

FILED

NOV 23 2020

Superior Court
Linda Myhre Enlow
Thurston County Clerk

SUPERIOR COURT OF WASHINGTON
FOR THE COUNTY OF THURSTON

IN THE MATTER OF THE RESPONSE BY
THURSTON COUNTY SUPERIOR COURT
TO THE PUBLIC HEALTH EMERGENCY
IN WASHINGTON STATE

NO. 20-2-00001-34

**AMENDED EMERGENCY
ADMINISTRATIVE ORDER No. 7**

In response to the current public health emergency in Thurston County and Washington State, this Court issued “Emergency Administrative Order #1” on March 13, 2020, “Emergency Administrative Order No. 2” on March 17, 2020, “Emergency Administrative Order No. 3” on March 20, 2020, “Emergency Administrative Order No. 4” on May 7, 2020, “Emergency Administrative Order No. 5” on July 10, 2020, and “Emergency Administrative Order No. 6” on November 12, 2020. Worsening conditions of the public health emergency require this additional emergency order. The Court makes the following findings:

1. Effective June 24, 2020, Thurston County was approved for Phase 3 of the Governor’s Safe Start Plan. No expected date for Thurston County to be approved for Phase 4 has been announced.
2. On May 29, 2020, the Washington Supreme Court issued Order No. 25700-B-626 addressing Washington State Courts response to the COVID-19 public health emergency.

- 1 3. On June 18, 2020, the Washington Supreme Court issued Order No. 25700-B-631
2 addressing jury trial proceedings in response to the COVID-19 public health emergency.
3 The Supreme Court orders established an “excluded period” for the purposes of “Time
4 for Trial” under CrR 3.3(e) and paused jury trials in the state until July 6, 2020.
5
- 6 4. Following the state-wide authorization for recommencement of jury trials on July 6,
7 2020, Thurston County Superior Court conducted jury trials in compliance with COVID-
8 19 safety protocols approved by local health authorities.
- 9 5. On October 13, 2020, the Washington Supreme Court issued Order No. 25700-B-646
10 addressing court operations in response to the COVID-19 public health emergency.
11 (Attached.) While this Order provided that the previous “excluded period” for the
12 purposes of “Time for Trial” under CrR 3.3(e) ended on the “next scheduled court
13 hearing after October 15, 2020,” the Order also provided that “After October 15, 2020,
14 courts may further exclude time under these rules based on individual findings of
15 ‘unavoidable circumstances’ due to COVID-19 or other circumstances.” ¶ 12. The Order
16 also provides:
17
- 18 Nothing in this Order limits the authority of courts to adopt measures to protect health
19 and safety that are more restrictive than this Order, as circumstances warrant,
20 including by extending as necessary the time frames in the Order. * * * Courts should
21 follow the most protective public health guidance applicable in their jurisdiction,
22 based on current guidelines from the Center for Disease Control, the Washington
23 Department of Health or their local health department, recognizing that planning for
24 and resuming jury trials is essential.” ¶ 23.
- 25 6. On November 15, 2020, Governor Jay Inslee announced a four-week statewide set of
26 restrictions beginning November 16, 2020, at 11:59 p.m. in response to the recent rapid
spread of the COVID-19 virus in Washington State.

1 7. On November 20, 2020, Thurston County Public Health Officer, Dr. Dimyana
2 Abdelmalek, issued a letter with recommendations for Thurston County Superior Court
3 and District Court. (Attached.) This guidance sets forth Dr. Abdelmalek's concern about
4 the "significant increase in COVID-19 transmission in Thurston County." She stated
5 that while more than 75 cases per 100,000 population over 14 days is over the "high
6 transmission threshold" according to state definitions, on "November 20, 2020, the
7 transmission rate in Thurston County is 161.3 cases per 100,000 population over 14 days
8 and weekly case counts continue to rise." If prospective jurors must be brought to the
9 courthouse in order to conduct jury selection and deliberation, she "recommends pausing
10 jury trials until further notice."
11

12
13 8. Court facilities continue to be limited in capacity and physical size and have constraints
14 on technical capacities. Limited by these physical and technical constraints, the Court
15 has instituted procedures designed to preserve fairness for litigants consistent with
16 appropriate COVID-19 mitigation measures to protect the safety of jurors, attorneys,
17 staff, and litigants directed by county health authorities, and is constantly reevaluating
18 these procedures in an effort to adapt to changes presented by the public health
19 emergency. At this time, these efforts cannot accommodate 100% remote operations for
20 jury trials, including both jury selection and deliberation.
21

22
23 NOW, THEREFORE, IT IS HEREBY ORDERED THAT, EFFECTIVE November 19,
24 2020:

25 1. Thurston County Superior Court suspends all jury trials. This suspension is required due
26 to the unavoidable circumstances created by the COVID-19 pandemic and the resulting

1 health and safety measures both required and recommended by state and local health
2 authorities. The Court expects to resume jury trials on January 19, 2021. Such
3 continuance of all jury trials is necessary for the administration of justice and is intended
4 to be as limited in scope and duration as possible. Should public health conditions either
5 improve or further deteriorate, the scope and duration of this continuance may be
6 adjusted by further order of this Court.
7

- 8 2. The serious danger posed by COVID-19 is good cause to continue criminal jury trials,
9 and constitutes an unavoidable circumstance under CrR 3.3(e)(8). Exercising its
10 authority provided under the Supreme Court Orders set forth above, the Court orders that
11 the time between November 20, 2020, and the next scheduled hearing after January 19,
12 2021, shall be EXCLUDED when calculating time for trial. CrR 3.3(e)(3).
13
14 3. The Court may extend the timeframes in this Order as required by the continuing public
15 health emergency, and if necessary, will do so by further order.
16
17 4. To the extent necessary to provide the Court the authority to effectuate all actions
18 referenced above, court rules are hereby suspended.

19 TO THE EXTENT NOT MODIFIED BY THIS ORDER, EMERGENCY ADMINISTRATIVE
20 ORDERS NO. 5 AND NO. 6 REMAIN IN EFFECT.

21 THIS ORDER IS SUBJECT TO CHANGE AS CONDITIONS WARRANT.

22
23 DATED this 23rd day of November, 2020.

24
25 
26 Presiding Judge Erik D. Price

ATTACHMENTS

FILED
 SUPREME COURT
 STATE OF WASHINGTON
 OCTOBER 13, 2020 BY
 SUSAN L. CARLSON
 CLERK

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE)
 BY WASHINGTON STATE COURTS TO THE)
 COVID-19 PUBLIC HEALTH EMERGENCY)
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FOURTH REVISED AND
 EXTENDED ORDER
 REGARDING COURT
 OPERATIONS
 No. 25700-B-646

WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and on March 13, 2020, President Trump declared a national emergency due to the COVID-19 outbreak across the United States; and

WHEREAS, during this state of emergency, the Centers for Disease Control and Prevention and the Washington State Department of Health have recommended increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces; and

WHEREAS, consistent with these recommendations, Governor Inslee issued and extended a "Stay Home, Stay Healthy" order directing non-essential businesses to close, banning public gatherings, and requiring Washingtonians to stay home except to pursue essential activities; and

WHEREAS, many court facilities in Washington are ill-equipped to effectively comply with social distancing and other public health requirements and therefore continued in-person court

appearances jeopardize the health and safety of litigants, attorneys, judges, court staff, and members of the public. Yet, court operations are recognized as essential, and may often be conducted by alternative means, in alternative settings, and with extra measures taken for public safety; and

WHEREAS, pursuant to this Court's prior orders, many Washington courts have taken important steps to protect public health while ensuring continued access to justice and essential court services, including by strictly observing social distancing measures, holding proceedings remotely, suspending many in-building operations, and promulgating emergency rules as necessary; and

WHEREAS, the coordinated response from Washington courts to prevent the further spread of COVID-19 must be continued beyond the timeframes in this Court's prior orders while allowing courts to operate effectively and maintain effective and equitable access to justice; and

WHEREAS, this Court's consultation with trial courts, justice partners and coordinate branches of government confirms the need for further direction from this Court by issuing an order that revises and supersedes its prior orders; and

WHEREAS, the presiding judges across Washington need direction and authority to effectively administer their courts in response to this state of emergency, including authority to adopt, modify, and suspend court rules and orders as warranted to address the emergency conditions.

NOW, THEREFORE, pursuant to the Supreme Court's authority to administer justice and to ensure the safety of court personnel, litigants, and the public,

IT IS HEREBY ORDERED:

Court operations are essential, as recognized by the Governor's proclamations and by the Supreme Court. This Court recognizes the authority of all courts to conduct essential court operations, to include not only trials and other hearings, but also clerk's office operations, facilities planning, technology improvements, and the general administration of justice. In all court operations, courts should follow the most protective public health guidance applicable in their jurisdiction, and should continue using remote proceedings for public health and safety whenever appropriate.

With Respect to Civil Matters:

1. The previous order suspending all civil jury trials until at least July 6, 2020 is lifted. Trials already in session where a jury has been sworn and social distancing and other public health measures are strictly observed may proceed or, at the discretion of the trial court or agreement of the parties, be continued to a later date. Nonjury trials may be conducted by remote means or in person with strict observance of social distancing and other public health measures.
2. Courts have discretion to continue all non-emergency civil matters. However, courts should begin to hear non-emergency civil matters, so long as such matters can appropriately be conducted by telephone, video or other remote means, or in person with strict observance of social distancing and other public health measures.

3. Courts shall continue to prioritize and hear all emergency civil matters that can be heard by telephone, video, or other remote means, or in person with strict observance of social distancing and other public health measures.
4. Courts shall continue to hear emergency civil protection order and restraining order matters. Courts must provide an accessible process for filing petitions for civil protection orders and motions for temporary restraining orders, which may include filing petitions in person or remotely. Courts are encouraged to provide alternative means for filing, including electronic filing options whenever possible, especially when the courthouse is closed to the public or public clerk's office hours are restricted due to the public health emergency.
 - a. Consistent with the Governor's Proclamation 20-45 et seq. (as extended), requirements for *personal* service of the petition for a protection order or temporary protection order are suspended, except as to orders directing the surrender of weapons or removal of the respondent from a shared residence. Personal service remains preferred, and courts should require personal service by law enforcement when removal of children or change of custody of children is ordered, or in other circumstances where public or individual safety demands it. Where personal service is not required, service may be by law enforcement, including electronic service with acknowledgment of receipt, by process servers, by agreed service memorialized in writing, by publication or by mail. If parties have previously agreed to e-mail service or opted into e-service in the case or other currently open related case, service of temporary protection orders or reissuance/continuance orders by e-mail or e-service shall be sufficient.

Before proceeding with a full hearing, the judicial officer must require proof of service five days prior to the hearing.

- b. Judicial officers have discretion to set hearing dates and extend temporary protection orders based on the circumstances to reasonably allow for sufficient notice, remote appearance, and presentation of evidence, while avoiding unreasonable delay. Statutory timeframes should be followed. Circumstances relevant to the setting of hearing dates include agreement of the parties, reasonable estimates for completing service, lack of prejudice, and specific findings of good cause, which may include restrictions in place due to the public health emergency. Reissuance orders may be similarly extended. Courts may provide a means for weapons surrender hearings that does not require in-person appearance only when consistent with public safety.
 - c. Guidance for courts implementing emergency measures under this section may be found here.
5. With respect to all civil matters, courts should encourage parties to stipulate in writing to reasonable modifications of existing case schedules and methods of service and to conduct discovery, pretrial hearings, and alternative dispute resolution by remote means whenever possible.
 6. Cases filed pursuant to RCW 71.09 (Sexually Violent Predators) are civil cases. However, the liberty interests at stake necessitate prioritizing these cases over general civil cases, in terms of both addressing discovery or other pre-trial motions and assigning the cases for trial. All pre-trial motions in such cases may be decided without oral argument, unless a court grants a party's request for oral argument or *sua sponte* sets oral argument. When oral argument is to occur, such hearings may

be conducted by telephone, video, or other means that do not require in person attendance. If in person hearings are required, they shall be conducted with strict observance of social distancing and other public health measures.

With Respect to Criminal and Juvenile Offender Matters:

7. The previous order suspending all criminal jury trials until at least July 6, 2020 is lifted. Trials already in session where a jury has been sworn and social distancing and other public health measures are strictly observed may proceed or be continued if the defendant agrees to a continuance. Nonjury trials may be conducted by remote means or in person with strict observance of social distancing and other public health measures.
8. Courts should continue to hear **out of custody** criminal and juvenile offender matters by telephone, video or other means that do not require in person attendance when appropriate. In addition, courts may hear matters that require in person attendance if those hearings strictly comply with social distancing and other public health measures.
9. Courts may enter ex parte no contact orders pursuant to RCW 10.99.040, RCW 10.99.045, RCW 7.92.160, RCW 7.90.150, RCW 9A.46.085, and/or RCW 9A.46.040, when an information, citation, or complaint is filed with the court, either by summons or warrant, and the court finds that probable cause is present for a sex offense, domestic violence offense, stalking offense, or harassment offense. Ex parte orders may be served upon the defendant by mail or by electronic means of service. This provision does not relieve the prosecution of proving a

knowing violation of such an ex parte order in any prosecution for violating the order. Good cause exists for courts to extend ex parte orders beyond the initial period until a hearing can be held.

10. Courts should continue to hear in custody criminal and juvenile offender matters by telephone, video or other means that do not require in person attendance when appropriate. In addition, courts may hear matters that require in person attendance provided that any such hearings strictly comply with social distancing and other public health measures. Courts retain discretion in the scheduling of hearings, except that priority should be given to pretrial release and bail modification motions, as well as plea hearings and sentencing or disposition hearings that result in the anticipated release of the defendant or respondent from pretrial detention within 30 days. Parties are not required to file motions to shorten time in scheduling any of these matters.
11. Juvenile court jurisdiction in all pending offender proceedings, including those in which juvenile court jurisdiction has been extended pursuant to the court's emergency orders, shall be extended to the offender's next scheduled juvenile court hearing after January 1, 2021.
12. A continuance of these criminal and juvenile offender hearings and trials is required in the administration of justice. Based upon the Supreme Court's finding that the serious danger posed by COVID-19 is good cause to continue criminal and juvenile offender trials, and constitutes an unavoidable circumstance under CrR 3.3(e)(8), CrRLJ 3.3(e)(8), and JuCR 7.8(e)(7), the time between the Supreme

Court's May 29, 2020 Order and the next scheduled court hearing after October 15, 2020 shall be EXCLUDED when calculating time for trial. CrR 3.3(e)(3), CrRLJ 3.3(e)(3), JuCR 7.8(e)(3). After October 15, 2020, courts may further exclude time under these rules based on individual findings of "unavoidable circumstances" due to COVID-19 or other circumstances.

13. The Court finds that obtaining signatures from defendants or respondents for orders continuing existing matters places significant burdens on attorneys, particularly public defenders and all attorneys who must enter correctional facilities to obtain signatures in person. Therefore, this Order serves to authorize continuing those matters without need for further written orders. Additionally:
 - a. Defense counsel is not required to obtain signatures from defendants or respondents on orders to continue criminal or juvenile offender matters consistent with this order. An attorney's signature on an order to continue constitutes a representation that the client has been consulted and agrees to the continuance, and courts shall allow attorneys to waive their clients' presence unless their presence is deemed necessary by the court.
 - b. Courts shall provide notice of new hearing dates to defense counsel and unrepresented defendants.
 - c. Defense counsel shall provide notice to defendants and respondents of new court dates.
14. Courts may exercise discretion in deciding whether a bench warrant should issue for failure to appear for criminal or juvenile offender court hearings or pretrial

supervision meetings, or violations of conditions of release. However, in exercising such discretion, courts shall consider the following before issuing a warrant: a) Is a warrant necessary for the immediate preservation of public or individual safety? b) Is there a record that the subject of the warrant has received actual notice of the previously scheduled court hearing or reporting requirement? c) Is there a viable alternative for securing appearance such as the re-issuance of a summons or another means of notifying the subject that an appearance is required and re-setting the hearing date? Judicial officers shall give serious consideration to the risk of COVID-19 transmission whenever a person is arrested and placed in detention, including whether the subject of the warrant is in a high risk category for exposure to COVID-19. *Courts should continue the practice of not issuing or enforcing bench warrants for juvenile status offenses or violations.* Additionally:

- a. The facts supporting the issuance of a warrant must be current and recited on the record in open court.
- b. The provisions of CrR 2.2(g) and CrRLJ 2.2(g) remain suspended for the duration of the Governor's state of emergency in response to the COVID-19 pandemic.

15. Motions for Pre-Trial Release:

- a. Courts shall hear motions for pretrial release in criminal and juvenile offender matters on an expedited basis without requiring a motion to shorten time. Nothing in this section is intended to affect any statutory or constitutional provision regarding the rights of victims or witnesses.

- b. The Court finds that for those identified as part of a vulnerable or at-risk population by the Centers for Disease Control, COVID-19 is presumed to be a material change in circumstances, and the parties do not need to supply additional briefing on COVID-19 to the court. For all other cases, the COVID-19 crisis may constitute a “material change in circumstances” and “new information” allowing amendment of a previous bail order or providing different conditions of release under CrR 3.2(k)(1) or CrRLJ 3.2(k)(1), but a finding of changed circumstances in any given case is left to the sound discretion of the trial court. Under such circumstances in the juvenile division of superior court, the court may conduct a new detention hearing pursuant to JuCR 7.4.
 - c. Parties may present agreed orders for release of in-custody defendants and respondents, which should be considered expeditiously.
 - d. If a hearing is required for a vulnerable or at-risk person as identified above, the court shall schedule such hearing within five days. The court is strongly encouraged to expedite hearings on other cases with due consideration of the rights of witnesses and victims to participate.
16. Courts should continue to allow telephonic or video appearances for all scheduled criminal and juvenile offender hearings whenever appropriate. All in-person appearances must be conducted with strict observance of social distancing and other public health measures. For all hearings that involve a critical stage of the

proceedings, courts shall provide a means for defendants and respondents to have the opportunity for private and continual discussion with their attorney.

General Provisions for Court Operations:

17. Access to justice must be protected during emergency court operations. Where individuals are required to access the court through remote means, courts must provide no-cost options for doing so or provide a means for seeking a waiver of costs. This provision does not require suspending existing systems for remote filings or hearings that are based on a user-fee model.
18. Courts must provide clear notice to the public of restricted court hours and operations, as well as information on how individuals seeking emergency relief may access the courts. Courts are encouraged to provide such notice in the most commonly used languages in Washington, and to make every effort to timely provide translation or interpretation into other languages upon request. The Washington State Supreme Court Interpreter Commission may assist courts in this process.
19. The availability of interpreter services should not be restricted by emergency operations. Interpreting should be done by remote means whenever possible, consistent with protocols developed by the Washington State Supreme Court Interpreter Commission.
20. Washington courts are committed to protecting rights to public court proceedings. Any limitations placed on public access to court proceedings due to the public

health emergency must be consistent 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). Courts should continue to record remote hearings and to make the recording or a transcript part of the record, and should develop protocols for allowing public observation of video or telephonic hearings. Guidance for courts in protecting public court proceedings during emergency operations can be found here.

21. Notwithstanding any provision of GR 30 to the contrary, an electronic signature shall be deemed a reliable means for authentication of documents and shall have the same force and effect as an original signature to a paper copy of the document so signed. For purposes of this Order, “electronic signature” means a digital signature as described in Supreme Court Order No. 25700-B-596 (July 16, 2019) and RCW 9A.72.085(5) (repealed); an electronic image of the handwritten signature of an individual; or other electronic sound, symbol, or process, 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]”.
- a. To the extent not already authorized, whenever a judicial officer or clerk is required to sign an order, judgment, notification, or other document an electronic signature shall be sufficient. The presiding judge, in consultation with the county clerk where applicable, should direct by administrative order

the provisions for use of alternative signature methods for judicial officers in that jurisdiction. Guidance in developing such orders may be found here.

- b. Courts are authorized and are hereby encouraged when practicable to waive by emergency rule or order provisions of GR 30(d) that require: (1) the issuance of a user ID and password to electronically file documents with the court or clerk; (2) that a party who has filed electronically or has provided the clerk with their email address must give consent to accept electronic transmissions from the court.
 - c. The Court finds good cause to permit RCW 26.04.070's requirement that marriages occur "in the presence of" an officiant to include the solemnization of marriages by remote video technologies in accordance with public safety and social distancing requirements. An officiant solemnizing a wedding by remote proceedings shall take necessary steps to confirm the identity of the parties, ensure they possess a valid marriage license, and confirm requirements to promptly complete and file certificates as required by law.
22. This Court recognizes that there are procedural issues in juvenile, dependency, involuntary commitment, child support, and other matters that may not be encompassed in this Order. Nothing in this Order limits other interested parties in submitting similar orders tailored to the unique circumstances of those matters and any other matters not addressed by this Order. Nothing in this Order prevents courts from following specific emergency plans for such matters, including for Involuntary Treatment Act and dependency and termination matters. Where any

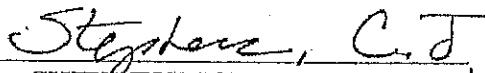
provisions of this Order may be interpreted to conflict with any provision of another Supreme Court order addressing specific case matters, the provisions of the more specific order shall control. (*See* Order No. 25700-B-616; Order No. 2500-B-647.)

23. Nothing in this Order limits the authority of courts to adopt measures to protect health and safety that are more restrictive than this Order, as circumstances warrant, including by extending as necessary the time frames in this Order. However, courts are encouraged to move toward conducting as much court business as can be done consistent with public health and safety. Any summons issued for jury trials must provide a process for excusing or delaying jury service by individuals who are at higher risk from COVID-19 exposure based on their age or existing health conditions, or those of a household member. Specific guidance for conducting jury trials can be found here and here. Courts should follow the most protective public health guidance applicable in their jurisdiction, based on current guidelines from the Centers for Disease Control, the Washington Department of Health or their local health department, recognizing that planning for and resuming jury trials is essential. The Department of Health Guidance for Washington Courts can be found here.
24. The Supreme Court may extend the time frames in this Order as required by continuing public health emergency, and if necessary, will do so by further order. This Order and other applicable emergency orders may be deemed part of the record in affected cases for purposes of appeal without the need to file the orders

in each case, and all time frames previously extended may be deemed further extended by this order. This Fourth Revised and Extended Order supersedes the Supreme Court's March 18, 2020 Order (as corrected March 19, 2020), its March 20, 2020 amended Order, its Extended and Revised Orders of April 13, 2020, April 29, 2020, and May 28, 2020, its Amended Third Revised and Extended Order of May 29, 2020, and its September 10, 2020 Order Extending Excluded Period in Calculating Time for Trial and Adopting Related Emergency Measures.

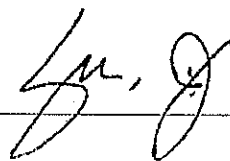
DATED at Olympia, Washington this 13th day of October, 2020.

For the Court

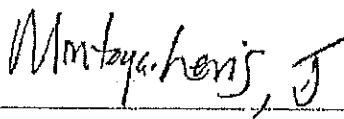

CHIEF JUSTICE

DISSENT

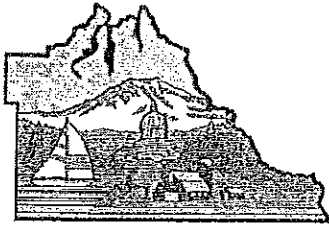
I write to express my disagreement with the second sentence of paragraph 14 of this order that allows warrants to be issued for individual safety. The issuance of warrants for juveniles for their own "individual safety," especially during this COVID-19 era, is an abhorrent practice that must be abandoned. Incarceration of youth for non-criminal behavior under the guise of protection runs counter to the actual evidence that youth achieve better outcomes in a therapeutic setting. Responding to youth in need of assistance or protection is best achieved when we treat the issue as a public health matter. We know that incarceration harms children and the fact that Black youth, Indigenous youth, and youth of color are the ones disproportionately incarcerated should give every judicial officer pause.



González, J.



Whitener J.



THURSTON COUNTY
SINCE 1852

COUNTY COMMISSIONERS

John Hutchings
District One

Gary Edwards
District Two

Tye Menser
District Three

PUBLIC HEALTH AND
SOCIAL SERVICES DEPARTMENT

November 20, 2020

Schelli Slaughter,
Director, MHA

Dimyana Abdelmalek, MD, MPH
Health Officer

The Honorable Eric D. Price,
Presiding Judge, Thurston County Superior Court
2000 Lakeridge Dr SW Bldg 3
Olympia, WA 98502

The Honorable M. Brett Buckley,
Presiding Judge, Thurston County District Court
2055-2299 Lakeridge Dr SW
Olympia, WA 98502

Dear Judge Buckley and Judge Price,

I am writing to you today to inform you about a significant increase in COVID-19 transmission in Thurston County over the past several weeks and the increased risk posed by in person gatherings. On October 23, 2020 Thurston County passed the high transmission threshold on the Governor's Risk Assessment Dashboard. This is defined in the State of Washington as more than 75 cases per 100,000 population over 14 days. Today, November 20, 2020 the transmission rate in Thurston County is 161.3 cases per 100,000 population over 14 days and weekly case counts continue to rise. At this time, I am recommending the following to protect the essential functions of our justice system as well as the health of members of the court, litigants and the public until transmission rates decrease or plateau for a period of 28 days or two incubation periods of the virus and until further safety for increased in person participation has been established:

- Ensure that all court proceedings that can be accomplished remotely utilize technology to reduce the likelihood of in person transmission
- If jury trials and other court proceedings cannot operate 100% remotely, reduce the number of people in the courtroom to minimum necessary essential participants and:
 - Strictly adhere to all federal, state, and local public health guidelines and orders; and Washington State Labor and Industries employer requirements including but not limited to maintaining a minimum of 6 feet physical distancing between all parties and wearing face coverings
 - Utilize remote technologies for jury selection and jury deliberations
 - Utilize remote technologies for public observation of court proceedings
- If the above conditions cannot be met, I recommend pausing jury trials until further notice.

- I am making this recommendation in my capacity as health officer for Thurston County pursuant to the Revised Code of Washington 70.05.070 – Powers and Duties of the Local Health Officer which authorizes the Public Health Officer to control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction. And the Washington Administrative Code 246-100-036 – Responsibilities and duties – Local health officers which empowers the local health officer to establish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity he or she deems necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

COVID-19 is caused by the SARS-CoV-2 virus and is primarily spread through droplets, aerosols and close contact with infected persons. On November 15, 2020 Governor Inslee issued new statewide restrictions limiting indoor capacity for personal and professional services and prohibiting indoor service for restaurants, bars, gyms, movie theaters and other indoor businesses. While Courts are exempt from these latest restrictions, gathering in indoor spaces for prolonged periods of time is a risk factor for COVID-19 transmission and is a concern for me as your local public health officer. As community transmission has increased the risk posed to in-person court proceedings has increased as well. Currently, increased COVID-19 transmission has the potential to overwhelm hospital and public health capacity. My recommendation is that those individuals whose physical presence in court are not essential to court proceedings engage via remote technologies to decrease the risk of person to person transmission of COVID-19 in our courts. This recommendation is consistent with The Supreme Court of Washington Fourth Revised and Extended Order Regarding Court Operations No. 25700-B-646 filed on October 13, 2020, that states “In all court operations, courts should follow the most protective public health guidance applicable in their jurisdiction, and should continue using remote proceedings for public health and safety whenever appropriate.”

The COVID-19 pandemic presents an unprecedented challenge to our society. Thurston County is experiencing and significant increase in COVID-19 transmission, which can lead to serious illness and death as well as quickly exceed health care and public health capacity to respond. Minimizing the risk of exposure to members of the court and litigants posed by in person participation by individuals whose physical presence in the court are not required for essential functions is critical. These measures are essential to mitigate the risk to the public.

Thank you for your efforts to prevent the spread of COVID-19 and in protecting the health and safety of the public, litigants and members of the court. I look forward to continuing to work with you to respond to this dynamic situation to facilitate the safe function of our courts.



Dimyana Abdelmalek, MD, MPH
Health Officer, Thurston County