



# THE CHIEF JUSTICE'S REMOTE PROCEEDINGS TASK FORCE

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## MEETING MINUTES

December 2, 2021, 10:00 AM

The Chief Justice's Remote Proceedings Task Force (RPTF) met at the North Carolina Judicial Center on Thursday, December 1, 2021. The meeting came to order at 10:00 AM. The following RPTF members, North Carolina Administrative Office of the Courts (NCAOC) staff, and guests were present, either in-person or via Webex:

### *RPTF Members*

- Chief Justice Paul Newby, Convenor
- Judge Martin McGee, Co-Chair
- Eddie Caldwell, Co-Chair
- Judge Allen Baddour
- CSC Michelle Ball
- Ryan Boyce
- Judge Charles Brown
- Brandeshawn Harris (for Todd Ishee)
- Judge Andrew Heath
- William Lassiter
- Kimmel McDiarmid
- Tim Moose
- Mary Pollard
- Adam Pridemore (for Kevin Leonard)
- Todd Shanley
- Mike Silver
- CSC Todd Tilley
- Dr. Charles Vance
- Patrick Weede
- Anthony Whitmore
- John Woodlock
- Eric Zogry

### *NCAOC Staff*

- Andrew Breedlove, Multi Media Technician
- Sean Callan, Research and Policy Associate
- Lori Cole, Court Management Specialist
- Elizabeth Croom, Legal Counsel, Technology & Innovation
- Jason Dallin, Multi Media Technician (via Webex)
- Erin Elliott, Administrative Secretary
- DeShield Greene, Court Management Specialist
- James Hendrickson, Research and Policy Associate
- Mike Hutchinson, Infrastructure & Cloud Services Manager
- Joseph Kyzer, Legislative Liaison
- Jodie Lanning, Instructional Designer
- Emily Mehta, Research, Policy, and Planning Manager
- Asia Prince, Court Programs Officer
- Wesleigh Vick, Assistant Legal Counsel

### *Guests*

- Melissa Earp, Deputy Secretary- Administration, NCDPS
- Marie Evitt, NC Sheriffs' Association
- Chris Fuquay, Director of Network Services, NCDPS
- Jodi Harrison, Agency General Counsel, NCDPS
- Lt. Ted Lister, Cabarrus County Sheriff's Office

### **Opening Remarks**

Judge Andrew Heath welcomed everyone to the meeting and gave a brief background on the RPTF. During the pandemic, the courts realized that technology could be leveraged to improve court operation and proceedings could be conducted remotely. Judge Heath introduced the RPTF co-chairs, Judge Martin McGee and Eddie Caldwell. He also introduced DeShield Greene and Mike Silver as the NCAOC staff who will support the RPTF. Judge Heath recognized Chief Justice Newby.

Chief Justice Newby thanked the RPTF members for their commitment and emphasized the importance of this project. He shared that Ronnie Mitchell, attorney to the Cumberland County Sheriff and member





of the Chief Justice's Commission on Professionalism, has kept count of the number of complaints from inmates who have trouble seeing their attorneys. Due to remote access being introduced, those complaints have decreased by 97%. Chief Justice Newby stressed that remote proceedings are a potential foundational change in providing access to justice and to the courts.

### **Welcome & Introductions**

Judge McGee welcomed the members. He thanked Judge Heath and Chief Justice Newby for their leadership and looks forward to working with the Task Force to build a system to conduct remote hearings effectively and safely. Mr. Caldwell introduced himself and opened the table for the RPTF members to introduce themselves. Each member stated their name and agency.

### **Scope and Mission of Task Force**

Judge McGee reviewed the mission of the RPTF to:

- Facilitate hearings between the NC state courts and individuals who are housed in a county detention facility or a NC Division of Adult Corrections and Juvenile Justice (DACJJ) facility and
- Enable Central Regional Hospital to communicate with individuals housed in a county detention facility who are awaiting a determination concerning the defendant's capacity to proceed.

Because the mission does not define the types of hearings to be held remotely (e.g., advisement of counsel, guilty pleas, expert witness testimony, appointment of counsel by magistrate, and hearings to issue remote search warrants), the RPTF will make that recommendation. There may be other uses that are not anticipated which is why it is important for all RPTF members to contribute.

Judge McGee reviewed how the RPTF will work to accomplish the mission by:

- Establishing a pilot program between one or more county courthouse(s) and one or more jail(s) and prison(s) to hold remote first appearances using audio visual technology;
- Identifying a scheduling system to coordinate hearings between the courts and county and state facilities;
- Implementing a process for attorneys to effectively and confidentially communicate with their clients who are housed in a DACJJ or county detention facility.

He acknowledged the work of Lt. Ted Lister from the Cabarrus County Sheriff's Office who has been working with remote hearings since March 2020. He also acknowledged the work of John Woodlock who has worked to create a scheduling system / software program for the NC Department of Public Safety (NCDPS).

Judge McGee shared his view of the system that the RPTF will create, which includes the following components:

- Hardware in courts, jails, prisons, and Central Regional Hospital;
- Agreement on the software system;
- Development of business practices, procedures, forms, and methods; and
- Ability for attorneys and clients to speak confidentially.



### **Remote Proceedings Task Force Pilot**

Judge McGee and Lt. Ted Lister are working together to establish pilot programs between Cabarrus and a select group of counties. Lt. Lister has spoken to the senior resident superior court judges and jail administrators in Gaston, Stanley, Iredell, Rowan, Union, and Lincoln Counties, all of whom are in favor of the program. Lt. Lister explained his experience with remote proceedings in Cabarrus County, which began in March 2020.

Since 2019, the Cabarrus County Detention Center has held advisements remotely. Since March 2020, they have held 100% of jail cases remotely. The virtual court stations that were installed in Cabarrus cost roughly \$700 each. Overall, this has worked well, allowing them not to move inmates at all. Lt. Lister talked about the issues they experienced while holding virtual court in Cabarrus County. One of those issues was determining how to staff the courtrooms. Another issue was working with the attorneys and judges to ensure that hearings were scheduled around the inmates' mealtimes and recreation times. Furthermore, they found that communication was an issue. Being clear and concise with what needs to be done was key. Lt. Lister stressed that the biggest issue is *change*. The current system of transporting inmates to courtrooms has been in place for many years.

Once all of the issues were resolved, the system started to run smoothly, and they have seen many positives. There has been a decrease in inmate transport time to the courthouse. It takes 18 minutes one-way to walk the inmates to the courtroom. Since utilizing remote proceedings, that walk has been eliminated and transport time has been reduced significantly. He emphasized that now, instead of an officer having to walk roughly 40 minutes per day with the inmates, that officer can perform other duties. Another positive is that they have reduced the risk of inmate and officer injury during transport. Further, cases are being held in a timely manner due to having a set schedule.

Lt. Lister also talked about the positives and negatives of conducting virtual court with Rowan County. One of those negatives was the reluctance of the Clerk of Superior Court and assistant district attorney in Rowan County. At first, they were uncertain if it was legal to hold court virtually, and the Clerk of Superior Court was unsure of how it would be set up. Another issue was the scheduling, which was similar to what happened in Cabarrus County. The next issue was ensuring the paperwork for plea agreements and commitments was faxed to the correct place. Once these issues were resolved, they have been able to conduct eight cases remotely without incident. Since conducting virtual court with another county, they have seen many positives, including reductions in transport time, manpower / overtime cost, fuel costs, and inmate quarantine time. Lt. Lister shared the transportation cost savings since conducting remote hearings. The transportation costs associated with writs to either NCDPS facilities or county jails that Cabarrus County incurred in 2018 was \$40,508.39 compared to \$19,513.73 in 2019.

Todd Shanley, Chief Information Officer of Cabarrus County, mentioned that the existing relationships within their court system contributed to their successful remote experience. He acknowledged that there may be counties where the transition is not as smooth. Mr. Shanley explained that the process was inexpensive because they were not trying to be fancy but do what was required to get the job done.



They utilized laptops with webcams and existing Webex software. In the jail, they turned their training room into a “remote courtroom” that consisted of installing a TV with a mounted laptop and webcam. Mr. Shanley emphasized the importance of giving grace to the technology because technical problems will arise, but they have seen the benefits of going remote far outweigh these occasional technical problems.

### **Central Regional Hospital Remote Examination Update**

Dr. Charles Vance presented his experience with videoconferencing, which Central Regional Hospital (CRH) began in March 2020. He began by recognizing that the needs and experiences of the Hospital may not precisely align with those of the RPTF, but they may be informative in what to expect.

Central Regional Hospital is one of three state-operated psychiatric hospitals. Part of their mission is to provide forensic evaluations to criminal defendants for NC Courts. They serve all 100 counties and conduct about 800-900 forensic evaluations per year. Dr. Vance explained that the most important part of any forensic evaluation is an interview with the defendant. This means talking with the defendant and trying to assess if the individual has mental disorders and if so, determining if those mental disorders will impede their ability to navigate the court system. Prior to the pandemic, all interviews were done face-to-face. During the pandemic, CRH suspended face-to-face contacts. Although, there continued to be a need for some evaluations. Dr. Vance was contacted by Judge McGee in March 2020 to set up video evaluations with defendants, and with its success, CRH moved to conducting all evaluations via videoconference.

Dr. Vance explained the challenges that CRH faced while setting up videoconferencing. He listed the following needs:

- Support/authorization from administration
- Funds
- Office space to conduct evaluations (must be quiet and afford privacy)
- Staff to conduct the evaluations
- Support staff to assist with scheduling the evaluations
- Hardware equipment (Computers, network, webcams, microphones, speakers)
- Software equipment

One of the challenges that CRH faced was the potential for the network communications to be hacked. They had to ensure that the platforms used would meet HIPAA standards and federal privacy standards. They also encountered problems with firewalls that blocked signals. Another challenge was training their staff on the platforms and the different learning curves. Once those issues were resolved, CRH faced the big challenge of reaching out to all 100 counties to persuade them to use videoconferencing. Over time, they were able to get the counties to sign-on with varying degrees of willingness.

Dr. Vance listed the following points CRH presented to the counties during this process:

- Less potential exposure of staff and inmates to COVID-19
- Economy of time and manpower



- Greater security
- Low hardware costs
- No software costs

Dr. Vance explained CRH's experiences as they regularly began videoconferencing. Evaluators did not need to use office spaces that were specifically setup for videoconferencing. Instead, the evaluators were able to use their own office PC and their own private office to conduct the evaluations. While they wanted to be able to use a uniform platform, they realized the need to use various software platforms (e.g., Zoom, Webex, JurisLink, HomeWAV, and IC Solutions) to accommodate the realities of each county. CRH has also experienced that most counties have recognized the benefits associated with using videoconferencing evaluations although one county had to be ordered to use videoconferencing and some court occasionally still insist on in-person evaluations. Currently, about 90% of CRH's evaluations are still done remotely even with the ease of the pandemic.

Dr. Vance listed the ongoing challenges CRH continues to face, such as evaluating defendants who are not in custody, defendants who refuse to participate, getting signed consent from defendants, variable audio video quality, variable degrees of defendant privacy, and platform limitations. Overall, the remote system is working well. Even after the pandemic ends, Dr. Vance does not believe that CRH will return to primarily face-to-face evaluations because the remote system is more efficient.

Defense Attorney Patrick Weede asked Dr. Vance to explain what is lost by not conducting the evaluations face-to-face. Dr. Vance described being able to smell a defendant during face-to-face evaluations, which suggests a lack of basic hygiene. This is something that is seen among individuals with mental health issues. It is also easier to see how the defendant interacts with others and the nuances of their movements during face-to-face evaluations. Dr. Vance explained that the evaluators know that if they still have concerns after a videoconference evaluation, they can request a face-to-face evaluation. Dr. Vance also explained that there are some tests that cannot be done through videoconferencing, such as an IQ test. That is another scenario where a face-to-face evaluation would be requested.

Judge McGee acknowledged that there may be individual cases where videoconference evaluations are not appropriate, but that is why there is still a system in place to be able to complete face-to-face evaluations. They have seen that the majority of evaluations can be conducted remotely.

#### **Webex Protocol Subcommittee Update**

A Webex Protocol Subcommittee, of which Judge Allen Baddour is co-chair, was convened by the Chief Justice's COVID-19 Task Force. The goal of the Subcommittee was to develop an administrative order to serve as a tool for each county to use to establish remote hearing procedures. A draft of the order was provided to the RPTF members. The Subcommittee is currently reviewing the draft that will then go back to the COVID-19 Task Force for their modification/approval. After approval, it will be shared statewide.

The administrative order is not a requirement but rather it allows for each district / county to establish a process to conduct remote hearings where it is deemed appropriate. It also allows others around the



state to understand how remote hearings are being conducted in each county, offering flexibility and transparency. The presiding judge ultimately retains the right and responsibility to use their own discretion during any given hearing. There are areas of the administrative order that interact with the work of the RPTF, such as scheduling and technology. Judge Baddour stated that he does not believe the courts will return to in-person meetings 100% of the time and that the RPTF is setting up the system for the future of the courts.

Patrick Weede mentioned that the ability for attorneys to meet with clients remotely and confidentially to prepare for pleas and trials would be very helpful. He emphasized that it is important to meet with clients routinely to build trust and rapport. Holding these meetings remotely will be much more efficient and cost effective, especially when clients are hours away. Mr. Weede emphasized the need for the remote meetings to be confidential and secure. He gave an example of a prison that offered to set up a videoconference for him and his client, but it would be recorded and could be accessed at any time.

#### **Availability of NCDPS, NCAOC, and County Data**

Emily Mehta explained the availability of data from NCAOC is somewhat limited and there does not appear to be an opportunity for much cost savings within the court system for remote proceedings since remote proceedings will use the same staff as in-person proceedings. Over 90% of the budget is made up of salary and personnel. Ms. Mehta explained that the NCAOC Research and Planning team can support the RPTF with the coordination of county data, since there is not a centralized system for jail data. As the RPTF develops the pilot program with the designated counties, NCAOC can help coordinate conversations with those counties to determine the type of information available and impacts at the county level.

Melissa Earp explained the availability of data from NCDPS. There is data available to provide cost estimates which NCDPS has found is more of a cost avoidance opportunity, rather than a cost savings. As Ms. Mehta mentioned, NCDPS has also found that many of the same key players will be involved whether proceedings are in-person or remote. The cost avoidances will be reinvested back into the prison facility operations. Ms. Earp acknowledged that there are significant implications of increased public safety with remote proceedings and that remote proceedings will assist offenders with successful re-entry to society. As offenders are transitioning out of the prison system, it is important for them to clear pending charges. Timely access to justice will greatly assist with this transition.

Ms. Earp explained that NCDPS data points come from post-sentencing data for offenders incarcerated within the NC prison system (not jails). NCDPS can provide the *number* of writs executed (but not the *type* of writ), the physical number of miles driven to transport offenders to hearings, the number of staff involved in transport, and the hours of staff time involved in transport. NCDPS is also rich in data involving individual offenders, such as those who have ADA requirements. Before NCDPS can determine if data can be provided, the RPTF must define the types of data that would be valuable as the pilot program moves forward.



### **NCDPS Remote Hearing Update**

Brandeshawn Harris explained the utilization of remote hearings at NCDPS. Remote hearings are currently used for parole commission hearings, tort claims, and telehealth. Ms. Harris emphasized that moving forward with more remote hearings will be a large endeavor for NCDPS. When looking at their total writs, criminal district and superior court make up about 33,000 writs. Though it will take a lot of work, they are committed to moving forward with remote hearings because of the benefits. A major benefit that they foresee is the limited transportation. They have faced staff shortages and they often struggle with getting the staff to make multiple transportation trips to various counties. Conducting remote hearings and keeping the offenders in-house will greatly help with the lack of staff.

Ms. Harris expressed her support for developing the pilot program to resolve big issues before rolling out remote hearings to all counties. She mentioned that Piedmont Correctional Institution, NC Correctional Institution for Women, and Craven Correctional Institution are the three primary sources of criminal writs. Piedmont and Craven have already been implementing a hybrid system for remote hearings. She recommended that these be considered for the pilot program because they have a system in place and their staff are already embracing remote hearings. She mentioned that some of the biggest issues that may arise during the pilot program are finding the physical space in smaller facilities to dedicate to remote hearings; developing a system for offenders to speak confidentially with their attorneys without being recorded as this will put additional work on staff; and scheduling and timing hearings to ensure there are not “traffic jams” with multiple users and overlapping hearing times.

### **Technology Update**

The Task Force moved into the NCAOC Mock Courtroom to learn more about the technology that will be installed in courtrooms. A demo of the equipment was provided by NCAOC staff.

### **Available Hardware (NCAOC)**

Anthony Whitmore explained that while there are counties that have already implemented remote hearing technology and hardware, NCAOC is working on the standardization of this technology to be installed in all 100 counties. Mike Hutchinson stated the scope of the project as an immersive courtroom audio / video structure. NCAOC staff demonstrated the new technology that included large TVs set up with a live Webex session that display what a remote hearing would look like in a courtroom setting and laptops set up with the same live Webex session that display what a remote hearing would look like outside of the courtroom setting. This structure is built with Webex that integrates with TVs and cameras. Another part of the structure is a kiosk feature called the Desk Pro, which allows a self-represented client to remotely interact in a courtroom setting without having to physically enter the courtroom.

Current funds will allow NCAOC to install this equipment in one courtroom in every county. All counties will require a site survey before the installation begins that will assess the individual needs of each courthouse. A vendor will assist with the installation and support in every county. Over the past year, the team has started installation in pilot counties with more pilot counties scheduled for installation over the next year.



Andrew Breedlove demonstrated the cameras' speaker-track technology that allows the cameras to focus on whoever is speaking in the room. He also demonstrated the cameras' auto-framing technology that allows the cameras to always focus on the judge and witness. Jason Dallin remotely joined from the live Webex session in Brunswick County where the equipment is being installed. Mr. Dallin gave a tour of the courtroom installation. Mr. Breedlove explained that the Brunswick installation was scheduled to be completed in five days so it is a quick installation process. While the technology is structured to work independently, integrating existing courtroom technology is a possibility.

### **Software Development (NCDPS)**

John Woodlock explained that NCDPS is currently utilizing a video management system which is still under development. The system allows the user who wants to meet with the offender to locate the offender and see the facility's schedule, the devices available for the offender to use, and the days available to schedule their meeting. Once the user selects the day they want to schedule, they must enter the length of the meeting. NCDPS recommends the user over-estimate the length of their meeting to reduce the chance that the meeting will exceed the allotted time. Once the user inputs the meeting length, the times available to schedule their meeting will display. Once the user schedules the meeting, an automatic email will be sent confirming the meeting date, time, and reference number. If the system later recognizes that the meeting cannot be conducted due to external events, an automatic email will be sent to the user notifying them of the cancellation. The goal is to reduce conflicts as much as possible. NCDPS has been using this software to manage other types of remote meetings, such as telehealth and video visitations.

Mr. Woodlock discussed the challenges since NCDPS started utilizing this software. With 55 prisons across NC, each prison is different in its mission, as well as its physical and technological infrastructure. Currently, they have at least one remote meeting device accessible to offenders in each prison. This has posed a challenge because there are a total of 29,491 incarcerated offenders and one device in each prison is not enough for them all. Furthermore, the prisons average over 600 transfers between facilities each week. Therefore, an offender could have a remote meeting scheduled at one facility, but then get transferred to another and that remote meeting can no longer be conducted at the scheduled time. Mr. Woodlock explained that prisons process a very high volume of writs every year. The average is about 500-700 writs per month. As the number of remote hearings start to increase, it will be a huge challenge to manage this 'traffic'. The writs are not evenly distributed between facilities because the facilities differ in their missions. He foresees bottleneck challenges at the processing centers that have higher monthly averages.

To manage remote hearings, there must be coordination between and among agencies (Courts, Commissions, Internal Users, Other Partners), devices (scheduled appointments, operational status), and offender priorities (telehealth and psychiatric appointments, visitation, etc.)





### **Next Steps and Subcommittees**

Judge McGee announced the two Subcommittees: Jails and Prisons. He clarified that this is an initial proposal. If members would like to switch subcommittees or work on both subcommittees, they are welcome to do so.

### **Jails Subcommittee Members**

Eddie Caldwell (Chair)	Ryan Boyce
Sheriff Asa Buck, III (Carteret)	Judge Charlie Brown
Jason Cheek	Sheriff Alan Cloninger (Gaston)
Sheriff Alan C. Jones (Caldwell)	Kevin Leonard
Lt. Ted Lister	Todd Shanley
CSC Todd Tilley	Dr. Charles Vance
Anthony Whitmore	Eric Zogry

### **Prisons Subcommittee Members**

Judge Marty McGee (Chair)	Judge Allen Baddour
CSC Michelle Ball	DA Ted Bell
Judge Andrew Heath	Todd Ishee
William Lassiter	Kimmel McDiarmid
Tim Moose	Mary Pollard
Patrick Weede	John Woodlock

### **Adjourn**

The meeting adjourned at 1:10 PM.

### **Future Meeting Dates**

The next RPTF meeting will be held on Friday, April 1<sup>st</sup>, 2022 at the Administrative Office of the Courts. The Subcommittees will be sent a survey to vote on the date of their first meeting. Each Subcommittee is expected to meet at least once before the next RPTF meeting.

*Submitted by Erin Elliott*