

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



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PROSECUTING ATTORNEY

JUSTICE
COMPASSION
PROFESSIONALISM
INTEGRITY
LEADERSHIP

Information for Witnesses in the Involuntary Treatment Act Court

Q. What is a subpoena?

A. A subpoena is an order of the Superior Court that requires attendance of a person on a specific day to testify in front of a judge. The testimony in ITA proceedings is primarily conducted via video through Zoom. If you are unable to appear via Zoom, your physical appearance may be required at the ITA Court in the Ninth and Jefferson Building on the Harborview Medical Center Campus.

Per the directions on the subpoena, please confirm your testimony by calling the prosecution paralegal at 206-744-7774 between 10:00 a.m. and 3:00 p.m. one business day before the date the case is scheduled for court. If the case is scheduled for Monday, please call on Friday. When you call, you will need to leave a message with your name, the patient's name, and a good callback number. The paralegal will return your call and either give you specific information regarding your appearance via Zoom or may tell you that your testimony is no longer necessary. If your testimony is required, please plan to be available via Zoom by 9:30 a.m. on the day of the hearing unless the paralegal indicates otherwise.

Q. What is the Involuntary Treatment Act Court?

A. The Involuntary Treatment Act (ITA) Court handles involuntary behavioral health commitment cases. People with a behavioral health disorder who present a risk to themselves or others may be detained involuntarily and placed into one of the King County inpatient mental health Evaluation and Treatment facilities (Harborview Medical Center, Fairfax Hospital, Navos Inpatient Services, Northwest Geropsychiatric Hospital, Swedish Ballard, Telecare, Valley Cities, or MultiCare Auburn) or a Secure Withdrawal Management and Stabilization Facility (Recovery Place Kent). Patients being involuntarily detained have the right to have a court hearing in front of a Superior Court Judge or Commissioner where a prosecutor must present evidence to prove that the patient meets the legal criteria for an involuntary commitment. These hearings take place in ITA Court via video.

Q. When does the ITA Court become involved for a detained patient?

A. When a patient is detained by the King County Designated Crisis Responders (DCRs), the patient cannot be held involuntarily for more than 120 hours (excluding weekends and holidays) without a hearing before a Superior Court Judge or Commissioner. During the 120 hours, the hospital employees evaluate the patient and provide treatment and safety. If the hospital treatment team determines that the

patient should be held for more than 120 hours, the hospital petitions the court for an order of involuntary treatment and a hearing is scheduled.

Q. How does the ITA Court schedule the hearings?

A. If you have received a subpoena to testify in a case, you will have been asked to appear testify via video on the day of the scheduled hearing. If you are unable to testify via video, your presence may be required at ITA Court. The first hearings of the day start at 9:30 a.m. and last throughout the day. The ITA Court has a high volume of cases and prioritizes cases based upon several factors including: the treatment needs of the patients, when the legal case expires, the availability of necessary interpreters, compliance with timelines established by law, and the availability of an open courtroom. Unfortunately, the factors determining a case's priority may change throughout the court day. Accordingly, you may have to wait for several hours before you testify.

Q. Who are the parties in the court case and what are their roles?

A. The parties of the legal case are the patients, the parents of juvenile patients, and the hospitals. The hospitals are represented by an attorney from the King County Prosecuting Attorney's Office. It is the prosecutor's job to develop and present the legal case for the need of involuntary commitment. The prosecutor reviews the facts that led to the patient's commitment and what has happened since the patient was hospitalized. The prosecutor consults with the behavioral health professional from the hospital who is the expert witness in the court proceeding.

Public defense attorneys are assigned to represent the patients at no cost. The public defender supports and defends the rights of the patient. The defense attorney represents the patient's wishes in court, even if that may not be in the patient's or the community's best interest. This representation may include filing preliminary motions that are researched and argued prior to a hearing on the merits of a case.

Q. What information may I obtain about a patient's care?

A. The law has many specific requirements regarding the private and confidential nature of medical treatment records that dictate what information can be provided to others. Unless the patient has signed a release of information for you, the hospital staff and attorneys may be unable to share details about a patient's care with you. However, hospital staff and the prosecutors can tell you about the general care and services provided to patients at the hospitals.

Q. What are the potential outcomes for an involuntary treatment case?

A. Many cases are resolved without a hearing if the patient and the hospital agree on a resolution. This resolution may include the patient agreeing to the commitment order, a continuance of the hearing with the patient remaining in the hospital, or the patient leaving the hospital for outpatient treatment. In those instances, no one testifies in court on the day of the hearing. If the patient and the hospital agree on a continuance, you may be required to provide testimony on the new court date. If a resolution cannot be reached, the case may proceed to an evidentiary hearing where a judge decides.

Q. What must the prosecutor prove in a hearing?

A. For a case to be legally sufficient to proceed to a hearing, the prosecutor, who represents the hospital, must be able to prove that the patient has a mental, emotional, or organic disorder. The prosecutor must

demonstrate that the behavioral health disorder directly led to the patient being gravely disabled or a risk of harm to self, others, or the property of others. Additionally, the prosecutor must show that involuntary treatment would be in the best interest of the patient and the community.

If, on the day of the scheduled hearing, the prosecutor does not have sufficient evidence to prove the case, and all attempts of negotiation have been exhausted, the prosecutor will dismiss the case without prejudice and the patient will be released from the hospital.

Q. What happens if I am asked to testify in a hearing?

A. All parties, including the patient, attorneys, witnesses, and judge appear for the hearing via video. If you are unable or unwilling to appear via video, the prosecutor may ask the judge to find good cause for you to testify via telephone instead. However, if the judge does not find good cause, you may be asked to appear in person in ITA court.

The judge will swear you in before you testify. The prosecutor and defense attorney will each ask you questions. They will ask about the events that led to the patient being detained. They may also inquire how the patient functions when doing well, past difficulties the patient may have had with behavioral health in the past, and resources the patient may have in the community for support, treatment, and housing. It is important to always tell the truth. Trials are controlled by the rules of evidence, which were developed to ensure fair trials. You must answer only the questions asked. Do not volunteer information about which you have not been asked. Do not speak directly to the patient. Listen to each question and answer as directly, completely, and honestly as you can. You can only testify to what you saw or what you heard the patient say. If during your testimony either attorney says, "Objection" or "I object," please stop talking and wait until the Judge overrules the objection or an attorney asks you another question.

When both attorneys have finished questioning you, the judge will excuse you. This will conclude your court appearance. If the judge allows, you may watch the remainder of the hearing via video. On average, a hearing requires several hours to complete, and your testimony constitutes a portion of that time.

Q. Are there any suggestions for how to testify via video successfully?

A. The prosecutor's office will send you a link to the Zoom hearing. Please log on and the court will keep you in the virtual waiting room until it is your time to testify. Please turn on your camera and connect to audio.

Your physical location should be in a quiet location, without interruption. If possible, please be alone in a room with a closed door. Make sure you have a strong Wi-Fi or cellular connection. Please use a device with the largest screen possible to ensure your ability to see the other video court participants (i.e., a tablet or computer screen will allow you to see better than a phone). Your device should be fully charged for testimony, and if possible, plugged in. Audio will be best if earbuds/headphones with a microphone are used. To avoid shaky video, please set the device down instead of holding it in your hand. You should not review written or electronic materials while you are testifying via video, unless authorized by the judge or attorneys.

Q. What happens if I cannot do video testimony and I am directed to physically appear at ITA court?

A. If the prosecutor's office instructs you to physically go to court, please arrive at the courtroom located on the 2nd floor of the Ninth and Jefferson Building (NJB) at 908 Jefferson Street (across the street diagonally from the Harborview Medical Center Emergency Room). You will be required to go through

security screening before entering. Potential weapons, such as firearms, knives, or pepper spray are not allowed. After passing through security screening, please call the witness line (206-744-7774) and let us know that you have arrived. There is a phone on the wall outside of the Witness Check-In office that you may use.

- **Parking:** The Ninth and Jefferson Building (NJB) has public parking underground with an entrance directly off Terry Avenue. Terry Avenue can be accessed via either James or Jefferson Streets. Additional parking is available in View Park Garage, located behind Harborview Medical Center. View Park can be accessed by driving south on Ninth Avenue and turning right on Jefferson Street. Turn right a second time just past the Heli-Pad; the parking entrance is on the right. You may park only on levels 2 and 3. There are very few metered and non-metered parking spaces on the streets in this area. There is no validated parking.
- **Bus Service:** King County Metro buses number 3 and number 4 run frequently from downtown Seattle and transport passengers to NJB.

Q. What information does a judge consider in making a decision?

A. The judge will only consider evidence from witnesses who testify in court. The expert witness from the hospital will testify and the patient has a right to testify.

If a witness to certain facts is unwilling or unable to testify in court, the judge will not be able to consider those facts. The judge can only rule based on what is said in court and cannot rely on a person's written statement as evidence.

Q. What can the judge order?

A. After the judge hears all of the testimony, the judge will decide if legal criteria has been met for the patient to stay in the hospital for involuntary treatment, be released into the community under a court order for outpatient behavioral health treatment, or be released out-right with no conditions for treatment.

Q. How long can a patient be detained in a hospital involuntarily?

A. After the 120 hour detention, if the patient agrees to involuntary hospitalization or if the judge hears the evidence and decides that the legal criteria have been met for involuntarily committing the patient, the judge will order that the patient receive treatment in a hospital for a period of not more than fourteen (14) days, including weekends and holidays. If the hospital determines further treatment of the patient is necessary, a subsequent petition may be filed in court requesting an additional period of treatment for the patient.

If the patient is a juvenile, under the age of 18, the next petition filed by the hospital for continued care will be for a period up to 180 days. The juvenile patient has a right to litigate this petition in front of a judge (a bench trial).

If the patient is an adult, the next petition filed by the hospital for continued care will be for a period up to 90 days. Adults have the right to litigate this petition in front of a judge (a bench trial) or a jury. At the end of the 90 day order of commitment, a hearing may be held to commit the patient for up to 180 days.

At any time during the patient's order of involuntary commitment, the treatment team may discharge the patient from the involuntary hold if the patient no longer presents a risk of serious harm (i.e. no longer meets the legal criteria for in-patient care).

Q. What community resources are available?

A. If a patient is released into the community, and you feel that the patient's behavior is dangerous and warrants an immediate response, please call the local authorities (911) for assistance. If a patient's behavior causes you concern for the safety of the patient or others, but the situation is not emergent, please call Crisis and Commitment Services (CCS) for crisis outreach. CCS may be reached at 206.263.9200.

If you are the family member of a patient in The ITA Court, the Family Advocate is available to provide information, resources, and support through the court process. The Family Advocate can be reached at (206) 477-8517.

Thank you for providing information and your time to assist with the evaluation and presentation of this case. Our system could not function without the cooperation of our witnesses.