

BJA COURT RECOVERY TASK FORCE



**WASHINGTON
COURTS**

MEETING PACKET

**MAY 9, 2022
2:00 – 4:00 P.M.**

VIDEOCONFERENCE



BJA Court Recovery Task Force

May 9, 2022, 2:00 – 4:00 pm

ZOOM Meeting

AGENDA and notes

The meeting is being livestreamed and recorded by TVW

1. Welcome (5 minutes)

Chief Justice Steven González
 Judge Judith Ramseyer
 Judge Scott Ahlf

Land Acknowledgement

Chief Justice Steven González

Approve February 14, 2021 Minutes (p. 3)

2. Statewide Updates (15 min)

Supreme Court/Court Orders

Chief Justice Steven González

Association Updates

Judge Judith Ramseyer
 Judge Scott Ahlf

AOC

Dawn Marie Rubio

3. Small Group Discussions (40 minutes)

Lessons Learned Committee needs your input on the CRTF final report in your packet. Reviewing instructions are on the cover page. **(p. 8)**

Judge Judith Ramseyer

What do you like or dislike about the report?

Are there any key lessons learned and recommendations that were not included?

Is there something that is missing or inaccurate?

Is there anything that we still have not figured out that should continue outside of the CRTF?

Feel free to share any highlights or quotes that should be added to the report.

4. Committee Updates (20 minutes)

- Child Welfare **(p. 30)**
- Technology Considerations
- General Civil Litigation **(p. 31)**

Linnea Anderson
 Dawn Marie Rubio
 Justice Debra Stephens

<ul style="list-style-type: none"> Lessons Learned 	Judge Judith Ramseyer
<p>5. Wrap up and Open Sharing Time (40 minutes)</p> <p>Chairs and members will have a chance to share what they learned, what they are excited to carry forward, shout outs, and anything else about the CRTF experience.</p>	Chief Justice Steven González Judge Judith Ramseyer Judge Scott Ahlf All
<p>6. Next Steps (5 minutes)</p>	Chief Justice Steve González
<p>6. Adjourn</p>	
<p>Persons with a disability, who require accommodation, should notify Jeanne Englert at 360-705-5207 or Jeanne.englert@courts.wa.gov. 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)

**February 14, 2022, 2:00 – 4:00 pm
ZOOM Meeting**

DRAFT Meeting Minutes

Participants:

Chief Justice Steven González, co-chair
Judge Scott Ahlf, co-chair
Judge Judith Ramseyer, co-chair
Linnea Anderson
Vivienne Alpaugh
Judge Rachelle Anderson
Alice Brown
Renea Campbell
Darren Carnell
Mike Cherry
Dennis Cronin
Abigail Daquiz
Ambrosia Eberhardt
Jessica Humphreys
Katrin Johnson
Judge Carolyn Jewett
Katrin Johnson
Ray Kahler
Mike Killian
Kathryn Leathers
Sophia Byrd McSherry
Judge Rich Melnick
Amy Muth

Jennifer Ortega
Judge Marilyn Paja
Colleen Durkin Peterson
Terry Price
Amit Ranade
Dawn Marie Rubio
Judge Ruth Reukauf
Jason Schwarz
Judge Jacqueline Shea-Brown
Judge Jeff Smith
Justice Debra Stephens
Judge Lisa Sutton
George Yeannakis

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

Jeanne Englert
Kyle Landry
Penny Larsen
Caroline Tawes
Lorrie Thompson

Call to Order

Chief Justice González called the meeting to order at 2:00 p.m. and the participants introduced themselves.

December 6, 2021 Minutes

It was moved by Judge Ramseyer and seconded by Dawn Marie Rubio to approve the December 6, 2021 meeting minutes. The motion passed unanimously.

Statewide Updates

Supreme Court/Court Orders

The only statewide emergency order that has an expiration date is the Admission to Practice Rule. There are no immediate plans to rescind the emergency orders.

Association Updates

The Superior Court Judges' Association (SCJA) is tracking bills and offering feedback on proposed legislation. They are working with stakeholder groups on refinements to the Uniform

Guardian Act and protection order legislation from last year. Other bills are being tracked as well as the supplement budget. SCJA supports the BJA request legislation.

The SCJA Spring Conference will be held remotely.

Judge Anderson is working on a summary of backlog cases due to the COVID pandemic for Governor Inslee. There will be a meeting with SCJA members via Zoom to give brief presentation on the legislative process. The SCJA has started discussions on the two-year cycle that is beginning for the salary commission workgroup.

The District and Municipal Court Judges' Association (DMCJA) is also working with the legislature on some of the same issues. The Courts of Limited Jurisdiction Case Management Project (CLJ-CMS) will be implemented in pilot courts at the end of this year. Many CLJ courts still have a jury moratorium.

The DMCJA spring conference will also be virtual.

AOC

AOC staff have been meeting with legislators regarding legislation and the budget request. The Judicial Branch is also pursuing one-time funding for COVID impact support for courts, reducing and eliminating backlogs, and improving efficiency and technology. SB 5490 regarding the interbranch advisory committee passed out of the Senate and will have a hearing on February 16, 2022.

AOC continues to process Blake reimbursements. To date, \$2.5 million of \$68 million in funding has been reimbursed. AOC has requested that the Legislature extend reimbursement funding through 2024.

AOC is continuing to monitor advice from the Center for Disease Control and the Washington State Department of Health (DOH), as well as looking for updated guidance from the Washington State Department of Labor and Industries.

Dawn Marie Rubio pointed out there are several vacant staff positions at AOC, the Office of Public Defense, and the Office of Civil Legal Aid posted on the Washington Courts website and asked the participants to encourage qualified applicants to apply.

Roundtable Discussion and Next Steps

The CRTF charter expires end of June. Chief Justice González would like to identify any immediate needs remaining. The Task Force should decide what work is not completed and what work needs to be handed off to another task force or committee.

This is a good opportunity for each committee to consider where the emergency orders impact their work and what is needed to transition back to normal operations after the pandemic ends. The Lessons Learned Committee is in the process of meeting with other committees to create a synthesized report. The report will consider questions such as what practices need to be continued and whether courts should have a hybrid model going forward.

There is a need to find a long-term, reliable funding source for technology that is not based on fines and fees. The DMCJA has a policy that no fees should be imposed to run the court system. Reduced fines and fees have had impact on JIS funding. Judge Paja pointed out that infraction fees can also be hard for individuals to pay.

Another need is for court security. There are current efforts to improve court security, partnership with others on security issues, and a push for security funding. The CRTF could provide a rule of the basic minimum security level that courts need to provide.

The members discussed the benefits of increased collaboration in the last two years. The CRTF has made it possible to communicate interdepartmentally and with geographically distant participants, and there are still many items that need work. There was a discussion on how some of the CRTF work might be continued.

The benefits of using the Zoom platform for meetings was discussed. Jurors also appreciated using Zoom for their jury service.

Chief Justice González acknowledged the work of Justice Stephens, who created the CRTF.

For the next meeting, CRTF members can think about whether hybrid options in court procedures should continue past the pandemic, and if the CRTF has any recommendations for this. As individual committees submit their final reports, they can consider if they have any remaining needs from the Task Force.

Committee Updates

Criminal Matters

This Adult Criminal Committee met a few times to discuss feedback from last CRTF meeting. This Committee decided to submit two of their four rule proposals. They submitted new rule proposals to the Supreme Court Rules Committee for review: CrR/RLJ 4.11, Notice of Court Dates to Defendant, and CrR/RLJ 4.12, Signatures. The Committee discussed whether CR 3.4 would be a better place for these rules, but decided to submit them as separate rules.

At this point, this Committee's work is now concluded. They plan to keep track of court issues and can address issues and schedule other meetings if needed.

Child Welfare

This Committee is focused on two deliverables: drafting a new Juvenile court rule to solidify virtual and hybrid hearings, and updating best practice guidelines for virtual dependency practice.

Technology Considerations

This Committee is continuing their work developing best practices guidelines for court websites.

There was a discussion on court technology and technology budget requests and how courts might collaborate.

General Civil Litigation

This Committee is meeting regularly and has formed two subgroups that are looking at pending rule requests. They discussed the benefit of flexibility of remote proceedings but recognized there is a lack of consistency among courts. Justice Stephens thanked the Committee members.

The Supreme Court Rules Committee will meet in March to discuss the rule proposals and Justice Stephens encouraged comments to rules.

Family Law

This Committee has completed its work but remains interested in an informal domestic trial rule. They are happy to help resolve any questions.

Lessons Learned

Judge Ramseyer thanked members of the Committee. This Committee has begun a final report that will be vetted with all other committees. She invited ideas from other members.

Summary of action items from meeting

Chief Justice González asked the participants to pay attention to pending rules and to contact the Rules Committee if you have comments or questions.

Participants were encouraged to send recommendations for the Lessons Learned Committee to Judge Ramseyer or any of the Lessons Learned Committee members.

Participants are welcome to submit comments on which emergency orders need to remain in place. Chief Justice González said the emergency orders may sunset with CRTF, but there may be a need to re-assess according to the pandemic. Kathryn Leathers said the Executive Branch is also watching the pandemic data, and thanked the CRTF members for their work.

Future Meetings

May 9, 2:00–4:00 p.m.

There being no further business, the meeting was adjourned at 3:26 p.m.

Motion Summary from the February 14, 2022, Meeting

Motion Summary	Status
Approve the December 6, 2021, meeting minutes	passed

Action Items from the February 14, 2022, Meeting

Action Item	Status
The CRTF charter expires end of June. Chief Justice González would like to identify any immediate needs remaining. The Task Force should decide what work is not completed and what work needs to be handed off to another task force or committee.	

Action Item	Status
For the next meeting, CRTF members can think about whether hybrid options in court procedures should continue past the pandemic, and if the CRTF has any recommendations for this. As individual committees submit their final reports, they can consider if they have any remaining needs from the Task Force.	
Chief Justice González asked the participants to pay attention to pending rules and to contact the Rules Committee if you have comments or questions.	
Participants were encouraged to send recommendations for the Lessons Learned Committee to Judge Ramseyer or any of the Lessons Learned Committee members.	
Participants are welcome to submit comments on which emergency orders need to remain in place.	

**Court Recovery Task Force
Child Welfare Committee Final Report
April 25, 2022**

Progress on Goals and Activities

Short Term Goals

NA

Long Term Goals

- Committee is drafting a new juvenile court rule intended to capture lessons learned during the pandemic regarding remote and hybrid child welfare proceedings for certain hearing types.
 - Draft is not yet finalized, but well underway.
 - Goal to submit this proposal for consideration by June.
- Updated guide for remote and hybrid child welfare hearings.
 - Committee decided to shift the plan and partner with AOC's Family Youth and Justice Programs (FYJP) to provide guidance on remote and hybrid hearings for the development of virtual modules that will be housed on the FYJP webpage for dependency courts to access. The modules will provide guidance and resources for courts implementing remote/hybrid hearings.
 - This is a more modern approach and may be easily updated when new lessons are learned.

Challenges

Finalizing projects prior to the completion of the committee, given committee member availability, and competing work priorities. Committee requested the assistance of a Law Clerk to help on a short-term basis researching on Westlaw, finding other WA county's local rules or other States with rules on remote/hybrid appearances for child welfare proceedings. There was no one available at the time of our request to assist the committee in finalizing this deliverable.

It is the goal of the Child Welfare Committee to have this new rule drafted and ready to submit for consideration by June 2022. Any assistance the BJA can provide to help the effort to complete this project on time is most appreciated.

Civil Litigation Committee Report – April 2022

Current Committee Members:

Justice Debra Stephens (Chair)
Judge Tim Ashcraft
Judge Lisa Mansfield
Judge Rich Melnick (ret.)
Judge Bruce Weiss
Vivienne Alpaugh
Alice Brown
Michael Cherry
Noah Jaffee
Ray Kahler
Chris Love
Colleen Durkin Peterson
Luke Phifer

I. Recap of Recent Activity and Ongoing Issues

The committee has met regularly (monthly or bi-monthly) since July 2020. The meetings have provided a forum for exchanging ideas and much work has been done through sub-committee groups focused on specific issues. On April 25, 2022, the committee held what it anticipates to be its last full meeting before the sunset of the Court Recovery Task Force.

Update on Rule Proposals: The committee submitted comments to proposed GR 41 (remote voir dire) and proposed amendments to CR 39 (remote proceedings in civil cases). Members have experience in several jurisdictions with remote proceedings, including jury selection and trial. The comments identified benefits to remote proceedings as well as areas of concern and the interplay with other rules. Justice Stephens advised the committee that at the Supreme Court Administrative En Banc meeting on March 30, 2022, consideration of the proposals was tabled until the July 13, 2022 En Banc meeting.

The group spent some time discussing how a lack of effective data collection has been a real constraint in assessing remote options. The topic initially came up in the context of GR 41 and attempts to gather juror input, but it also seems to be relevant across the court system. Building capacity for data collection should be considered as permanent procedural changes are implemented.

Ongoing Issues: At its April 25, 2022 meeting, the committee focused on identifying issues and concerns the committee has discussed over the past year that should continue to be worked on following the sunset of the Court Recovery Task Force.

First, the committee discussed technology-assisted transcription services and video recording of depositions. During the pandemic, the use of these tools, such as “StoryCloud,”

increased dramatically, and members were involved in proceedings in which courts allowed AI generated transcripts to be introduced in court (or they were used out of court for a variety of purposes). The existing court rules do not directly address these tools, but members discussed that alternatives to traditional transcription and videography services are here to stay and the rules should be reexamined. This issue also affects e-discovery and the preservation of evidence. It was noted that StoryCloud recently suspended new business in light of a lawsuit brought by a court reporter group in a different state. Several members expressed an interest in participating in a broad-based effort to examine court rules that address both the admission of deposition and other evidence and the creation of court records. Justice Stephens agreed to follow up on next steps to help convene such an effort and to invite all interested justice system partners. Committee members Alice Brown (WDTL), Colleen Durkin Peterson (WSAJ), and Michael Cherry (POLB) volunteered; others are welcome.

Second, the committee discussed the current lack of agreement between the plaintiffs and defense bars about possible modifications to the Mandatory Arbitration Rules (MARs) to expand discovery. This issue has been discussed at several committee meetings and a sub-group looked closely at the current Pierce County local rules and solicited input from stakeholder groups. The issue impacts pandemic backlog issues because the lack of access to discovery affects parties' decisions to seek a trial de novo under the MARs and civil trials will experience increased backlogs as criminal trials resume. Given the impending sunset of the CRTF, committee meetings are no longer going to be a forum for continued discussion, but members expressed an interest in continuing discussions. Alice Brown noted that WDTL is looking at proposing rule changes and all agreed it would be valuable to form an ongoing workgroup. Justice Stephens offered to reach out to leadership in the Superior Court Judges Association about helping to convene.

II. Observations as the Committee Work Comes to a Close

Justice Stephens invited all members at the April meeting and by group email to share their thoughts about the value of the CRTF Committee process as well as what comes next. Members universally expressed appreciation for having this forum over the past two years as a space for debate, discussion, and collaboration. The committee was able to propose emergency rules for remote proceedings and to address issues in civil litigation as they arose during the pandemic.

Reflecting on their experience since the spring of 2020, members expressed concern that the initial enthusiasm for allowing remote options appears to be waning. There is a worry that, having experienced challenges with remote proceedings and not having an immediate solution, courts will simply return to "business as usual" when the emergency orders lift. But the challenges should not overshadow the huge benefits of remote options for access to justice. Again, better data collection would be helpful in deciding how best to move forward.

The committee also discussed how technology solutions can be improved to support better remote options. Michael Cherry noted that the justice system could create the market for greater customization of these tools to fit the unique needs of courts. These customizations could address some of the shortcomings currently experienced using Zoom, Teams or other platforms, as well as the integration issues with existing court technologies. Members remain

interested in working with the broader access to justice community to keep moving options *forward* rather than dropping back to “traditional” modes of operation that have been shown to negatively impact access.

The overall sentiment is that the collaborative work of the CRTF and this committee has been a benefit statewide and we should not lose the momentum.