



King County
Superior Court



THE RESPONSE OF
THE KING COUNTY SUPERIOR COURT TO THE

COVID-19 PANDEMIC

*LESSONS LEARNED
AND RECOMMENDATIONS*

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We are pleased to present to you this summary of our court's rapid adoption of video technology and change in court processes, very much still in progress, undertaken over the past two and a half years to expand access to justice in response to the COVID-19 pandemic. Our court is just one of many others across the country with similar stories of transformational change undertaken during this unprecedented time in the history of courts and court management.

In an effort to document and evaluate the court's momentous changes to court practice, this report includes the results of surveys administered to lawyers, potential jurors, interpreters, and employees by Dr. Brenda Wagenknecht-Ivey. The surveys helped capture stakeholder reception to the changes made during the pandemic and the experiences of court users and employees.

When first we received this grant, we thought that its primary purpose was to document temporary measures taken during a crisis not seen in this generation. Instead, our court permanently reformed its management structure and entire process for allowing access to justice. One could argue that the pandemic allowed courts to catch up to the way technology is already used in other businesses. But we would slightly disagree. Courts are cautious institutions, careful to safeguard the rights of litigants and the processes developed over time for this purpose. It took a global pandemic to force the justice system to update procedures and leverage technology that allowed access to justice to occur unimpeded when it was unsafe to enter the courthouse facility.

The bedrock of all justice is access. If your court is closed, if your interpreter is not available, if your trial is not scheduled, then for the family law litigant, child welfare case, the defendant in jail, the business seeking relief -- justice is effectively denied. Across the United States, the emergency of the pandemic caused most courts across the country to close to all but the most emergent of litigants.

Many courts remained closed for many, many months, certainly through 2020. For example, The New York Times reported that New York City had held nine trials by December 2, 2020, and six hundred the year before: [Only 9 Trials in 9 Months: Virus Wreaks Havoc on N.Y.C. Courts - The New York Times \(nytimes.com\)](#). Los Angeles County held its first civil case in April 2021, [Los Angeles Jury Returns \\$4.8 Million Verdict in Cosmetic Talc Mesothelioma Case \(prnewswire.com\)](#), but not until August did it hold a civil jury trial. These stories are not unusual.

During this time period, King County Superior Court held over three hundred criminal and civil jury trials, one thousand bench trials, and countless hearings. By focusing on our core value of access and safeguarding rights, we believe that we were able to take a principled approach to creating rapid changes with new processes with video technology.

We are most grateful to The State Justice Institute for funding this effort and for having the foresight to sponsor a project to document the rapid changes we experienced during the pandemic. We are also deeply appreciative of our consultant on the project, Dr. Brenda Wagenknecht-Ivey, who shepherded our court through the documentation of our efforts, assessment of those practices we've found to have merit for long-term continuation, and the development of this report on the journey our court has taken.

It is our good fortune to have a set of exceptionally smart, capable court leaders in our chief judges and director team to spend countless hours planning, refining, and implementing new and innovative ways of doing business, then continually modifying those efforts when circumstances changed, or we hit a roadblock. Without question, we could not have made the changes detailed in this report without our deeply dedicated bench and staff who made this transformation happen.

Hon. James E. Rogers
Superior Court Judge
Presiding Judge, 2019 - 2021

Ms. Linda K. Ridge
Chief Administrative Officer

SECTION 1

History of This Court's Response to the COVID-19 Pandemic

Washington State has a decentralized trial court system with a constitutionally-established general jurisdiction trial court, organized by county. King County Superior Court (KCSC) is the largest in the state, with 54 elected judges, 10 appointed commissioners, and 304 employees. The Court is governed by an elected Presiding Judge, a judicial Executive Committee, and a Chief Administrative Officer. KCSC has three courthouse locations and a hospital suite for mental health cases. As for funding, in Washington State, the county, not the state, provides the operating budget for trial courts, except that the State pays half of the elected County judges' salaries and covers some funds for specific programs. Our county clerk's office (Department of Judicial Administration or DJA) is a separate county agency. However, the County Clerk is hired and supervised by the superior court.

King County (Seattle, WA is the county seat) was ground zero for the beginning of the Covid-19 pandemic in the United States. [Covid-19 Arrived in Seattle. Where It Went From There Stunned the Scientists. - The New York Times \(nytimes.com\)](#). Our State Supreme Court suspended most court operations in all courts on March 18, 2020, and then returned local courts' authority and discretion to reopen and restart operations by July 2020, subject to certain court processes that incorporated public safety practices and other restrictions.

By May 8th, 2020, KCSC leadership announced that the public's access to justice was of such critical importance that the court would continue matters on all case types, including all jury trials, at the earliest time possible. There were four significant challenges to this:

FIRST, could we develop a public health plan that would be robust enough to allow us to reopen?

SECOND, could we build a virtual court system and train our court to use such a system in a very short period of time?

THIRD, could we gain the support and assistance of our local bar leaders and members and their practices groups in the use and training for such systems?

FOURTH, could we provide a safe physical work location for our employees in the midst of the pandemic?

We worked closely with the University of Washington's (located in Seattle) well-respected School of Public Health to develop our path forward. In July 2020, we announced our public health plan. At the same time, we received funds to repurpose a convention center as a temporary courthouse for over a year.

As we continued to adapt, we knew our future included using video and audio technology. But we did not yet know whether our court could broaden the use of video to every type of hearing and trial, including jury selection and civil jury trials (we never considered holding virtual criminal jury trials unless a defendant specifically requested one). By April of 2020, we had identified Zoom as the platform.

The next step was to create an entirely new set of processes and procedures for virtual hearings, voir dire, and trials. By May of 2020, we were in the midst of preparing trainings for our court and our bar on video; working on a process for summoning jurors virtually and holding voir dire on video (with the ability for jurors who wanted to come in person to do so); and examining a number of related constitutional and other issues.

In August 2020, we started with virtual jury selection for all case types even if the case was otherwise held in person. All jury trials were in person except voir dire, and civil trials were held in a convention center to allow physical distancing. All bench trials were held by video. Between July 2020 and December 2021, during the heart of the pandemic when many other service providers including courts were largely shut down or providing reduced services, KCSC conducted over 1000 remote bench trials and more than 300 jury trials. These numbers included 190 criminal trials, which must be held in person for security reasons and to maintain a chain of custody of items of evidence, and 110 civil trials of which 70 were conducted remotely. The voir dire process was conducted virtually for all jury trials. Adopting video technology enabled the Court to provide justice throughout the pandemic.

We implemented virtual civil jury trials in the fall of 2020. As of the writing of this report, all bench trials, all civil jury trials, and all voir dire for all case types including criminal, remain on video/Zoom. To be clear, when the court was forced to restrict in-person hearings or trials, criminal jury trials were suspended.

To accomplish all of these changes, we drastically modified our management and decision-making structure to allow for rapid reform of court processes. Rather than run changes in processes through our Executive Committee, we formed a tactical work team comprising the court's Chief Judges and Directors (these are department heads) to approve changes. We also delegated a great deal of authority to certain committees, such as the Jury Committee, trainers (judicial and staff), and others.

In addition, we formed a Resumption of Jury Trials Workgroup with many members of the civil and criminal bar to meet (virtually and in-person) and give us their thoughts on restarting. The Family Law bar had a similar effort.

We motivated judicial officers and court employees through frequent communication and a credible public health plan. We led through constant and clear communication about our public health plan with regular guidance from the public health professors.

There was never a remote work option for any courtroom or trial personnel. Other units, especially those that directly assisted the public, moved to working from home and online (for the first time). With an on-line presence, many more people were helped, and access to our court's services and programs was preserved, and often expanded.

We are proud of our response to the COVID-19 pandemic. We responded quickly, thoughtfully, and decisively, and most importantly, we made access to justice a top priority when many courts across the country were closed.

SECTION 2

Overview of the Project and Scope of Study

King County Superior Court (KCSC) was awarded a Pandemic Response and Recovery Grant from the State Justice Institute (SJI) in October 2020 to:

- 1 **Develop and use a values-based, evaluation framework** to assess the effectiveness and impact of new, promising practices implemented in response to the coronavirus pandemic; and
- 2 **Use the results of the evaluation to inform recommendations, decision, and actions by the Court's leadership about future practices.**

Phases of the SJI Project

This project included five phases and spanned 19 months.

PHASE 1:

Document / summarize new pandemic practices.
(Dec. 2020 – May 2021)

Pandemic-induced practices were documented and summarized across the Court. All court divisions and administrative areas of the Court were involved.

PHASE 2:

Select the few, new promising practices for further evaluation ensuring the decisions were objective and aligned with the Court's core values.
(May – June 2021)

Promising practices were selected for further evaluation. Practices were selected by the Court's leadership based on a guiding principle, which served as a compass, reminding and grounding the

project in future ideals. Selection criteria based on the Court's core values were also used to pare down the list of promising practices. Three promising practices were selected for this study:

- 1 Virtual court proceedings including virtual interpretation and electronic exhibits.
- 2 Virtual jury selection.
- 3 Remote work on the administrative side of the court (excluded courtroom and clerk's office staff).

PHASE 3:

Evaluate promising practices and summarize findings and recommendations.
(July 2021 – February 2022)

Promising practices were evaluated, and findings and recommendations were summarized. Jurors, interpreters, attorneys, and court and clerk's office employees were surveyed. Judicial officers, directors, managers, and supervisors also were queried. T

PHASE 4:

Review evaluation results and make decisions/recommendations about future court policies, practices, and processes. Determine next steps.
(February – June 2022)

Results were reviewed and decisions were made about future court policies, practices, and processes. Pandemic practices were continuously reviewed and refined in real-time throughout the pandemic. Additionally, preliminary findings from this study were used by the Court's leadership to identify needs and opportunities.

PHASE 5:

Share findings and recommendations internally and with the regional and national court community.
(February – June 2022)

The study findings and recommendations were shared with the court community. The Court's leadership has shared (and continues to share) the findings and recommendations from this study internally with judicial officers and court employees as well as with other court leaders in the state of Washington and across the United States.



Structured Decision-Making Guidelines

GUIDING PRINCIPLE:

The court and clerk's office aspire to (continue to) be innovative and nimble organizations that harness and institutionalize the positive effects of the pandemic. This includes transforming how judicial and court services are delivered, recalibrating and refining daily operations, and continuing to invest in and use existing and emerging technologies.

SELECTION CRITERIA:

The practice/process selected should meet the following criteria. They:

- 1 **Have broad impact** (e.g., courtwide implications; touch multiple departments/areas of the court; effect various groups such as judges, staff, stakeholders/partners)
- 2 **Uphold/embrace many of the core values** (e.g., ESJ, accessibility, fairness, service to the public, innovation)
- 3 **Have potential long-term benefits for the court/clerk's office** (e.g., cost effective, enhance efficiency, increase morale and engagement, improve court performance – access, timeliness, etc.)
- 4 **Provide an opportunity to use data to evaluate hunches and/or differing/conflicting perceptions**

SECTION 3

Virtual Court Proceedings and Virtual Interpretation

King County Superior Court (KCSC) conducted countless virtual court proceedings beginning in July 2020 and continuing throughout the pandemic. Transitioning to virtual court proceedings enabled the Court to continue to hear and resolve legal matters throughout the pandemic ensuring justice to the people of King County.

How Virtual Hearings and Trials were Conducted in King County

King County Superior Court adopted a process of holding virtual hearings for every type of case and stage of case except criminal, including civil jury trials, family law matters and dependency (child welfare) matters. Some criminal matters also were held by video. In criminal jury trials, voir dire was conducted by video, but trials were all held in-person unless specifically requested by the defendant (which occurred during surges of the pandemic).

Every phase of a virtual civil trial, including jury selection, testimony, and deliberation, was handled through video conferencing. The Breakout Room (in Zoom) served as a virtual jury room for jurors to retire during breaks, sidebars, and deliberation. The court adopted virtual trial jury instructions to guide jurors on how to conduct themselves in a virtual jury trial.

The record was either made through a digital court recording application such as For The Record (FTR) or by a court reporter who was present in the courtroom. Documents and exhibits in a virtual trial were handled electronically. The Clerk's Office adopted and published standardized "Exhibit Naming Convention Rules" for parties to follow in all cases.

The practices described above remain in place today.

EXPERIENCES AND RECOMMENDATIONS

Our experiences and recommendations relating to **VIRTUAL COURT PROCEEDINGS** are summarized below.

- In July and August 2020, our Court rapidly implemented virtual court hearings and trials across our county court system. In the Fall of 2020, we also used a convention center to hold physically distanced jury trials, but these were phased out as the Court implemented virtual jury trials.
- Our court system held over 1,000 remote bench trials and more than 300 jury trials between July 2020 and December 2021. These numbers included 190 criminal trials, which must be held in person for security reasons and to maintain a chain of custody of items of evidence, and 110 civil trials of which 70 were conducted remotely and 40 were conducted in-person. All jury trials have used and continue to use virtual jury selection.
- Court video conferencing platforms must be compatible with cell phone technology. According to Pew Research, most people have access to a cell phone, but many cannot access a computer.
- As the pandemic wanes and public health conditions allow more people to come to court in person, many lawyers and litigants are choosing to appear virtually for hearings and trials, most notably hearings and bench trials such as family law, civil and child welfare (which we call dependency). In criminal jury trials, which have been held in person throughout, defense attorneys are increasingly calling some witnesses via video.

- Our courts routinely send out video links for all trials and many voluntarily attend via the Zoom link.
- By summer of 2020, the Court and many counsel had worked together to provide standardized trainings and retained videos for later access, posting them on the court website and the local King County Bar Association website. The involvement of our local bars was crucial in assistance and also in understanding what the bar needed.
- Early on, with the adoption of virtual proceedings and new practices, many judges reported that it was taking longer than usual to conduct Zoom trials and hearings, which was likely due to the rapid implementation of virtual proceedings. Even after training, there remains a tremendous difference in competency and practices among courts. These differences have diminished, but still exist.
- Virtual court proceedings profoundly changed how work is done throughout Superior Court and the Department of Judicial Administration (clerk's office). Certain categories of employees' jobs changed, and the tasks related to video fell more heavily on them.
- As many lawyers were remote for hearings, they often asked the courtroom staff to perform work they typically would have performed, such as distributing copies of orders, contacting others, and calling witnesses for them. While each task request was relatively insignificant, the number of requests was quite large and added a tremendous burden to bailiffs, courtroom clerks, and other staff.

RECOMMENDATIONS:

- 1 *Implement virtual access to court for lawyers and parties to increase the access and convenience for all parties.*
- 2 *Support the expansion of, and access to, broadband service, which remains a serious problem in many parts of our State (less so in King County).*
- 3 *Send a video link for every hearing and trial. Our experience is that people will use it.*
- 4 *Create and implement standards and best practices for all judicial officers and staff for virtual hearings and trials (on our Court the entire bench will be trained on these practices by the end of 2022).*
- 5 *Involve your local bar associations in the training necessary for lawyers, litigants, and judicial officers.*
- 6 *Analyze how job duties and responsibilities have changed as a result of new practices, including the workloads and division of labor of all courtroom staff (i.e., bailiffs, courtroom clerks, court reporters, and others). Change/update the job descriptions of bailiffs and other staff to include the new scope of work, job duties/responsibilities, and skills needed to conduct virtual court proceedings. Realign duties and workloads as needed.*

SECTION 3 (cont'd.)

Virtual Court Proceedings and Virtual Interpretation

How Virtual Interpretation was Conducted in King County

For virtual civil, family law, and dependency trials and hearings, the Zoom function was used for simultaneous interpretation, but the ability to use this was dependent on the equipment that the parties possess, specifically headsets and the access to a computer. If the parties did not have the equipment or were using a cell phone, then interpreters conducted consecutive interpretation.

For criminal trials, which were in person (except for voir dire), interpreters were in the courtroom and conducted simultaneous interpretation. On rare occasion, virtual consecutive interpretation was used (which is much slower).

The practices described above remain in place today.

EXPERIENCES AND RECOMMENDATIONS

Our experiences and recommendations relating to **VIRTUAL INTERPRETATION SERVICES** are summarized below.

- During the pandemic, we operated as follows. For criminal trials, which were in person (except for voir dire), we used interpreters in the courtroom as much as possible for simultaneous interpretation, which is the preferred and faster method. For virtual civil, family law and dependency trials and hearings, we used the Zoom function for simultaneous interpretation, but the ability to use this was

dependent on the equipment that the parties possessed, specifically headsets and the access to a computer.

- If the parties did not have the equipment or were using a cell phone (even with Zoom on the cell phone), then interpreters conducted consecutive interpretation, which greatly lengthened the hearings.

RECOMMENDATIONS:

- 1 Continue providing virtual interpretation as an option based on the benefits outlined in this study and the experiences of interpreters. Develop an internal policy recommending the use of virtual interpretation across all areas of the Court.
- 2 Ensure all courtrooms are equipped with the technology needed to support virtual interpretation. Invest in technology that will

enhance virtual interpretation for all involved – litigants, interpreters, judicial officers, attorneys, and employees.

- 3 Provide training-for interpreters on the use of the Zoom function, and for lawyers and judges on the best practices on virtual interpretation.
- 4 Plan accordingly; it takes about ten minutes for everyone to set up and prepare to use Zoom for a hearing or trial.

Research Study - Evaluation of Virtual Court Proceedings & Virtual Interpretation

Research Methodology

Survey Audiences and Administration

Attorneys, court and clerk's office employees, judicial officers, and interpreters were involved in this part of the evaluation. All were surveyed or participated in retreats where insights were gathered. Below is a summary of participants and response rates.

	Total Number (N=___)	# of Respondents (n=___)	Response Rate (in %s)
Attorneys Surveyed in Dec. 2021	Unknown ¹	410	Unknown
Court/Clerk's Office Employees Surveyed in Nov. 2021	279	182	65%
Judicial Officers Data gathered in Sept. 2021	58*	47	-
Interpreters Surveyed in Nov. 2021	144	74	51%

*KCSC has 54 judicial officers and 10 commissioners. 58 judicial officers attended the retreat. 47 participated actively in the breakout groups and 44 and 41 respectively responded to the polling questions.

SURVEYS

Virtual Court Proceedings Survey Questions (6-point agreement rating scale²)

The Likert-scaled questions were grouped into the following categories:

1. Court Participant Experience
2. Ease of Use
3. Trust in Virtual Court Proceedings
4. Overall Experience/Future Recommendations
5. Impact on Work/Employees

Virtual Interpretation Survey Questions (6-point agreement rating scale²)

The Likert-scaled questions were grouped into the following categories:

1. Court Participant Experience
2. Ease of Use/Effective Use of Time
3. Court Assistance
4. Environment
5. Impact on Interpreters
6. Trust/Effectiveness
7. Overall Experience/Recommendations

THE SURVEYS ALSO INCLUDED:

- 1 An overall satisfaction question.
- 2 Several open-ended, narrative questions where respondents could explain their responses and/or provide comments and suggestions.
- 3 A couple of questions providing the characteristics of respondents such as type of cases handled in 2021 when participating in virtual court proceedings, number of years litigating cases and/or appearing for court hearings/trials, number of years providing interpreter services, and work area and position at the Court/Clerk's Office.

¹The number of attorneys surveyed is unknown because the Bar Associations sent out the link to members who practice and appear in KCSC. The response rate cannot be computed for the same reason. However, that 410 attorneys responded to the survey provided an excellent sample size for analysis purposes (n=410).

²A 6-point agreement rating scale was used for the surveys where 6 = strongly agree; 5 = agree; 4 = agree somewhat; 3 = disagree somewhat; 2 = disagree; and 1 = strongly disagree. N/A also was an option, which included don't know, not sure, and/or not applicable. 3.5 is the midpoint of a 6-point rating scale.

SECTION 3 (cont'd.)

Virtual Court Proceedings and Virtual Interpretation

CHARACTERISTICS OF STUDY PARTICIPANTS

Attorney Respondents – Virtual Court Proceedings (n=410)

Years Litigating:

Nearly 50% of attorney respondents had more than 20 years of experience litigating legal matters and 25% had 11 – 20 years of experience litigating. Attorneys that responded to the survey were very experienced.

Number of Virtual Court Proceedings Participated In:

40% of attorney respondents participated in 1-5 virtual court proceedings in 2021, 27% participated in 6-10, and 19% participated in more than 20 virtual court proceedings in 2021.

Type of Legal Matters/Cases:

The majority of attorney respondents participated in virtual court proceedings on civil matters (67%) and/or 22% were involved in family matters. Only 3% handled criminal matters.

Court and Clerk's Office Employees – Virtual Court Proceedings (n=182)

Position:

34% of employee respondents were staff who provided direct client services (n=62) (e.g., juvenile probation counselors, parent advocates, social workers, early resolution case managers, CASA and drug court program staff, family treatment court staff, etc.) and 25% were bailiffs (n=45).

Primary Work Area:

35% of employee respondents identified the Family Division/area as their primary work area (n=63) and 26% worked across multiple areas (n=47).

Number of Virtual Proceedings:

Nearly 70% of employee respondents handled more than 20 virtual court proceedings (n=124); only 10% of respondents (n=18) handled 1-5 virtual court proceedings. Like attorney respondents, employee respondents were very experienced.

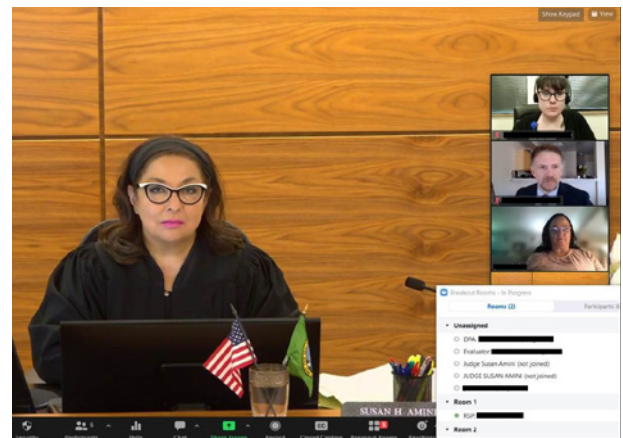
Interpreters – Virtual Interpretation Services (n=74)

Number of Times Provided Virtual Interpretation:

35% of interpreter respondents provided virtual interpretation more than 20 times during 2021 and 27% provided virtual interpretation only 1-5 times.

Years of Experience:

78% of respondents had 11 or more years of experience providing translation services to litigants.



EVALUATION FINDINGS AND RECOMMENDATIONS

Our findings and recommendations relating to *VIRTUAL COURT PROCEEDINGS* are summarized below.

FINDINGS

> **Favorable Ratings.**

Overall, attorney and employee respondents gave favorable ratings to virtual court proceedings. Favorable ratings were given to: court participant experience, ease of use, trust in virtual court proceedings, overall experience/future recommendations, impact on work/employees).

> **Significant Differences Among Employee Groups.**

There were statistically significant differences among employee groups. The differences in part appear to be due to how the changes in work practices affected the work and workloads of employees. Courtroom staff (e.g., bailiffs) generally rated questions lower than staff who provide direct client services (e.g., staff in the family and juvenile areas).

> **Responses of Civil Attorneys.**

Most civil attorneys agreed that virtual proceedings are effective for some types of hearings/legal matters, however, some expressed opposition to virtual civil hearings, bench trials, and jury trials.

> **Differences by Years of Litigation Experience.**

Attorneys with less litigation experience (i.e., 10 years or less) felt more competent to participate in virtual court proceedings than attorneys who had litigated 11 or more years.

> **Acceptability of Virtual Court Proceedings.**

Overall, attorney and employee respondents

indicated virtual court proceedings are acceptable for many calendars/types of hearing.

> **Continue Using Virtual Court Proceedings.**

Based on overall experiences, both attorney and employee respondents recommended the Court continue to use virtual court proceedings for many legal matters/cases (with the understanding the Court will continue to evaluate and make improvements as warranted).

> **Endorsement of Virtual Court Proceedings.**

Attorney and employee survey respondents were satisfied with virtual court proceedings. Both groups endorsed virtual court proceedings and indicated they are likely to encourage others to participate in virtual court proceedings, if continued by the Court

> **Electronic Exhibits.**

ShareFile, the platform used to digitize exhibits, was deemed inadequate by many. Processes for handling exhibits also need to be standardized.

> **Benefits.**

Many benefits were reported by attorneys, employees, and judicial officers. Increased access, increased convenience, greater efficiency, and lower costs to name a few were frequently mentioned. There also was widespread agreement that virtual proceedings are appropriate for many types of hearings and many types of cases. There was not general agreement on whether virtual proceedings were effective or appropriate for civil trials.

SECTION 3 (cont'd.)

Virtual Court Proceedings and Virtual Interpretation

RECOMMENDATIONS:

- 1 Continue with Virtual Court Proceedings.**
Continue with virtual court proceedings. The findings from this evaluation support the continued use of virtual proceedings for most types of cases and for many types of hearings. Advocate for the use of virtual proceedings in KCSC. Define the appropriate and presumptive uses for virtual proceedings in KCSC. Update and implement court policies accordingly.
- 2 Increase Uniformity and Consistency.**
Promote uniformity and consistency in conducting virtual proceedings. Standardize procedures, processes, and practices building on successes and best practices from the past few years.
- 3 Train Judicial Officers, Bailiffs, and Court Employees.**
Continue training and provide other resources to judicial officers, bailiffs, and court employees on consistent procedures, best practices, and the technology including Zoom functionality. Ensure everyone is competent to oversee (and as needed, provide back-up) on hosting and conducting virtual proceedings.
- 4 Collaborate with Bar Associations.**
Continue communicating and collaborating with local attorneys and the Bar Associations to further refine and improve virtual court proceeding protocols and practices.
- 5 Train Attorneys.**
Continue trainings and providing other resources to attorneys to increase the competence and confidence levels (knowledge, skills, and abilities), especially for those who are less comfortable with technology and appearing via video. Continue partnerships with bar associations as was done during the pandemic.
- 6 Re-evaluate and Balance Workloads of Courtroom Staff.**
Once practices are normalized, evaluate the virtual proceedings process and document new job duties/responsibilities, the workloads of courtroom staff, and division of labor. Change/update job descriptions of courtroom staff to reflect new scope of work, job duties/responsibilities, and skills needed to conduct virtual court proceedings. Realign duties and workloads as needed.
- 7 Replace Tool for Electronic Exhibits.**
Explore, invest in, and implement an improved tool/platform for electronic exhibits, or make changes/improvements to ShareFile (that address the concerns/problems noted above). Develop standardized procedures so consistent across the Court.

EVALUATION FINDINGS AND RECOMMENDATIONS

Our findings and recommendations relating to **VIRTUAL INTERPRETATION** are summarized below.

FINDINGS

- **Favorable Ratings.**
Overall, interpreter and attorney respondents gave favorable ratings on all aspects of virtual interpretation. The interpreter's environment and ease of use/efficient use of time were rated the highest by interpreters.
- **Trust and Recommend Continuing Virtual Interpretation.**
Based on overall experience, interpreter and attorney respondents indicated that they trust virtual interpretation and recommend the Court continue providing it as an option.
- **Effectiveness.**
Interpreter, attorney, and judge respondents indicated virtual interpretation is an effective way to provide interpreter services to litigants involved in court proceedings.
- **High Satisfaction.**
Interpreters endorsed the use of virtual interpretation services; they gave high satisfaction ratings.
- **Takes Longer than In-Person Interpretation.**
Some interpreter respondents noted that virtual interpretation takes longer than in-person interpretation.

RECOMMENDATIONS:

- ① **Continue Virtual Interpretation as an Option.**
Continue providing virtual interpretation as an option based on the benefits outlined in this study and the experiences of interpreters. Develop an internal policy recommending the use of virtual interpretation across all areas of the Court.
- ② **Develop Consistent Procedures.**
Develop standardized procedures for using virtual interpretation based on best practices and the Court's experiences over the past few years.
- ③ **Train Interpreters.**
Provide training / training materials to interpreters on Zoom functionality. Ensure they are competent to provide virtual interpretation
- ④ **Train Judges, Bailiffs, and Court Employees.**
Train judicial officers, bailiffs, and court employees on consistent procedures, best practices, and the technology including Zoom functionality; ensure everyone is competent to oversee (and as needed, provide back-up) on the use of virtual interpretation
- ⑤ **Upgrade Technology.**
Ensure all courtrooms are equipped with the technology needed to support virtual interpretation. Invest in technology that will enhance virtual interpretation for all involved.
- ⑥ **Further Evaluate; Include Court Users.**
As the Court continues to improve and refine its practices and procedures related to virtual court proceedings, further evaluate the use of virtual interpretation. Gather information directly from court users about their experiences.

SECTION 4

Virtual Jury Selection

Virtual jury selection – the virtual jury selection process – implemented in response to the coronavirus pandemic in July 2020 was chosen by the Court’s judicial and administrative leadership as a promising practice worthy of further evaluation. It aligned with the Court’s core values of equity and social justice, access, fairness, service to the public, and innovation.

How Virtual Jury Selection was Conducted in King County

King County adopted a virtual jury selection process during the pandemic for jury trials. This was required to depopulate the courthouses as part of our public health plan.

Jurors answered their summons by going to an online portal, which put them into a pool available for assignment. The jury room initially handled the venire but upon trial assignment, this responsibility passed to the judicial assistant (we call bailiffs). This and other responsibilities that passed to the bailiffs proved to be challenging (see discussion below, which elaborates on how workloads of bailiffs were affected). Jurors were contacted by e-mail and phone to participate in a web-based questionnaire.

Upon completion, the Court proceeded with reviewing the information, conducting the voir dire session with potential jurors in groups of twenty, juror questioning by counsel, and empanelling a jury. The selected jurors were then notified by e-mail with reporting instructions for the trial itself. They were to report in person for a criminal trial, or report by video for a civil trial.

The practices described above remain in place today

Virtual jury selection added hundreds of new trial days to our calendar because we never run out of jurors and no cases wait for jurors, regardless of priority. In the past, with in-person voir dire, lawyers and judges assigned lower priority cases, criminal or civil, often waited several days to a week to begin jury selection.

EXPERIENCES AND RECOMMENDATIONS

Our experiences and recommendations relating to **VIRTUAL JURY SELECTION** are summarized next.

- Transitioning to jury selection by Zoom during the COVID-19 pandemic allowed King County Superior Court to hold jury trials beginning in August of 2020. KCSC consulted public health experts at the University of Washington who advised against in-person jury selection during the pandemic because in-person jury selection required large numbers of people being amassed in the jury room and courtroom.
- Thanks directly to virtual jury selection, the court never had to significantly delay a trial due to a lack of jurors. By holding jury selection by Zoom, the court essentially has an unlimited supply of jurors. KCSC now summons one thousand jurors per day for jury selection. The result is that every trial receives jurors when requested.
- Pre-COVID-19, most trials had a jury venire of 50 jurors. During the COVID-19 pandemic, each trial had a jury venire of approximately 120 jurors. This increase was due to a higher percentage of jurors requesting hardship excusals.
- Zoom jury selection also caused a dramatic change in job responsibilities for court employees. Specifically, the jury room employees had very different jobs because they communicated with hundreds of additional jurors through email and telephone, instead of in-person at the courthouse.

- Judicial officers report, anecdotally, greater diversity in empaneled juries.
- Judicial officers report, anecdotally, that all jurors are questioned rather than only a limited number of jurors in the front of the room.
- Judicial officers report that the Washington State Batson Rule GR 37 is much easier to administer because the jurors are all questioned and can be seen much closer and more easily on the video screen, resulting in a better record.

RECOMMENDATIONS:

- 1 *Evaluate the virtual jury selection process from start to finish focusing on and analyzing new job duties and responsibilities, the workloads and division of labor of all courtroom staff (i.e., bailiffs, courtroom clerks, others). Change/update the job descriptions of bailiffs and other staff to include the new scope of work, job duties/ responsibilities, and skills needed to conduct virtual jury selection. Realign duties and workloads as needed.*
- 2 *Continue virtual jury selection as a business practice. For us this will depend on rule adoption by the Washington State Supreme Court.*
- 3 *Develop and publish best practices, and train regularly. As with video-virtual trials and hearings, this process requires best practices and processes to be adopted and regular training. Our Court is in the process of doing this as indicated and expects to be completed by the end of 2022.*



SECTION 4 (cont'd.)

Virtual Jury Selection

Research Study - Evaluation of Virtual Jury Selection

Research Methodology

Survey Audience and Administration

Prospective jurors involved in both civil and criminal matters and attorneys involved in civil matters were the primary audience for this part of the study. Court employees also were asked a few questions related to their experiences with virtual jury selection as part of the survey administered to them on virtual court proceedings.

The surveys were administered in August - September 2021 to prospective jurors and attorneys who appeared on civil cases. The table below provides details about the survey audience and number of respondents.

	Total Number Surveyed (N=___)	# of Respondents (n=___)	Response Rate (in %s)
Prospective Jurors Surveyed in Aug. – Sept. '21	797	251	32%
Civil Case Attorneys Only Surveyed in Aug. – Sept. '21	245	94	38%
Employees Surveyed in Nov. '21	279	75 ³	65% ⁴

Survey Questions

The surveys of prospective jurors and attorneys on civil cases were similar but not identical. Differences are noted in the results.

In addition to the previous, the surveys included:

- 1 An overall satisfaction question.
- 2 An open-ended, narrative question where respondents could explain their responses or provide suggestions.
- 3 A couple of demographic questions providing characteristics of respondents including gender/ gender identity, race/ ethnicity, whether juror respondents were selected to sit on a jury, equipment respondents used, and the types of cases they were involved in.

SURVEYS

Virtual Jury Selection Survey Questions (6-point agreement rating scale⁵)

The Likert-scaled questions were grouped into the following categories:

1. Access, Convenience, and Safety / Experience of Jurors
2. Ease of Use
3. Court / Staff Assistance
4. Environment
5. Timeliness / Effectiveness
6. Trust and Confidence / Future Recommendations
7. Overall Experience
8. Impact on Work/Staff

³The number of employee respondents is lower because only those that participated in virtual jury selection completed this set of questions. Those who did not participate in virtual jury selection were instructed to skip this set of questions. 75 court employees completed this section; the others skipped these questions and proceeded to the next section of the Virtual Court Proceedings survey.

⁴This is the overall response rate to the Virtual Court Proceedings survey, which included a subset of questions on virtual jury selection. 75 court employees (out of the 182 that completed the Virtual Court Proceeding Survey or 41%) completed the virtual jury selection questions.

⁵A 6-point agreement rating scale was used for the surveys where 6 = strongly agree; 5 = agree; 4 = agree somewhat; 3 = disagree somewhat; 2 = disagree; and 1 = strongly disagree. N/A also was an option, which included don't know, not sure, and/or not applicable. 3.5 is the midpoint of a 6-point rating scale.

CHARACTERISTICS OF STUDY PARTICIPANTS

Juror Respondents

Following are the characteristics of prospective juror respondents:

Gender/Gender Identity:

49% of respondents were female, 44% were male, 2% were other (transgender, nonconforming) and 5% preferred not to answer or skipped the question.

Race and Ethnicity:

76% of respondents were white, 12% were Asian, 3% were 2 or more races; 1% was Hispanic/Latino; .5% was African American/Black, 9% preferred not to answer or skipped the question.

Age:

9% of respondents were 18-29 years of age, 30% were 30-44 years of age, 31% were 45-59 years of age, 23% were 60-74 years of age, 4% were 75 years or older, and 4% preferred not to answer or skipped the question.

Selected to Sit as a Juror:

31% of survey respondents were selected to sit as a juror and 67% were not selected to sit as a juror.

Type of Case/Trial:

67% of respondents did not know the type of case/trial they were involved in. Of those that knew, 15% of respondents were involved in a criminal trial and 18% were involved in a civil trial.

Equipment Used:

A majority (87%) of survey respondents used a desktop/laptop for virtual jury selection.

Attorney Respondents

The characteristics of attorney respondents (who were involved in civil matters only) are as follows.

Gender/Gender Identity:

30% of attorney respondents were female, 68% were male, and 2% preferred not to answer the question.

Age:

3% of were 18-29 years of age, 46% were 30 – 44 years old, 30% were 45-49 years of age, and 18% were 60-74 years of age, 1% were 75 years or older, and 2% preferred not to answer the question.

Years of Experience:

A plurality - the largest proportion - of attorney respondents had experience doing jury selection for more than 20 years (38%).

Number of Virtual Jury Selections and Equipment Used:

A majority (86%) participated in 1-2 virtual jury selections during the research period and a majority (98%) used a desktop or laptop for the virtual jury selection process.

Type of Case:

A plurality of respondents (34%) was involved in civil tort, motor vehicle cases followed by the next highest, 22% were involved in civil tort, non-motor vehicle cases.

SECTION 4 (cont'd.)

Virtual Jury Selection

Court and Clerk's Office Employee Respondents

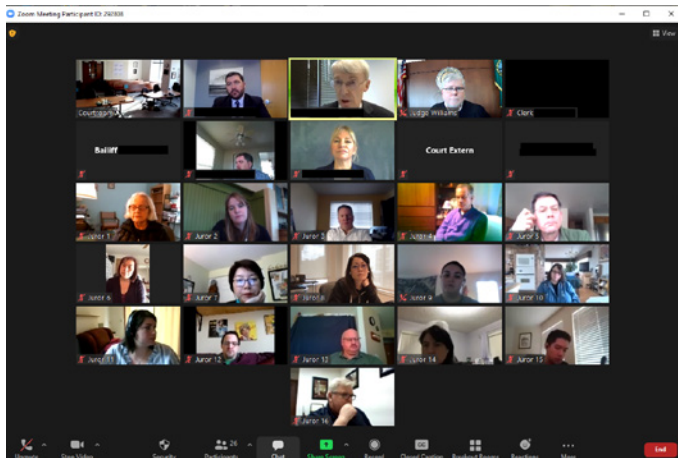
The characteristics of court and clerk's office employee respondents were provided in the section on Virtual Court Proceedings. Of the 182 employees that completed the virtual court proceedings survey, 75 of them completed the set of virtual jury selection questions (n=75). Characteristics follow.

Position:

45% (or nearly half) of employee respondents were bailiffs, 31% were courtroom clerks, 11% were other courtroom staff (e.g., court reporters, floaters), and 13% were staff who provide direct client services.

Area of Court:

52% of employee respondents indicated they work in more than 1 area of the court, 20% were from the criminal area, 16% were from the family area, and 12% were from the civil area of the court.



EVALUATION FINDINGS AND RECOMMENDATIONS

Our findings and recommendations relating to **VIRTUAL JURY SELECTION** are summarized below.

> Favorable Ratings.

Overall, the virtual jury selection process was viewed positively by a large proportion of prospective jurors, attorneys, and employee respondents.

> Satisfaction Levels – Jurors and Employees.

Prospective juror respondents and employees highly endorsed virtual jury selection; they gave high satisfaction ratings.

> Benefits of Virtual Jury Selection, per Jurors.

The benefits of virtual jury selection according to juror respondents included: convenience, safety (health and physical), less time off from work, efficiency, easy to navigate, and time and money savings.

> Primary Concerns and Recommendations, per Jurors.

The primary concerns of virtual jury selection according to prospective juror respondents included: the possibility of underrepresentation, bias, and lack of privacy when selecting a jury virtually. Recommendations for improvement included: communicate better with prospective jurors, resolve the technical issues, and improve/streamline the process.

➤ **Female Jurors.**

Female jurors gave significantly higher ratings on many of the questions than male jurors.

➤ **Satisfaction Levels – Attorneys.**

While positive overall, attorneys were less satisfied than the other respondents. An equal number of attorneys gave high satisfaction as gave low satisfaction ratings. Additionally, civil attorneys were divided on their experiences with and recommendations about the future of virtual jury selection.

➤ **Years of Experience – Attorneys.**

Attorney respondents with less than 6 years of experience gave significantly higher ratings on many of the questions than attorneys with more than 20 years of experience.

➤ **Workload of Bailiffs.**

The virtual jury selection process significantly affected the work and workloads of bailiffs. They acquired additional responsibilities with the virtual jury selection process. Bailiffs gave significantly lower ratings to this set of questions than did courtroom clerks and staff who provide direct client services and who do not have responsibilities related to jury selection.

RECOMMENDATIONS:

- 1 **Continue Virtual Jury Selection as an Option.**
Continue offering virtual jury selection as an option for all cases based on the positive ratings and significant benefits documented in this study. Continue to improve the virtual jury selection process to address the concerns raised by study participants. NOTE: There is a rule pending before the Washington State Supreme Court. Whether KCSC can continue virtual jury selection depends on whether the Supreme Court adopts the rule permitting it to continue.
- 2 **Develop Standardized Procedures.**
Develop and implement consistent practices and procedures; implement across all areas of the Court.
- 3 **Continue Training in Collaboration with Bar Associations.**
Continue educating attorneys/ others on the virtual jury selection process, in collaboration with Bar Associations. Focus efforts on increasing the competence and comfort levels of all attorneys, and especially attorneys who have been practicing for more than 11 years.
- 4 **Share Findings; Promote Change in the Court System.**
Share the results of this study widely both internally and with the broader legal and justice system community.
- 5 **Continue to Evaluate and Recalibrate Jobs and Workloads.**
Evaluate the complete virtual jury selection process. Analyze the new job duties and responsibilities, the workloads, and the division of labor of all courtroom staff (i.e., bailiffs, courtroom clerks, others). Update job descriptions, re-balance and/or realign duties and workloads, and evaluate the need to recalibrate pay consistent with new duties, responsibilities, and requisite skills.

SECTION 5

Remote Work

Remote work in the administrative divisions of the King County Superior Court (KCSC) was the final area evaluated as part of the State Justice Institute (SJI) Pandemic grant. The following areas of the Court were included in, and will be affected by, the evaluation of remote work: (1) Court Administration (executive office and staff); (2) Infrastructure Services (Superior Court IT, HR, Fiscal, Facilities); (3) Court Operations (jury services, interpreter services etc.); (4) Family Court Services; and Juvenile Services.

Judicial and courtroom staff (i.e., bailiffs, courtroom clerks, floaters, etc.) will not be affected by the remote work evaluation findings. The Court has implemented a policy requiring courtroom staff to be in-person for all court proceedings.

How Remote Work was Handled in the Administrative Divisions of the Court

The Court's leadership team – Chief Judges and Directors – chose remote work as a third area to study for this evaluation because it was viewed as a promising practice. Pre-pandemic, remote was not permitted per policy except in rare instances (e.g., medical reasons). When the pandemic hit, the administrative areas of the court pivoted nearly overnight to remote work.

The administrative and operational divisions of the Court began providing virtual services and working remotely in March 2020, similar to the changes that occurred in judicial and courtroom areas (as described above). Each division and the many court programs and client services (juvenile services, family court services, court administration and operations, civil and criminal department

support) developed new procedures and methods for providing remote services to court users, working remotely, and providing internal service and support to the workforce (e.g., IT, fiscal, HR, etc.).

The Court did not close to the public because of the COVID pandemic, but adjusted operations to accommodate local public health social distancing guidelines and safety concerns. Remote work included, but was not limited to: virtual client meetings, groups, seminars, and classes; staff/program meetings, supervisor and employee meetings, team retreats, and trainings; interviews, new hire orientations/on-boarding, and employee reviews; community presentations, engagements, celebrations, and programs; stakeholder, community partner, and interagency gatherings.

An informal, hybrid work arrangement evolved throughout 2020 and 2021, and continues in 2022. With management oversight, these arrangements have allowed many employees to continue to work at a court location (onsite) some of the time and from home (remote) other times.

The findings and recommendations from this evaluation will assist the Chief Administrative Officer and Directors in making decisions about, and recommendations for, the future of work at the Court. They will help the Court's administrative leadership team with information to develop an optimal work arrangement for areas of the Court that will uphold high standards and expectations for all employees.

Research Methodology

Three methods were used to study the impact of remote work.

METHOD 1: LEADERSHIP TEAM MEETING

All directors, managers, and supervisors participated in the meeting, which was devoted to the evaluation of remote work (N=55) in November 2021. Attendees discussed and provided responses to a variety of question pertaining to remote work such as: (1) under what circumstances will working remotely work best in the future (post pandemic)?; (2) under what circumstances will remote work not work very well (or at all) in the future (post pandemic)?; (3) what are the benefits and drawbacks to a hybrid work arrangement post pandemic; and (4) future opportunities and concerns.

METHOD 2: DIVISIONAL/UNIT ANALYSIS

Directors of the Court's administrative divisions were asked to do a deeper analysis of the effects of remote work on their respective divisions/ areas of the Court. Managers, supervisors, and in some instances, employees, were involved in this analysis. Each administrative division of the Court submitted written responses to research questions seeking their analysis of the impact of remote work on level of customer services, quality and quality of work, work teams, managers/supervisors, and the like.

METHOD 3: SURVEY OF STAFF

Information about remote work also was gathered from a small group of court employees (n=79) through the virtual court proceedings survey (described above). They answered several survey questions about the impact of remote work on their job duties, productivity, and team members, to list a few.



SECTION 5 (cont'd.)

Remote Work

EVALUATION FINDINGS AND RECOMMENDATIONS

Our findings and recommendations relating to **REMOTE WORK** are summarized below.

FINDINGS

- > **Access to justice.**
Access to justice was enhanced by providing remote services and virtual hearings.
- > **Customer service and productivity.**
Over the past 2 years, the Court was forced to develop a hybrid service delivery model(s), which allowed services to be provided by staff working remotely. Additionally, customer service and productivity levels of employees were perceived to be the same or higher when working remotely.
- > **Job duties conducive for remote work.**
Many job duties at the Court can be completed virtually and/or remotely. For example, (a) many direct client services, (b) work such as data entry, writing reports, attending team meetings, responding to client emails, and (c) some supervisory responsibilities (e.g., check-ins, performance coaching) can be completed when working remotely.
- > **Job duties NOT conducive for remote work.**
There are some job duties that are not conducive to remote work; they must be completed at the court location or in-person with clients. Examples include, (a) fingerprinting, (b) serving walk-in clients, (c) in-person meetings with youth and families, etc.
- > **Hybrid work arrangements in administrative divisions.**
A hybrid work arrangement will work for most positions in the Court's administrative divisions, according to directors, managers, and supervisors. However, managers report a few positions at the Court where remote or hybrid work arrangements may not be feasible.
- > **Hybrid work is not for everyone.**
Remote work may not be a good option for some employees or in some circumstances. Additionally, remote work is not a good option for new employees participating in onboarding and job training and employees with disciplinary and/or performance issues.
- > **Leverage the upsides and mitigate the downsides to hybrid work arrangements.**
There are many benefits to hybrid work. There also are some downsides. Overwhelmingly directors, managers, and supervisors believe hybrid work can and should be implemented in the administrative divisions post pandemic.

> **Cost and time savings.**

Cost savings, both to the court and employees, along with time savings are reported with remote work. Additional savings may be realized in the future by continuing a hybrid work arrangement (e.g., cost, time, space/footprint).

> **Augment the skills of managers and supervisor.**

Managers and supervisors seemingly navigated remote work well, despite the persistent disruption, chaos, and uncertainty over the past 2 years. However, they acknowledge new and different skills are needed to effectively manage and lead in a hybrid environment.



SECTION 5 (cont'd.)

Remote Work

RECOMMENDATIONS:

- 1 Implement a hybrid work policy for employees working in the administrative divisions of the Court.**
The future of work and service delivery are increasingly hybrid. Continue to be a progressive organization where you enhance access to justice by providing options for virtual services and formalize an optimal hybrid work arrangement throughout the administrative divisions of the Court.
- 2 Expand flexible work hours and provide other perks to promote equity.**
Expanding flexible hours is another way to provide employees with more flexibility. A flex/ alternative work arrangement may also assist with equity issues. .
- 3 Identify Job Duties not Suitable for Remote Work.**
Evaluate position classifications, or the job duties for positions, for union and non-union staff and categorize by: (a) job duties that cannot be performed remotely and are required to be performed at a court location/ office and (b) remote eligible job duties that can be performed remotely without the loss of customer service, productivity, and efficiency. Then develop an optimal blend of onsite and remote work according to customer service and division/area needs.
- 4 Update Position Descriptions for a Hybrid Workplace.**
Remove antiquated job responsibilities and update with current, modern-day descriptions of job duties, some of which must be completed on site and others which can be performed/completed remotely.
- 5 Management/Leadership Skills Training.**
Provide managers and supervisors with additional training to strengthen and expand skills for managing and leading in a hybrid work environment.
- 6 Evaluate Hybrid and/or Flex Work Arrangements.**
Implement new work arrangements in the administrative divisions (or a few pilots) and evaluate the effects on customer service, productivity, team collaboration, well-being, cost effectiveness, to name a few.
- 7 Preserve/Build the Court's Culture.**
When implementing hybrid and/or flexible work arrangements, be intentional about preserving and building the Court's culture (e.g., collegiality, pride in public service/ providing justice, professionalism, excellent service, etc.). Also be thoughtful and deliberate about mitigating the downsides that detract from the Court's culture.

SECTION 6

The New Future of Work - Articles, Research, and Resources

This section of the report provides a summary of articles by prominent organizations and authors about the evolving future of work. Included are areas of general agreement among authors and considerations for organizations as they navigate the radically changed, hybrid work arrangements accelerated by the pandemic. Citations and links to articles are available in the full Report.

Authors generally agree on the following:

- hybrid work is here to stay; it is the future for most organizations;
- flexibility is highest priority;

- there is no single, best approach to hybrid work;
- remote work works; capture the upsides and mitigate the downsides;
- upskill and reskill to meet evolving needs.

See the [Full Report](#) for additional considerations when developing an optimal hybrid work arrangement, according to the literature. Links to relevant articles also are provided.





King County
Superior Court

