (talking points, article template, strategies document) through listservs and the CRTF website. Documents are attached.
- 2) Identify community services that can be utilized during COVID-19 restrictions to engage participants in their court plan and help increase success rates. (No update)
- 3) Identify what participants can realistically do given some of the impacts from COVID-19 and the reasons for decreasing success rates. (No update)

**Long Term Goals**

Identify practices, community services, and statutes and court rules that may need to be addressed to achieve goals.

**Activities (No Update)**

- 1) Explore funding for substance abuse testing and treatment.
- 2) Explore options for courts to share information about what is working and not working, resources, etc. such as a drop box or similar format.

**Challenges**

**Data Collection Efforts**

April 1, 2021

Dear Therapeutic Court Partners:

***RE: Therapeutic Courts and the Pandemic Materials***

The Board for Judicial Administration (BJA) Court Recovery Task Force Therapeutic Courts Committee developed the following materials to help promote therapeutic courts (specialty courts including drug courts, veterans' courts, community courts, mental health courts, domestic violence courts, etc.) in communities across Washington State.

Courts in many communities have experienced decreased court referrals, challenges with changing court operations and community services, and questionable future court funding. We hope these materials help with local awareness, referrals, and in demonstrating the success of these courts for communities.

**Strategies to promote therapeutic courts:**

- 1) Submit articles to local county/city bar associations and local media to remind communities about therapeutic courts. (*Draft article attached*)
- 2) Meet with public defenders and prosecutors to discuss the referral process and therapeutic court benefits.
- 3) Highlight local successes of therapeutic courts in media, presentations, and other avenues. (*Consider privacy needs when sharing specific individual successes.*)
- 4) Share materials with your membership and colleagues and request that they contact local stakeholders.
- 5) Ask your county/city executives and commissions/council members to fund therapeutic courts and community service needs that support participants. Share personal and community experiences with key stakeholders to highlight how funding can address local needs and benefit the community.

**Materials Provided:**

- 1) **Draft article** that can be adapted for media outlet and article or op-ed.
- 2) **Talking points** serve as a guide to consistently share the needs and successes of therapeutic courts. Please complement these by sharing local stories and needs.
- 3) **Therapeutic Court Survey Summary** can be found [here](#).

All materials can be found on the [Court Recovery Task Force webpage](#).

**Questions:** Contact Jeanne Englert, [Jeanne.englert@courts.wa.gov](mailto:Jeanne.englert@courts.wa.gov) or 360-705-5207.

BJA Court Recovery Task Force Therapeutic Court Committee Chair: Judge Jeffery Smith  
BJA Court Recovery Task Force Chairs: Chief Justice Steve González, Judge Judith Ramseyer, Judge Scott Ahlf

**This article template was created by the Board for Judicial Administration  
Court Recovery Task Force Therapeutic Courts Committee April 2021**

The below article template can be used and adapted to promote therapeutic/problem solving courts to local county/city bar associations and local media and to remind communities about these courts.

Please add specific local challenges, successes, and needs to make the article more persuasive and relevant for your community.

## **THERAPEUTIC COURTS AND THE PANDEMIC**

*By XXXXX [if this is submitted to a newspaper as an op-ed column or to a Bar news publication, you will need to identify an author or authors.]*

The COVID pandemic has taken its toll on our local communities and country, and courts are no different.

At every level, courts have struggled to process cases and keep justice moving forward. Participants in therapeutic courts such as drug court, mental health court, veterans' court, and community court have been particularly hard hit.

Therapeutic courts rely heavily on developing community with the participants. Peer involvement is essential. Not being able to gather together in person has created significant challenges for participants to connect with case managers, court staff, judges and each other.

Another big challenge has been the drop in referrals to therapeutic courts statewide. This may have come from confusion over whether therapeutic courts were still accepting referrals. We are still accepting referrals and we hope those referrals will return. Additionally, some attorneys struggled to connect with clients early in the pandemic, which hindered their ability to gather detailed information on their clients' circumstances and needs.

There are some silver linings. Developing community is more challenging but because we can offer remote hearings, access to court has dramatically improved. Participants no longer need to arrange transportation or child care.

On Zoom calls, we often glimpse a participant's home or work environment, which can help as court staff and case managers work to obtain services for participants. In many jurisdictions, additional services offered to participants include increased access to technology, assistance with pandemic-related government funding, virtual medical and mental health appointments, food delivery, and new solutions to childcare challenges.

Therapeutic courts focus on a restorative instead of retributive justice model. These courts identify the root of a person's involvement with the criminal justice system and focus on services to prevent re-offending. Therapeutic courts are forward looking—asking what we can do to prevent further offense. Statistics show dramatically lower re-offense rates between those who participate in therapeutic courts and those who do not.

And of course, restorative justice is only effective when the needs and desires of victims are factored into the equation.

Therapeutic courts also can offer reassurance to prosecution and defense attorneys that a defendant is going to be closely monitored. Warning signs that a participant is struggling are usually noticed much quicker than in a non-therapeutic court.

Therapeutic court staff address individuals' needs from a holistic perspective in an effort to change their trajectories. Participants may receive services related to mental health and chemical dependency, medical care, housing, state financial assistance, childcare, employment and education, equipping them with a support network and coping skills to employ when challenges arise after they graduate from a therapeutic court.

Their ability to recognize warning signs, access resources and work proactively will hopefully prevent participants from returning to the legal system.

Although the COVID pandemic has created substantial challenges, our therapeutic courts are in many ways better equipped to handle those challenges than non-therapeutic courts. Referrals may be initiated by either prosecutor or defense counsel. The next time you interact with a defendant, ask yourself whether or not a therapeutic court would be better for them, and better for our community.



### **Behavioral health court needs**

Behavioral and therapeutic courts at all court levels would all benefit from an AOC-housed state-wide management and research. The 2021 AOC budget includes this important resource.

As of 2020, there were around 100 therapeutic courts operating in Washington State consisting of drug courts, juvenile drug courts, family treatment courts, driving under the influence (DUI) courts, mental health courts, veterans' courts, community courts, and domestic violence courts.

Courts have seen an increase in the number of individuals with behavioral health needs accessing and involved in the justice system, and laws and policies addressing behavioral health issues that impact the courts.

Therapeutic courts are not in every community nor are the programs consistently organized and evaluated to ensure best practices. Already busy courts have to develop these programs by themselves which requires a tremendous amount of work.

### **Therapeutic Courts and the Pandemic**

In light of the COVID pandemic, additional steps must be taken by behavioral and therapeutic court judges and leadership to reach out to potential users and partners.

The COVID pandemic has taken its toll on our local communities and country, and courts are no different. At every level, courts have struggled to process cases and keep justice moving forward. Participants in therapeutic courts such as drug court, mental health court, veteran's court, and community court have been particularly hard hit.

Therapeutic courts rely heavily on developing community with the participants. Peer involvement is essential. Not being able to gather together in person has created significant challenges for participants to connect with case managers, court staff, judges and each other.

Another big challenge has been the drop in referrals to therapeutic courts statewide. This may have come from confusion over whether therapeutic courts were still accepting referrals. We are and we hope those referrals will return.

### **Successes highlight the benefits to individuals and communities**

Behavioral and therapeutic courts rely on research to prove and sustain their success.

Therapeutic courts focus on a restorative instead of retributive justice model. These courts identify the root of a person's involvement with the criminal justice system and focus on services to prevent re-offending. Therapeutic courts are forward looking—asking what we can do to prevent further offense. Statistics show dramatically lower re-offense rates between those who participate in therapeutic courts and those who do not.

An abundance of research papers and evaluations indicate that therapeutic courts are effective at reducing recidivism and saving costs. Drug courts have been found to reduce

recidivism by around 10%<sup>1</sup>. Mental health courts, veterans' courts, and community courts may be less studied than drug courts, but have shown similar reductions in recidivism among their participants<sup>2</sup>.

Other positive individual and societal benefits from therapeutic courts:

- Drug court participants were more likely to be employed than non-participants<sup>3</sup>.
- Community courts have been associated with substantial drops in the quality-of-life offenses like prostitution and street vending in their surrounding neighborhoods<sup>4</sup>.
- Other studies have shown veterans' court participants have improved housing, mental health, and social connectedness outcomes<sup>5</sup>.

The Washington State Institute for Public Policy (WSIPP) conducts regular cost-benefit analysis of a variety of adult and juvenile justice system interventions and has consistently found therapeutic courts to produce cost-savings through combinations of reductions in recidivism and improved individual and social outcomes for participants. Their most recent summaries found the following benefits for therapeutic courts (dollars saved/1 dollar spent):

- Mental Health courts: \$5.56
- Reentry courts: \$3.36
- Drug courts: \$2.82

\*Additional types of therapeutic courts exist in Washington State, but there may not be a sufficient number of published social science evaluations done on them to qualify for the WSIPP cost-benefit analysis.

<sup>1</sup> Gottfredson et. al, 2003; Lowenkamp et. al, 2005; Mitchell et. al., 2012

<sup>2</sup> Hamilton, Holbrook, and Kigerl, 2019; Rossman et. al., 2012; Tsai et. al., 2018

<sup>3</sup> Peters and Murrin, 2000

<sup>4</sup> Sviridoff et. al., 2002

<sup>5</sup> Knudsen and Wingenfeld, 2016; Tsai et. al., 2016

**Court Recovery Task Force  
Adult Criminal Subcommittee Report**

April 15, 2021

**Progress on Goals and Activities**

(Attach work products and recommendations for the Task Force to consider)

**Short Term Goals**

Address immediate impacts of COVID on courts and court users and identify what changes should move forward.

- The Committee finalized and opened two surveys – juror and defendant surveys. These are on the website and have been distributed via listservs.
- The defendant survey that focuses on the defendant's access (technology and getting help) and their experiences of what is working or not working. The survey is available in English, Spanish, Russian, and Vietnamese, and available digitally by a survey link and QR code and in paper copy.
- The committee is sending out a request to local court stakeholders asking them to share any local COVID-related policy or rule changes. The goal is to collect rules and procedures that 1) could be shared with other jurisdictions as model rules, and 2) to consider what, if any, rules should be made permanent or statewide.
- The committee is beginning to collect data on remote arraignment hearings in the hopes to identify successful strategies and share information with courts.

**Long Term Goals**

Once the survey data is received, the committee will assess what impact, if any, COVID accommodations have on criminal court hearings, share the information with the larger task force, and make recommendations for any changes to current practices. In addition, the committee plans to seek feedback from criminal courts about the creative accommodations courts have made to allow for criminal proceedings to proceed remotely.

**Activities**

TBD

**Challenges**

**Data Collection Efforts**

Developed and opened surveys for defendants and jurors.