

IN THE MUNICIPAL COURT
FOR THE CITY OF PUYALLUP

IN THE MATTER OF) ADMINISTRATIVE ORDER
Emergency Response to Public Health Threat)
(Coronavirus/COVID-19)) NO. 20-09 (*amending 20-08*)
)

WHEREAS the Chief Justice of the Washington State Supreme Court has issued an emergency order in response to the public health emergency that affects operations of trial courts in Washington State on March 4, 2020; and

WHEREAS, the Washington State Supreme Court has adopted Order No. 25700-B-602, granting emergency authority to this court to adopt, modify, and suspend court rules and orders, and to take further actions concerning court operations, as warranted to address the current state of emergency; and

WHEREAS, to reduce spread of COVID-19, the United States Centers for Disease Control and Prevention and the Washington State Department of Health (DOH) recommend implementation of community mitigation strategies to increase containment of the virus, including cancellation of large gatherings and social distancing in smaller gatherings; and

WHEREAS, on February 29, 2020, Governor Jay Inslee issued Proclamation 20-05, declaring a state of emergency as a result of the public health emergency posed by coronavirus/COVID-19, subsequently issuing a “Stay Home, Stay Healthy” order to curtail spread of the virus; and

WHEREAS, the Washington State Supreme Court further adopted Order No. No. 25700-B-607 on March 18, 2020 (and amended March 20, 2020), directing courts to limit in person hearings and to continue all non-emergent out of custody matters to a date after April 24, 2020; and

WHEREAS, the Washington State Supreme Court adopted Order No. 25700-B-615 on April 13, 2020, extending Order No. 25700-B-607 and issued a Second Revised and Extended Order 25700-B-618 on April 29, 2020; and

WHEREAS, the Washington State Supreme Court adopted Order NO. 25700-B-626 on May 29, 2020, revising and extending prior orders in the matter of the statewide response by the Washington State courts to the COVID-19 public health emergency; and

WHEREAS, the Puyallup Municipal Court must curtail operations to limit the exposure of staff and the public to COVID-19 and the Washington State Supreme Court has recognized presiding judges across Washington need authority to effectively administer their courts in response to this public health emergency, including authority to adopt, modify and suspend court rules and orders as warranted to address emergency conditions;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1) Front Counter (amending order 20-08)

The Puyallup Municipal Court Clerks' Office is open and continues to operate remotely, M-F between the hours of 8:30 a.m. – noon and 1:00 p.m. – 4:30 p.m. However, the front counter will have limited hours at least until Pierce County enters Phase 4. The front counter hours will be posted on-line and at the courthouse.

Until Pierce County has been approved to enter Phase 4, business with the Clerk's office will continue to be conducted telephonically, via Live Chat, electronically, by fax, or by U.S. mail. The Court will accept filings by e-mail during the pendency of this order. Payments and correspondence may be left in the Court's locked drop box. Payments may also be made on-line or by phone via nCourt.

Any person needing a public defender may submit an application at the Clerks' office in person **on Mondays** and other days as determined by the Court or by mail, e-mail, or the Court's drop box. Public defense applications are available at the Court or may be obtained from the Court's website.

2) Limited in-person hearings

To protect the health and safety of court staff, persons having business with the Court, and the public at large, the Court will be conducting limited hearings in person for the foreseeable future. All in person hearings will be conducted in accordance

with recommended public health precautions, including social distancing and a requirement of wearing face coverings. Additionally, individuals entering the courtroom will be subject to non-intrusive health screenings.¹ Persons signing forms using the Court's signature pads will be required to first apply hand sanitizer.

a) In person hearings:

The following proceedings will be held in person:

- Arraignments
- Hearings to assure compliance with conditions of pre-trial release
- Testimonial motion hearings
- Disposition hearings on criminal cases when pre-authorized by the Court
- Jury Trials
- Other hearings as necessary, if set with prior approval of the Court

In custody defendants will continue to be heard via the Court's video system.

For in person and in custody hearings, the courtroom will be open to the public. Members of the public may attend as space allows. Due to limited seating capacity in each courtroom, attendance may be limited to attorneys, defendants, alleged victims and witnesses. Members of the public may enter the courtroom and be seated in an available location if courtroom seating capacity allows.

b) Public Health precautions during in person hearings:

No person experiencing symptoms of COVID-19 should appear at the court.

Any person with a hearing scheduled should contact his or her attorney to request a continuance. An unrepresented individual scheduled for a hearing should phone the clerk's office to request a continuance. Any other business with the court must be done remotely, by phone, mail or email as long as a person is experiencing symptoms or is quarantined.

Social distancing is required at the courthouse. While inside the courtroom, while waiting to enter the courtroom, or while waiting at the front counter, all persons must keep 6 feet from others. Persons shall observe all social distancing markers and shall depart the courthouse immediately upon concluding court business. Person are not to congregate in the lobby or outside the

¹ Washington's judicial officers have broad discretion to preserve and enforce order in the courtroom and to provide for the orderly conduct of its proceedings. See *State v. Lormor*, 172 Wn.2d 85 (2011).

courthouse doors. No exceptions will be given for family members. Social distancing will be strictly enforced.

Face coverings are required. All persons in line to enter the courthouse and all persons inside the courthouse, including the lobby or front counter area must wear a protective mask or other face covering.² The Court will not provide face coverings, and a person appearing without a face covering will have his or her hearing rescheduled. Any such person will be deemed to have “failed to appear” for speedy trial or for jurisdictional purposes. A warrant will not issue for a “failure to appear” noted for the first occurrence of failing to appear without a face covering.

Any person who cannot wear a cloth or other face covering may wear a face shield. Any request to appear without a face covering for medical reasons must be in writing and accompanied by written documentation from a medical provider affirming the individual’s inability to wear a face covering.

All persons will be required to use hand sanitizer prior to using the Court’s signature pad for electronic documents and are encouraged to apply hand sanitizer upon entering the courtroom.

All persons entering the courthouse will be subject to a non-intrusive health screening, to include:

- Confirmation they have not recently been exposed to any individual diagnosed with COVID-19 or are subject to quarantine;
- Confirmation they are not currently experiencing any symptoms of COVID-19, including but not limited to: Cough, Fever, Shortness of breath.
- Temperature taken utilizing the Court’s non-contact thermometer – persons with temperatures above 99.1 will not be permitted to enter the courtroom and will have their hearing reset.

Paperwork generated during the hearing will be retrieved from the printer station in front of the clerk’s desk. Persons are not to approach the in-court clerk’s desk until directed to do so by the judge.

Court bailiffs may direct persons to comply with social distancing and other public health precautions. Any person is required to comply with such directives and failure to do so may be grounds for removal from the courtroom.

² This provision does not apply to children aged 5 or younger; nor does it apply to deaf or hard of hearing persons who communicate by sign language or lip reading.

3) Criminal hearings

In the interest of public health and safety, and to protect the staff of Puyallup Municipal Court, matters not listed above (paragraph 2) will be heard virtually, utilizing the Zoom platform, at least through Phase 3 of the phased opening of Pierce County. A person appearing by Zoom video conferencing is deemed to be appearing in open court and all Zoom hearings will be livestreamed on YouTube. Thus, public access will be encouraged via YouTube, and the physical courtroom may not be open to the public.^{3,4} The YouTube channel is accessible on the Court's website.

Defendants, defense counsel, and prosecutors shall appear by Zoom video conferencing. Telephonic appearance by defendants or attorneys for criminal matters heard on the Zoom platform is discouraged, and video appearance will be required for any disposition hearing. Appearance by phone only may result in the hearing being rescheduled by the Court.

All paperwork must be completed via the Court's OCourts platform. Any attorney having difficulty accessing OCourts should contact the clerks' office for assistance.

Other interested parties, to include victims and victim advocates also must appear by Zoom on a device with video access for virtual hearings. Any person who is not a party and wishes to participate in the virtual hearing may contact the Court in advance of the hearing to request access, or should notify the prosecutor, victim advocate or defense attorney prior to the hearing.

To protect the health and safety of the Puyallup Municipal Court staff and members of the public, CrRLJ 3.4(d) is suspended insofar as it limits the types of hearings that may be conducted via video conferencing; requires specific agreement of any participant; or requires an interpreter be located next to a defendant.

³ Article I § 10 of the Washington Constitution requires that "[j]ustice in all cases shall be administered openly." The COVID pandemic has resulted in the need for innovation in the judicial branch and ability to conduct court business with minimal in person contact. Thus, virtual courtrooms are being increasingly utilized. When court is held in the virtual courtroom, it will be livestreamed to the internet to assure public access and compliance with Washington's open courts doctrine.

⁴ Any member of the public who objects to having access only by way of livestream may submit a written request to the judge to attend a hearing in person. Please submit any such request to the Judge to be seated in the physical courtroom at least 2 court days prior to the hearing date.

- (a) Access to video device and internet. If an individual does not have access to a video device or does not have a stable internet connection, they may utilize a court-provided device at the courthouse. Only individuals needing to use the Court's computer kiosk to access Zoom may be admitted into the physical courtroom during Zoom hearings.
- (b) Decorum. Hearings held virtually on the Zoom platform are court hearings and persons appearing are to behave at all times as though physically present in the courtroom. Proper courtroom attire is also encouraged.

4) Signatures

Obtaining signatures on court pleadings and documents places significant burdens on defendants and attorneys during the COVID-19 public health emergency. Therefore, the Court may waive a handwritten signature when appropriate and deem the document "served on defendant." Additionally, an electronic signature shall be deemed a reliable means for authentication of documents. Either Court waiver of signature or an electronic signature shall have the same force and effect as an original signature to a paper copy of any document so signed. In appropriate circumstances, the Court may place a person under oath to affirm his or her understanding of any order in lieu of a signed written declaration.

An electronic signature shall include, but is not limited to: 1) an electronic image of a person's handwritten signature; 2) circumstances where a person during a recorded open court session verbally authorizes that his or her signature may be affixed by any other person; and 3) any other process 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]", including circumstances where the "/s/" signature is placed by the attorney at the request or direction of his or her client.

Guilty pleas, petitions for deferred prosecution, and stipulated orders of continuances **must** bear one of the electronic signatures above, absent the Court deeming some other acknowledgement by the defendant to be acceptable.

Judicial signatures are governed by this Court's prior emergency order regarding signatures.

5) Speedy trial (amending order 20-08)

The provisions of order 20-08 continue to apply for speedy trial purposes for all matters heard on or before August 31, 2020.

In the interest of public health and safety, it is necessary to limit in person hearings, and video remote hearings are unable to facilitate the same number of in person hearings as the Court can in non-pandemic times. Thus, this order amends Administrative Order 20-08 as noted below to accommodate the scheduling of matters in this Court where arraignment is held on or after 9/1/20. This order is intended to apply for the duration of the public health emergency unless amended by future order of the Court:

- a) **Cases in pretrial status that were affected by the cancellation of court hearings:** Speedy trial is tolled in all criminal matters that were in pretrial status as of March 17, 2020 and thus were required to be rescheduled due to the public health emergency. The time period between the date the pretrial was originally scheduled to be heard and the date of September 1, 2020 is an excluded period for purposes of calculating speedy trial. CrRLJ 3.3(e)(8); Supreme Court Orders 25700-B-607; 25700-B-618; 25700-B-626.
- b) **Arraignments:** Arraignment on all cases filed on or after March 18, 2020, may be deferred until a date at least 45 days after the filing of the charges. Such delay is necessary to schedule matters such that the Court is able comply with social distancing measures and limit attendance at court calendars. This order indefinitely suspends the time for arraignment requirements of CrRLJ 4.1(1).

Speedy trial determination for cases where arraignments were held prior to 9/1/20 are governed by Administrative order 20.08.

Speedy trial determination for cases where arraignment is held (in or out of custody) on or after 9/1/20 are governed by this order, and the Court now holds as follows:

The new arraignment date shall be considered the "initial commencement date" per CrRLJ 3.3(c)(1) for the purpose of establishing time for trial. However, due to the inability of the Court to safely convene in person hearings; and the inability of the Court to facilitate as many video-remote hearings as required meet the Court's current caseload and also comply with the 90 day time for trial rule, this Court finds good cause (as a result of unforeseen and unavoidable

circumstances created by the COVID-19 pandemic) to exclude from the calculation of speedy trial the time between the arraignment date and the first scheduled pre-trial hearing. Thus, the time between the date of arraignment and the first scheduled pre-trial hearing is deemed an excluded period for purposes of calculating speedy trial in all matters, and time for trial will effectively commence as of the first pretrial hearing held where the defendant is present. CrRLJ 3.3(e)(8); Supreme Court Orders 25700-B-607; 25700-B-618; 25700-B-626.

6) Infraction hearings

All infractions will be heard remotely until further order of the Court.

Persons cited with infractions may request a hearing by mail or email consistent with the directions on the Court's website. A deferral may also be requested by mail or email.

Any person wanting to appear before the judge will be heard by a virtual hearing on the Zoom platform. Contested hearings with attorneys and contested hearings with witnesses will also be conducted virtually on Zoom.⁵ Individuals without the technology required for a Zoom hearing may appear at the Court and the Court will provide video access.

a) Procedures for Contested hearings with attorneys (*amending order 20-08*):

Exhibits: For any matter proceeding to a formal hearing, all exhibits must be filed with the Court and served on opposing counsel at least 48 Court hours prior to the hearing. To file with the Court, they should be in PDF format and sent via email to: Courts@PuyallupWA.gov with the case number clearly identified.

The PDF filing must include:

1. A Table of Exhibits if there is more than one Exhibit submitted.
2. Each Exhibit as a separate document and labeled "Plaintiff 1" or "Defendant 1" and so on.
3. Exhibits filed as "clean" copies (no notes in the margins, etc.).

Before the hearing, counsel should:

1. Confer with opposing counsel to determine what Exhibits can be stipulated.

⁵ See paragraph 1, Supreme Court Order 25700-B-626: "Nonjury trials may be conducted by remote means."

2. Practice using the screenshare function on Zoom and have your Exhibits readily accessible on your computer to screenshare during the hearing if permitted by the judge. Screenshare capability will not be activated until the authorized by the judge.
3. Provide your witnesses with Exhibits prior to the hearing in the same form and condition as the document filed with the Court and served on opposing counsel.

Agreed Dispositions: For any scheduled contested hearing where there is dispositive agreement or agreed continuance, the OCourts platform must be used. A document signed **by both parties** and loaded into the OCourts document system by the end of the Court day prior to the scheduled hearing date will waive defense counsel's appearance.

- b) Procedure for Exhibits at Contested hearings where the party is appearing without counsel:

The defendant may submit the documents in the same manner set forth above in section 6(a); however, the Court will also accept paper filings if such documents are submitted at least 48 business hours prior to the hearing.

Telephonic appearance will only be allowed for mitigation hearings; any person contesting and providing testimony must appear on a device with video access and a stable internet connection. Failure to appear on video for a contested hearing, or an unstable internet connection, may result in the hearing being reset. Any person not having access to a device with video capability or a stable internet connection may appear at the courthouse to use a court-provided device.

Appearance at a virtual hearing by Zoom video conferencing is deemed an appearance in open court and proceedings will be livestreamed to YouTube (see paragraph 3 above). Courtroom decorum is expected and required of all participants.

To protect the health and safety of the Puyallup Municipal Court staff and those doing business with the Court, and to facilitate holding hearings on a video remote platform, this order suspends the requirement of IRLJ 2.6 (a)(1) that infraction hearings be "scheduled for not less than 14 days from the date the written notice of hearing is sent by the court, nor more than 120 days from the date of the notice of infraction or the date a default judgment is set aside."

7) Ex Parte Motions

- a) Consistent with paragraph 9 of Supreme Court Order 25700-B-626, the court will consider ex parte motions for no contact orders. Prosecutors may appear via written pleadings.
- b) To limit the number of persons appearing at the counter, persons with arrest warrants may contact the Clerks' office by phone or email to request a hearing to quash a warrant. Upon such contact, the clerk is to confirm/update the defendant's address and is authorized schedule a hearing on the next available calendar. Written requests must list the complete current address of the defendant.

Where the warrant is less than \$5,000, the clerk is authorized to recall the warrant at the time the hearing is set.

Where the warrant is \$5,000, or more, the warrant will remain until the person appears before the court, either virtually or in person. A written motion with the agreement of the prosecuting attorney would be required to quash the warrant in advance of the hearing. Persons represented by attorneys should contact their attorneys about filing such a motion.

8) Jury trials

Jury trials are scheduled to resume in the August term, and will be conducted with public health measures in place. Priority will be given to matters scheduled for trial before March 18, 2020 and for persons held in custody. The Court reserves the right to cancel any jury term should public health circumstances so warrant.

9) Probation

Probation Officer Deena Kaelin may meet with individuals in person who are deemed by her to be "high risk" offenders. Ms. Kaelin may also, in her discretion, request an individual appear in person for the initial intake appointment following assignment to probation. All other persons will have telephonic or video conference meetings. For telephonic or video meetings, it is the responsibility of the person on probation to call in at the appointment time. For all in-person probation appointments, persons must wear face coverings and observe social distancing.

Persons on Court provided SCRAM devices will be seen in person as necessary for monitoring. For all in person SCRAM appointments, face coverings must be worn. Social distancing will be observed to the extent possible.

10) Community Court

The Community Court calendar will continue to be heard by Zoom video conferencing for the foreseeable future. Any person who does not have access to a video enabled device or a stable internet connection may appear at the court to use a court provided device.

- a) All Community Court case manager appointments will be conducted telephonically unless otherwise arranged with Case Manager Elizabeth Bruce. It is the responsibility of defendants to call the case manager at the appointment time.
- b) The Community Court on-site services and community service team are suspended at least until Pierce County is approved to enter Phase 3.

11) Notices for future dates for all cases delayed by this or prior orders will be mailed to the parties via U.S. mail. The Court may email notices where the parties' email is on file with the Court and the party consents to email service. Any party needing to update a mailing or email address should contact the court at (253) 841-5450;

12) For instances not specified above and where applicable to a municipal court, the Supreme Court of Washington Orders No. 25700-B-607; 25700-B-615, 25700-B-618, 25700-B-626 are hereby incorporated by reference;

13) To the extent this Order adopts measures to protect the health and safety that are more restrictive than the Supreme Court's Order, including extensions of time frames under the court rules, this Administrative Order controls (see Supreme Court Order 25700-B-626, paragraph 23).

14) This Administrative Order supersedes Orders 20-02; 20-03; 20-04; 20-06; 20-07; and 20-08. To the extent this order affects any hearings held after March 18, 2020 and prior to the date of this order, it applies retroactively.

15) The Court may extend or revise this order as required by the continuing public health emergency, or it may reassess the need for other protective measures not set forth in this order, and, if necessary, will do so by further order.

DATED this 31 day of August, 2020.



Andrea Beall, Presiding Judge