

# Appellate Court Response to the Pandemic and Reopening

A Pandemic Resource from CCJ/COSCA

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## Surveys Ask: What is Status of Appellate Court Operations and What are Staff Views on the Post-Pandemic Workplace

The world is a dramatically different place than it was nine months ago. With the onset of COVID-19, appellate courts across the country were forced to make major changes to the workplace leading to considerable disruption in practice and procedure. The initial response in many courts was to introduce restrictions to protect health and well-being of employees and the public. And some courts moved their entire workforce to temporary remote work and telecommuting. Regardless of the actions taken, the new business practices have shaken up long-standing forms of collaboration and communication for judges and staff alike, raising the possibility of a decline in collegiality and a rise in stress levels.

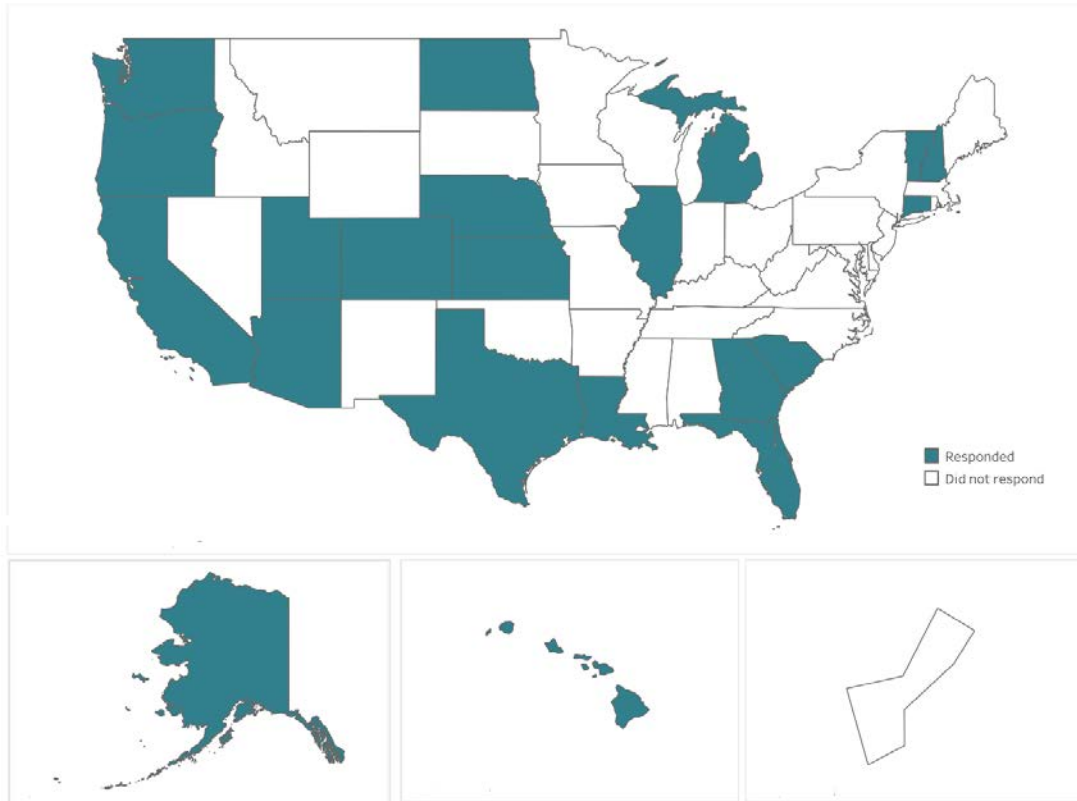
In the Fall of 2020, many appellate courts were in the midst of reopening, while also managing concerns with a new surge in the virus and the possibility of more restrictions. As this process unfolded, the Appellate Court Rapid Response Team surveyed the appellate court community to gain insight on (1) current status of court operations and (2) employee perspective on the effectiveness of remote work and the process of reopening. Feedback was obtained through two surveys:

- *Status of Court Operations Survey.* This survey sought to update appellate courts' responses to the pandemic and the current status of court operations and plans for reopening the courts. This four-item survey was designed to be completed by a single individual with knowledge of current court operations.
- *Employee Well-being Survey.* This survey focused on changing work experiences as it relates to remote working, court reopening, and collaboration from the staff perspective. This six-item survey was designed to be completed by appellate court staff (the survey was not sent to judges) and to help court leadership gain insight into staff perceptions on remote working, the logistics and safety of reopening, and the effects of remote working on collaboration among co-workers.

Both surveys were deployed nationally through appellate court listservs during late October and early November 2020. At the end of the survey period, all responses were assembled and analyzed, with results reflecting the state of appellate courts as 2020 came to a close.

## A. Status of Court Operations Survey

The survey was returned by respondents from 19 Courts of Last Resort (COLR) and 21 Intermediate Courts of Appeal (IAC). The map shows the states participating in the survey.



The survey began by documenting the initial response of COLRs and IACs to the pandemic.

### A1. In response to the pandemic, did your court ever close or restrict entry to any of the following groups?

Group	Court of Last Resort n = 19		Intermediate Appellate Court n = 21	
	Yes	No	Yes	No
Public	74%	26%	76%	24%
Non-essential personnel	84%	16%	76%	24%
All personnel	21%	79%	14%	86%

At least three-quarters of responding COLRs and IACs closed their courthouses to the public and non-essential personnel. The reverse was true for essential personnel, with only 21% of COLRs and 14% of IACs completely closing their doors to all personnel. Covid-19 did not bring an end to in-person working.

With the passage of time, most appellate courts have begun the reopening process.

**A2. To what extent has your court reopened?**

Status	COLR	IAC
	n = 16	n = 18
	% of Responses	% of Responses
The court has not reopened	6%	28%
The court has partially reopened	75%	67%
The court is fully open to pre-pandemic status	19%	6%

Most appellate courts have at least begun the reopening process, with 94% of COLRs and 73% of IACs having partially or fully reopened to pre-pandemic status. However, over one-quarter (28%) of IACs remain closed.

The extent to which appellate court personnel continue to work remotely varies by position and court level.

**A3. Please rate the prevalence at which the following staff continue to work remotely**

Group	Court of Last Resort			Intermediate Appellate Court		
	n = 15			n = 13		
	All/ Mostly Remote	Some remote/ some in-person	All/ Mostly in-person	All/ Mostly Remote	Some remote/ some in-person	All/ Mostly in-person
Judges	60%	27%	13%	31%	62%	8%
Judicial Assistants	53%	33%	13%	38%	62%	0%
Law Clerks	60%	40%	0%	54%	46%	0%
Staff Attorneys	67%	20%	13%	62%	38%	0%
Clerk's Office	7%	50%	43%	15%	77%	8%
Administrator's Staff	14%	57%	29%	0%	46%	54%
IT Staff	14%	72%	14%	8%	58%	33%

The survey shows that over 60% of IAC judges and judicial assistants now have schedules that include a mix of remote and in-person work. At the COLR level, similar percentages of judges and judicial assistants continue to work all or mostly remotely. The highest proportions of staff working all or mostly in-person are IT, administrative or clerk's office staff.

Concern over pandemic-related budget cuts runs high.

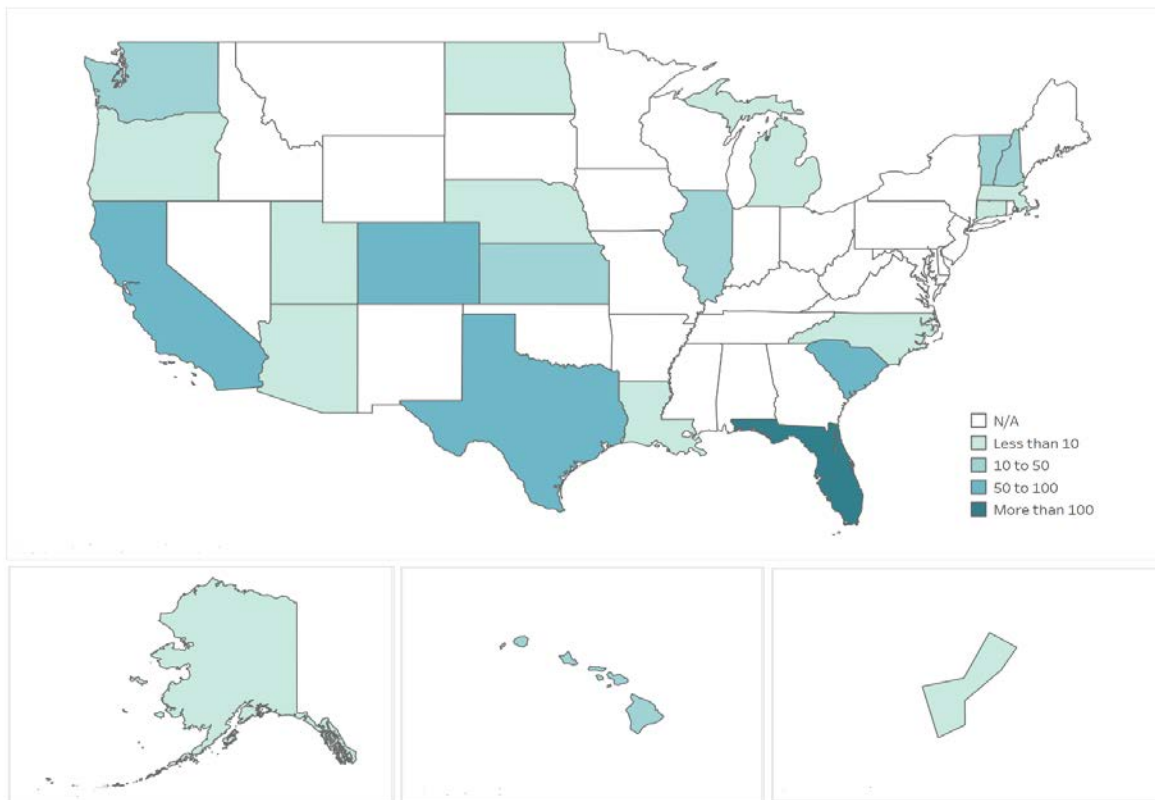
**A4. Have you been asked to provide plans related to potential future pandemic-related budget reductions?**

Status	COLR	IAC
	n = 19	n = 21
Yes	32%	57%
No	68%	43%

However, at this point in time, only about one-third of COLRs and just over one-half of IACs have been asked to put together such plans related to budget reductions.

**B. Employee Well-Being Survey**

This survey focused on appellate staff perspective on remote working, court reopening, and maintaining collaboration during the pandemic. The survey was distributed nationwide to non-judicial appellate court staff (judges were not asked to participate). It was completed by 123 COLR staff and 386 IAC staff from 23 states. As shown in the map below, there was variation in response rates, with 10 or more completed surveys coming from about one-half the responding states.



## B1. What is your position in the court?

	Court of Last Resort n = 123	Intermediate Appellate Court n = 386	Total n = 509
Staff attorney, Law Clerk, Judicial Assistant	59%	64%	62%
Clerk's Office Staff	35%	32%	33%
Administrator's staff	7%	4%	5%

Most of the respondents to the survey were staff attorneys, law clerks or judicial assistants, with another one-third of responses coming from Clerk's Office staff.

The coronavirus has led to a complete disruption in our homes and workplaces. The survey began with a scan of appellate court staff attitudes on remote work, workplace safety, and support from court leadership. The top panel shows results from COLR staff and the bottom panel shows similar results for IAC staff.

## B2. Please indicate your level of agreement with each item as it relates to your work for the court during the Covid-19 pandemic.

	Court of Last Resort					
	Average Score	Strongly Agree	Agree	Neither Agree or Disagree	Disagree	Strongly Disagree
I felt supported by my manager when working from home.	4.7	79%	18%	0%	1%	2%
I felt connected to my team when working from home.	4.0	39%	39%	10%	10%	2%
I am comfortable returning to work at the court.	3.2	20%	29%	17%	20%	15%
I would prefer to work from home if that option was extended to me.	4.0	46%	21%	19%	9%	4%
I trust court leaders to take appropriate safety measures before allowing employees to return to the workplace.	4.2	44%	41%	8%	6%	1%
I feel well-informed about the safety measures being taken to allow court employees to return to the workplace.	4.1	41%	38%	13%	5%	3%
I feel empowered to decide when I will return to the workplace.	3.4	25%	27%	23%	14%	11%
My manager supports my decision on whether to return to the workplace or continue working from home.	4.0	45%	24%	21%	5%	6%
My court encourages employees to stay home if I am sick or a family member is sick.	4.7	81%	15%	1%	0%	3%
I feel confident about my job security.	6.7	53%	34%	8%	4%	1%

\*Average score is calculated by taking the average of all response where Strongly Agree = 5; Agree = 4; Neither Agree or Disagree = 3; Disagree = 2; and Strongly disagree = 1.

	Intermediate Appellate Court					
	Average Score	Strongly Agree	Agree	Neither Agree or Disagree	Disagree	Strongly Disagree
I felt supported by my manager when working from home.	4.7	78%	17%	4%	1%	1%
I felt connected to my team when working from home.	4.2	44%	37%	10%	7%	2%
I am comfortable returning to work at the court.	2.7	12%	18%	23%	28%	20%
I would prefer to work from home if that option was extended to me.	4.2	55%	21%	13%	8%	3%
I trust court leaders to take appropriate safety measures before allowing employees to return to the workplace.	4.1	44%	33%	14%	8%	1%
I feel well-informed about the safety measures being taken to allow court employees to return to the workplace.	4.0	40%	33%	16%	9%	3%
I feel empowered to decide when I will return to the workplace.	3.3	16%	27%	32%	16%	9%
My manager supports my decision on whether to return to the workplace or continue working from home.	4.0	40%	27%	27%	4%	2%
My court encourages employees to stay home if I am sick or a family member is sick.	4.7	73%	22%	4%	1%	0%
I feel confident about my job security.	4.5	46%	34%	15%	4%	1%

\*Average score is calculated by taking the average of all response where Strongly Agree = 5; Agree = 4; Neither Agree or Disagree = 3; Disagree = 2; and Strongly disagree = 1.

Appellate court staff were asked to consider the importance of several factors that might affect their decision about returning to working in-person at the court. One way to examine the results is by looking at the Average Score column. An Average Score over 4.0 indicates that most responses are in the Strongly Agree or Agree categories. Using this metric, most COLR and IAC appellate court staff feel supported by their managers, connected to their team, and confident about job security when working from home. In fact, most appellate court staff would prefer to work from home during the current health crisis if that remains an option. This last point is underscored with the lowest scores on the survey coming from the items that ask whether they are comfortable returning to work and if they feel empowered in making that decision.

Additional survey items explored appellate court staff concerns over returning to work.

### B3. Please rate the importance of the following factors on your decision to resume working onsite when the court reopens.

	Court of Last Resort n = 120			Intermediate Appellate Court n = 379				
	Average Score	Very Important	Neutral	Not Important	Average Score	Very Important	Neutral	Not Important
Personal Risk of Exposure to COVID-19	2.8	83%	14%	3%	2.8	88%	9%	3%
Risk of Infecting Family Members	2.9	88%	9%	3%	2.9	91%	6%	3%
Child Care	1.6	22%	20%	58%	1.8	31%	22%	47%
Safe Transportation/Commute	1.9	28%	31%	41%	2.0	35%	29%	36%

\*Average score is calculated by taking the average of all response where Very Important = 3; Neutral = 2; and Not Important = 1.

It is perhaps no surprise that about 9 in 10 COLR and IAC staff stated concerns that personal safety and the risk of infecting family members were “very important” in their decision to return in-person to the courthouse (Average Score is very close to 3). In contrast, staff were fairly evenly split over the significance of issues related to childcare and commuting, likely based on individual circumstances.

With the remote work experience fresh in the minds of appellate court staff, we asked for views on continuing the practice.

**B4. Under normal circumstances (i.e. not during the COVID-19 pandemic), please rate how often you would prefer to work from home.**

	Court of Last Resort n = 123	Intermediate Appellate Court n = 386
Always (full-time remote worker)	14%	21%
Regularly (1-2 times per week)	48%	55%
Occasionally (1-2 times per month)	25%	17%
Never	13%	7%

Essentially 50% of both COLR and IAC staff would prefer the option of being able to regularly work from home (1 – 2 times per week) even under post-pandemic conditions. Only about 10% of staff say they want to return to pre-Covid days of largely never working from home.

A key concern with remote work is the possibility that established work relationships and necessary collaboration will be up-ended.

**B5. Please rate the level of collaboration you experienced with the following co-workers during the Covid-19 pandemic.**

	Court of Last Resort n = 109			Intermediate Appellate Court n = 351				
	Average Score	Better	Same	Worse	Average Score	Better	Same	Worse
Judges	2.0	15%	67%	17%	2.0	14%	73%	14%
Law Clerks	1.8	7%	71%	23%	1.9	9%	75%	16%
Staff Attorneys	1.9	10%	72%	18%	1.9	8%	78%	15%
Clerk’s Office	2.1	18%	70%	12%	2.1	16%	75%	9%
Administrator’s Office	2.1	15%	76%	9%	2.0	11%	81%	8%
IT Staff	2.0	17%	71%	13%	2.1	18%	76%	6%

\*Average score is calculated by taking the average of all response where Better = 3; Same = 2; and Worse = 1.

One clear observation from the survey results is that about three-quarters of COLR and IAC staff experienced no change in the level of collaboration with co-workers from throughout the court during the health crisis. An Average Score of 2 (the level of collaboration is the Same) reinforces this view. In addition, there were similar percentages of respondents who found the level of collaboration to be Better or Worse across the various appellate court positions.

While appellate court staff reported overall levels of collaboration remaining relatively stable, there is the possibility that certain aspects of work or court processes will suffer in the remote environment. Results from COLR staff are shown in the top panel and IAC staff in the lower panel.

**B6. Please rate the level of difficulty you experienced maintaining collaboration with colleagues for the following set of work processes in the online/remote environment.**

Court of Last Resort						
	Average Score	Very Easy	Easy	Normal	Difficult	Very Difficult
Filing of court documents	4.0	46%	14%	36%	4%	0%
Document sharing	3.9	40%	20%	34%	5%	1%
Document version control	3.8	36%	19%	37%	8%	0%
Collaborative document editing	3.9	37%	21%	34%	9%	0%
File transfer and sharing	3.9	38%	21%	34%	7%	0%
Meeting schedules	3.9	36%	30%	27%	5%	2%
Co-worker availability	3.8	35%	24%	31%	8%	2%
Workflow management	3.8	36%	21%	32%	8%	3%
Task management	3.8	36%	24%	30%	9%	2%
Workgroup conferencing/discussion	3.8	38%	20%	26%	15%	1%
Workgroup decision-making	3.7	30%	20%	38%	12%	1%
Interaction with public/attorneys	3.1	18%	12%	45%	15%	10%

\*Average score is calculated by taking the average of all response where Very Easy = 5; Easy = 4; Normal = 3; Difficult = 2; and Very Difficult = 1.

Intermediate Appellate Court						
	Average Score	Very Easy	Easy	Normal	Difficult	Very Difficult
Filing of court documents	4.0	46%	16%	33%	4%	0%
Document sharing	4.0	43%	21%	30%	7%	0%
Document version control	3.9	40%	19%	35%	5%	1%
Collaborative document editing	3.9	41%	16%	34%	8%	1%
File transfer and sharing	4.0	42%	20%	30%	8%	0%
Meeting schedules	3.9	37%	23%	34%	6%	1%
Co-worker availability	3.8	34%	23%	33%	8%	1%
Workflow management	3.8	35%	18%	37%	9%	1%
Task management	3.8	35%	19%	38%	8%	0%
Workgroup conferencing/discussion	3.7	29%	22%	33%	14%	1%
Workgroup decision-making	3.6	30%	18%	40%	11%	2%
Interaction with public/attorneys	3.2	22%	11%	43%	19%	6%

\*Average score is calculated by taking the average of all response where Very Easy = 5; Easy = 4; Normal = 3; Difficult = 2; and Very Difficult = 1.

Once again, the clear finding is that the move to online/remote work did not greatly reduce the level of collaboration and ease of working together. A scan down the Average Scores for the specific work processes examined shows almost all rated between 3.6 and 4.0 for both COLRs and IACs, indicating that each was accomplished in an Easy/Normal fashion. The greatest challenge expressed in the survey is retaining “interaction with public /attorneys,” likely due to court closures restricting access to attorneys and the public. Overall, appellate court staff have seemingly been able to develop workable procedures to keep appellate courts functioning in a reasonably normal way despite the challenges of the pandemic.