



Department of
PUBLIC DEFENSE

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Judge David Steiner
King County Superior Court
516 3rd Avenue Seattle, WA 98104

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Dear Judge Steiner,

We write in response to the letter submitted yesterday by the Washington State Hospital Association. Before we engage substantively, we do want to note that the letter appears to be a Motion to Modify Emergency Order 7. Pursuant to Art. 1, Section 10, such modifications should be done via appropriate filings and in open court, rather than informal letters.

That said, we wanted to offer DPD's position on each of the issues WSHA discusses:

1. RCW 71.05.360(5)(b) guarantees ITA respondents the right to counsel. RCW 71.05.360(8)(e) provides the respondent the right to review all petitions and reports in the court file. Because DPD is not meeting with most clients in person, video-visitation is incredibly important for our lawyers. It helps the lawyer develop a relationship with the client and understand the client's goals. In addition, we cannot comply with the requirements of RCW 71.05.360(8)(e) without having the ability to electronically review documents with our clients. We have always used telephone calls to supplement in-person visits, as WSHA notes. Telephone calls alone, however, are not sufficient for us to develop a relationship that will allow us to represent our clients well.

DPD has attempted to be as flexible as possible and has not demanded in-person meeting with our clients in most cases. We are committed to collaborating to ensure communication with our clients. While most hospitals have worked well with us, we have concerns specific to Fairfax, Cascade and MET. They have only provided video meetings from their courtrooms. In order to try to keep things moving in ITA

court, our attorneys have attempted to begin to establish relationships with our clients over the phone, but even this has been challenging at Fairfax and Cascade.

2. The Court does not have the authority to alter laws or existing case law interpreting the ITA statute, nor should it offer opinions on issues that are or will soon be litigated.
3. DPD is committed to making best efforts to employ the technology available and the different platforms used by the different hospitals. We appreciate that a number of hospitals have worked on implementing new technology. ITA supervisors are working with line attorneys to use the platforms that the various hospitals use (which include Cisco Web Ex, Zoom, Facetime via iPads, and Lifesize). We are not aware of specific objections to the technology. We welcome the opportunity to discuss this further.

While the implementation of Emergency Order 7 has been a little rocky, we believe that all parties are making an effort. We are particularly grateful that most hospitals have implemented electronic discovery.

We have ongoing concerns in working with Fairfax and hope that further dialogue will help. Fairfax has often been unwilling to accommodate our attorneys' requests to videoconference with their clients until right before the hearing. We cannot develop relationships with our clients under such time pressure. A facilitated conversation with Fairfax may help us understand how better to work with them and create opportunities for attorney-client communication.

Sincerely,

Anita Khandelwal

Director, King County Department of Public Defense

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