



UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

Conducting Jury Trials During the COVID-19 Pandemic (For Public Distribution)

This document provides suggested and mandatory practices for conducting jury trials during the COVID-19 pandemic and information to inform jury trial practices. These practices were developed after consulting guidance from the Centers for Disease Control and Prevention (“CDC”) and a panel of epidemiologists who answered questions from various federal courts in calls organized by the Administrative Office of the U.S. Courts (“AO”), in addition to recommendations concerning conducting jury trials during the pandemic from the AO’s COVID-19 Task Force, the Ninth Circuit Jury Trial Improvement Committee, and districts courts around the country. This document will continue to be updated as more is learned about how the virus that causes COVID-19 spreads and as insight is gained from conducting jury trials in our Court and other courts.¹

It is impossible to develop one plan to meet the needs of every courtroom, judge, and case. As a result, aside from the mandatory practices, individual judges may deviate from the suggested practices in this document as necessary.

¹ This document was last updated on April 13, 2021.

Table of Contents

I.	General Safety and Mitigation Measures	1
A.	Courtroom Ventilation	1
B.	Juror Supplies	1
C.	Cleaning.....	1
D.	Face Coverings in the Courtroom	1
1.	CDC Guidance	1
2.	Mandatory Face Covering Courtroom Policy.....	3
3.	Available Mask and Face Shield Court Resources.....	4
4.	Reasonable Accommodations	4
5.	Masks with Words or Symbols	4
E.	Mandatory Physical Distancing Courtroom Policy.....	4
F.	Courthouse Visitor Screening	5
II.	Pre-Trial	5
A.	Pre-Trial Checklist	5
B.	Communications with Prospective Jurors	5
III.	Voir Dire.....	6
A.	Opening Remarks to Jurors	6
B.	Location and Prospective Juror Seating	6
C.	Individual Voir Dire	7
D.	Spectators	7
IV.	Trial	8
A.	Courtroom Supplies.....	8
B.	Daily Admonishment Concerning Health	8
C.	Courtroom Layout	8
D.	Spectators	10
E.	Juror Notebooks and Pens	10
F.	Breaks	11
G.	Movement of Jurors.....	11
H.	Sidebar Discussions.....	11
I.	Confidential Communications Between Counsel and Parties.....	12

J. Court Interpreting	12
K. Witnesses	12
L. Witness Examination and Evidence Presentation	12
M. Opening Statement and Closing Argument.....	13
N. If a Trial Participant Is Suspected of or Diagnosed with COVID-19, Or Learns That within the Last 14 Days He or She Was in Close Contact with Anyone Suspected of or Diagnosed with COVID-19	13
V. Deliberations	15
A. Location.....	15
B. Exhibits.....	15
C. Concluding Remarks to Jurors	15

I. General Safety and Mitigation Measures

A. Courtroom Ventilation

Fresh air circulates through the courtrooms during the day. When fresh air is brought into the space, it is mixed with some of the conditioned air from the space while some of the conditioned air from the space is exhausted outside of the building.

General Services Administration (“GSA”) advised that while keeping the courtroom doors open may arguably increase air flow slightly, it will adversely impact the ability to maintain an appropriate temperature in the courtroom.

B. Juror Supplies

Face shields and disposable masks will be available for prospective jurors. Sworn jurors will be provided with bags containing small bottles of disinfectant spray/hand sanitizer, individual packages of alcohol wipes, and a bag to secure these personal items, along with their notebooks and pens during trial.

It is suggested that jurors leave their supply bags under their seat overnight.

C. Cleaning

GSA is currently conducting enhanced pandemic cleaning daily of high touch points (e.g., door handles, elevator buttons, etc.). Additional cleaning will be performed in the immediate workspace(s) accessed or primary space(s) occupied by someone who is later identified as suspected of having or confirmed to have COVID-19.

D. Face Coverings in the Courtroom

1. CDC Guidance

CDC advises that COVID-19 “[i]nfections occur mainly through exposure to respiratory droplets when a person is in close contact with someone who has COVID-19.”² CDC defines “close contact” as “[s]omeone who has been within 6 feet of an infected person (laboratory-confirmed or a clinically compatible illness) for a cumulative total of 15 minutes or more over a 24-hour period (*for example, three individual 5-minute exposures*)”

² *How COVID-19 Spreads*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last updated Oct. 28, 2020).

for a total of 15 minutes in one day).”³ CDC notes that someone infected with the virus that causes COVID-19 can spread the virus “starting from 2 days before they have any symptoms (or, for asymptomatic patients, 2 days before the positive specimen collection date), until they meet criteria for discontinuing home isolation.”⁴ CDC also advises that, although it is more common for the virus that causes COVID-19 to spread through close contact with an infected person, COVID-19 can sometimes spread by airborne transmission.⁵ On the issue of airborne transmission, CDC provides:

- There is evidence that under certain conditions, people with COVID-19 seem to have infected others who were more than 6 feet away. These transmissions occurred within enclosed spaces that had inadequate ventilation. Sometimes the infected person was breathing heavily, for example while singing or exercising.
 - Under these circumstances, scientists believe that the amount of infectious smaller droplet and particles produced by the people with COVID-19 became concentrated enough to spread the virus to other people. The people who were infected were in the same space during the same time or shortly after the person with COVID-19 had left.⁶

CDC advises that “[p]eople age 2 and older should wear masks in public settings and when around people who don’t live in their household.”⁷ According to CDC, “[w]earing a mask helps protect those around you, in case you are infected but not showing symptoms.”⁸ A mask offers some protection to the person wearing the mask as well.⁹ CDC also notes that “[a] mask is NOT a substitute for social distancing,” and “[m]asks should still be worn in addition to staying at least 6 feet apart, especially when indoors around people who don’t live in your household.”¹⁰ Covering your nose and mouth with a mask when around others “helps reduce the risk of spread both by close contact and by airborne transmission.”¹¹ Additionally, CDC advises that individuals who have been fully vaccinated “should keep taking precautions—like wearing a mask, staying 6 feet

³ *Appendix A – Glossary of Key Terms*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/appendix.html#Key-Terms> (last updated Mar. 6, 2021) (emphasis in original).

⁴ *Id.*

⁵ *How COVID-19 Spreads*, *supra* note 2.

⁶ *Id.*

⁷ *Guidance for Wearing Masks*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html> (last updated Apr. 6, 2021).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *How COVID-19 Spreads*, *supra* note 2.

apart from others, and avoiding crowds and poorly ventilated spaces—in public places until we know more.”¹²

“CDC does not recommend using face shields or goggles as a substitute for masks.”¹³
CDC provides the following guidance on this topic:

Face shields and goggles are primarily used to protect the eyes of the person wearing it. Goggles do not cover the nose and mouth. Face shields are not as effective at protecting you or the people around you from respiratory droplets. Face shields have large gaps below and alongside the face, where your respiratory droplets may escape and reach others around you and will not protect you from respiratory droplets from others. However, wearing a mask may not be feasible in every situation for some people.¹⁴

CDC provides the following considerations for individuals who must wear a face shield instead of a mask:

- Choose a face shield that wraps around the sides of your face and extends below your chin or a hooded face shield. This is based on the limited available data that suggest these types of face shields are better at preventing spray of respiratory droplets.
- Wash your hands before and after removing the face shield. Avoid touching your eyes, nose, and mouth when removing it.
- Clean and disinfect reusable face shields according to the manufacturer’s instructions or by following CDC face shield cleaning instructions. If you use a disposable face shield, wear it once and throw it away according to the manufacturer’s instructions.¹⁵

2. Mandatory Face Covering Courtroom Policy

Everyone in the courtroom must wear a mask, regardless of vaccination status. The removal of masks is authorized only as necessary for testifying witnesses, jurors while being questioned individually, and in-court identifications, if permitted by the judge. An individual who is permitted to remove or lower his or her mask will be required to wear a face shield and/or speak from behind a plexiglass barrier and maintain appropriate

¹² *When You’ve Been Fully Vaccinated*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html> (last updated Apr. 2, 2021).

¹³ *Guidance for Wearing Masks*, *supra* note 7.

¹⁴ *Id.*

¹⁵ *Id.*

physical distancing while the individual is not wearing a mask. Additionally, as noted below, clear masks will be available for testifying witnesses and jurors during voir dire.

If an in-court identification is necessary, consider having everyone in the courtroom remove their masks temporarily before the in-court identification and only for the limited duration of the in-court identification.

3. Available Mask and Face Shield Court Resources

The Court has purchased cloth masks for court employees, disposable masks for the public (including jurors and witnesses), clear masks for witnesses and jurors during voir dire, and face shields for jurors and witnesses. For multi-day trials, jurors should be instructed to place their face shields in their juror bags each evening. Jurors should use the alcohol wipes provided in their juror bags to clean their face shields as needed. Consider advising jurors on the proper use of masks and face shields per CDC guidance. See § I.D.1, *supra*.

Counsel should be responsible for providing their own masks and face shields. For civil cases, counsel should also be responsible for providing masks and face shields for their clients and witnesses. For criminal cases, clear masks and face shields will be provided for criminal defendants.

4. Reasonable Accommodations

If a trial participant is unable to wear a mask, consider other available alternatives. The Court's guidelines for providing accommodations for trial participants with communications disabilities, jurors, and members of the public can be found [here](#).

5. Masks with Words or Symbols

There will be disposable masks available for individuals with masks that the presiding judge determines are not content neutral.

E. Mandatory Physical Distancing Courtroom Policy

CDC advises that “[l]imiting close face-to-face contact with others is the best way to reduce the spread of [COVID-19].”¹⁶ According to CDC, “[t]o practice social or physical distancing, stay at least 6 feet (about 2 arms’ length) from other people who are not from your household in both indoor and outdoor spaces.”¹⁷

¹⁶ *Social Distancing*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html> (last updated Nov. 17, 2020).

¹⁷ *Id.*

Physical distancing signage and demarcations have been placed throughout the courthouses, including the jury assembly areas, courtrooms where voir dire and trials will be held, and overflow courtrooms and spaces.

Trials must be conducted in a manner that allows for all trial participants to practice physical distancing throughout trial. An exception to this physical distancing requirement may be permitted for individuals who reside in the same household. Additionally, exceptions may be permitted for counsel who choose not to physically distance from each other or their clients.

F. Courthouse Visitor Screening

Upon entering the courthouses, all visitors will be asked to self-certify that the answer to each of the following screening questions is no. If the answer to any of the screening questions is yes, the visitor should not enter the courthouse.

The screening questions are:

- Have you experienced any of the following symptoms in the past 48 hours? The symptoms are fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, and diarrhea.
- Within the past 14 days, have you been in close physical contact (6 feet or closer for a cumulative total of 15 minutes) with:
 - Anyone who is known to have laboratory-confirmed COVID-19; or
 - Anyone who has any symptoms consistent with COVID-19?
- Are you isolating or quarantining because you may have been exposed to a person with COVID-19 or are worried that you may be sick with COVID-19?
- Are you currently waiting on the results of a COVID-19 test?

II. Pre-Trial

A. Pre-Trial Checklist

Consider holding a pre-trial conference with the parties, including the criminal defendant, to review the specific COVID-19 related measures that will be taken during trial and obtain consent on the record or have the parties brief any objections prior to trial. The judge can also advise parties of his or her particular procedures.

B. Communications with Prospective Jurors

The Court has posted on its website [this letter](#) that explains the safety precautions the Court is taking and when jurors should not report to the courthouse due to potential

COVID-19 exposure concerns. Additionally, approximately two weeks prior to jurors' scheduled report date, jurors who have been found qualified will be notified to complete a COVID-19 supplemental juror questionnaire that includes questions concerning exposure to COVID-19 and requests for deferral due to COVID-19 concerns.

III. Voir Dire

A. Opening Remarks to Jurors

During jury orientation in the jury assembly area, jurors will be shown a supplemental orientation video from Chief Judge Gutierrez that outlines the precautions the Court is taking, emphasizes the need for appropriate physical distancing, expresses appreciation of those who serve, and explains the process of hearing requests for deferral and excusal related to any COVID-19 concerns.

Judges should also consider including an overview of the precautions implemented in the courtroom, such as the courtroom face covering and physical distancing policies, as part of their welcoming remarks to jurors.

B. Location and Prospective Juror Seating

At the First Street Courthouse, Courtroom 1 will be used for voir dire in all jury trials during Phase 3 of the Court's Plan for Phased Resumption of Operations. Courtroom 1 can accommodate up to 42 prospective jurors at a time while maintaining appropriate physical distancing.

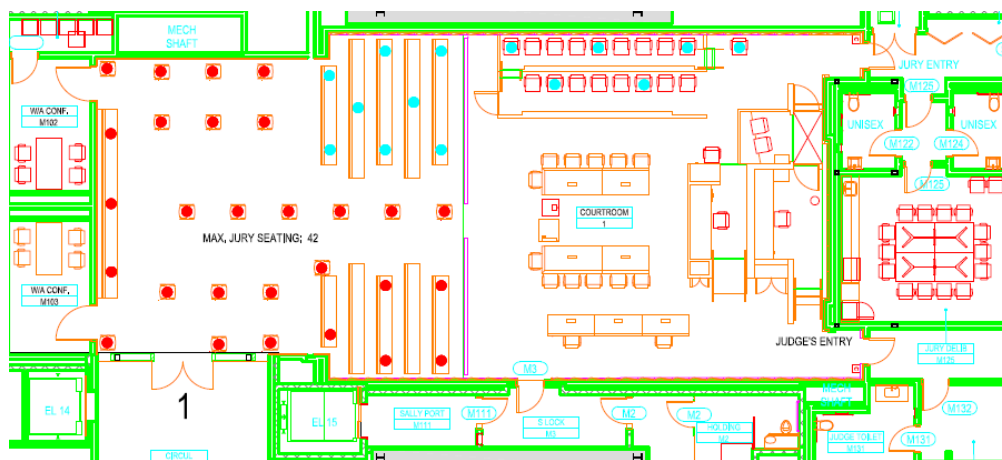


Diagram of Courtroom 1

The first 14 randomly selected jurors will be seated in locations that correspond with the blue dots in the above diagram. The standard jury box and the adjacent pews where the blue dots are located will serve as the enlarged jury box. These 14 jurors will enter the courtroom first.

After the first 14 jurors are seated, the remaining 28 jurors will be guided into the courtroom and instructed to sit in the marked locations that correspond with the red dots in the above diagram.

Voir dire in the District's other courthouses will occur in a similarly large area to allow for physical distancing.

There will be strategically located microphones throughout Courtroom 1, or the courtroom where voir dire is to occur, for jurors to use so that jurors do not have to pass hand-held microphones during voir dire. Plexiglass will be installed in Courtroom 1 around the areas occupied by the judge, courtroom deputy, and court reporter. Plexiglass is also available for the voir dire locations in the District's other courthouses.

The movement of jurors in and out of the courtroom for voir dire should be done in a manner to allow for physical distancing. For instance, consider seating jurors in the courtroom front to back, left to right, row by row, and have jurors exit in reverse order.

C. Individual Voir Dire

At the First Street Courthouse, when privacy concerns compel individual voir dire, the voir dire may occur in the jury deliberation room of Courtroom 1. Individual voir dire in the District's other courthouses must take place in an area large enough to allow for physical distancing. Alternatively, consider conducting any individual voir dire on sensitive or private matters in the courtroom during a break in which the other prospective jurors have been excused.

D. Spectators

Because of the need to maintain appropriate physical distancing, it is unlikely that spectators will be permitted in the courtroom during voir dire. Please see § IV.D., *infra*, for suggestions regarding spectators.

IV. Trial

A. Courtroom Supplies

Hand sanitizer, disinfectant wipes, and disposable gloves¹⁸ will be available for courtrooms generally and for specific areas of the courtroom, such as the witness stand, as discussed below. Microphone covers will also be available.

Plastic seat cushions for jurors are also available. These seat cushions can be passed out by the courtroom deputy after the jurors are empaneled and can remain at the juror's seat between trial days.

B. Daily Admonishment Concerning Health

At the start and throughout trial, jurors and trial participants should be admonished to report any change in their health and the health of those they live with or have had close contact with immediately. Jurors and trial participants should also be admonished to report if they are suspected of having COVID-19, are diagnosed with COVID-19, or learn that they have had close contact with anyone who has been suspected of or diagnosed with COVID-19 within the last 14 days.

Jurors and trial participants should be instructed to call the courtroom deputy to report such events prior to reporting to the courthouse.

C. Courtroom Layout

Jurors must be seated in a manner that maintains appropriate physical distancing throughout trial. For example, in the First Street Courthouse, one option (“Option A”) is for jurors to be seated in the jury box and the gallery. The red dots in the diagram correspond to juror locations.

¹⁸ Although the Court will provide disposable gloves, note that CDC advises: “For the general public, wearing gloves is not necessary in most situations, like running errands. CDC recommends wearing gloves when you are cleaning or caring for someone who is sick.” *When to Wear Gloves*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/gloves.html> (last updated July 16, 2020). Wearing gloves outside of cleaning or caring for someone who is sick “will not necessarily protect you from getting COVID-19 and may still lead to the spread of germs.” *Id.* “Practice everyday preventive actions like keeping social distance (at least 6 feet) from others, washing your hands with soap and water for 20 seconds (or using a hand sanitizer with at least 60% alcohol), and wearing a mask when you have to go out in public.” *Id.*

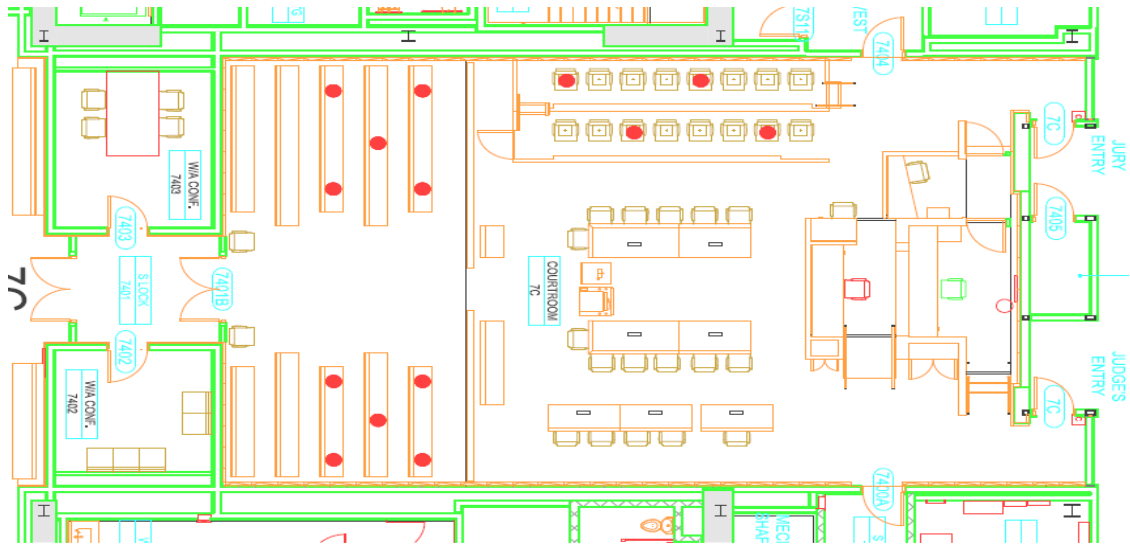


Diagram of a First Street Courthouse Courtroom – Option A

In the Option A courtroom layout, the witness will testify from the witness stand and counsel tables will be used in the typical manner. Counsel should be seated so that they are at least six feet from the lectern, if the lectern will be used by counsel.

Another option (“Option B”) would be to have all jurors seated in the gallery.

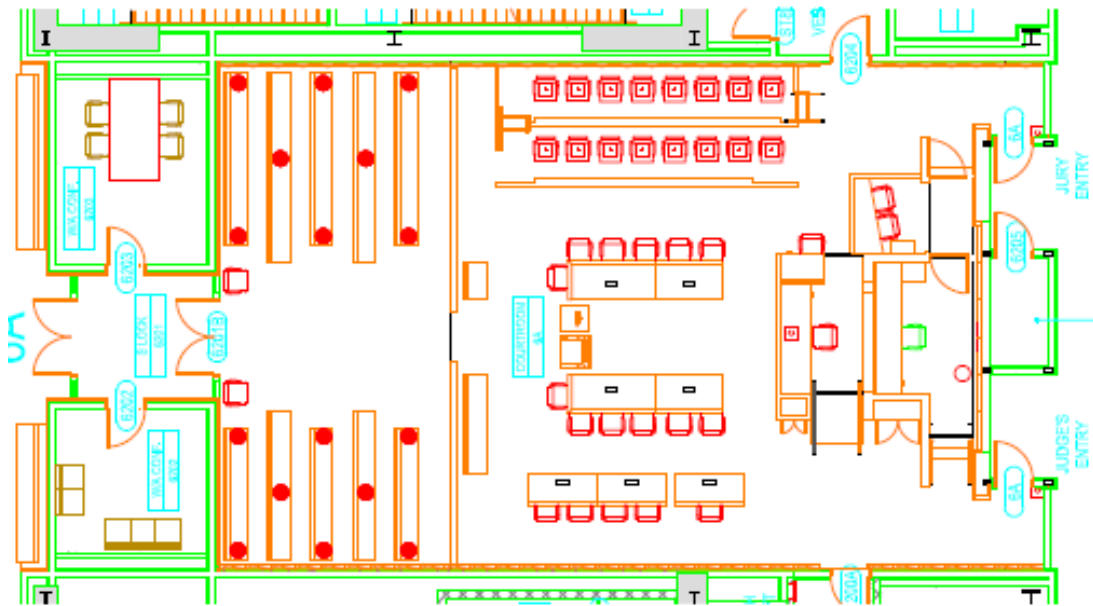


Diagram of a First Street Courthouse Courtroom – Option B

In the Option B courtroom layout, the witness could testify from a seat in the back row of the jury box or another location, such as the lectern while sitting on a higher chair.

Counsel at the table closest to the jury box may need to modify where they typically sit at counsel table to adapt to the new witness location.

Consider providing jurors with sight impairments preference for being seated in the jury box or the front of the gallery.

Judges should consult with counsel about how counsel should be seated to enable counsel to maintain appropriate physical distancing from each other, agents, clients, etc., if desired, and address any communication issues.

Judges should regularly inquire if the jurors can adequately see and hear the testimony and exhibits when a non-traditional courtroom layout is being utilized. For instance, consider admonishing the jury at the start of each day and when returning from every break as follows:

I want to remind the jurors to please raise your hand at any point if you are having trouble hearing anything that is being said, observing the witness, or viewing the evidence.

Additionally, judges should ensure that any non-traditional courtroom layout allows the witness to view the criminal defendant and vice versa.

D. Spectators

Because of the need to maintain appropriate physical distancing and the likelihood that jurors will be sitting in the gallery, spectators might not be able to observe the trial in the courtroom. A live video feed, however, may be set up in an overflow courtroom or similar space for spectators to view the trial remotely. Spectators will be required to maintain appropriate physical distancing in the remote location. The remote location will have physical distancing signage and demarcations to provide direction as to the appropriate places to sit.

Spectators should be admonished that they are not permitted to record or broadcast the proceeding. Care would have to be taken to shut down remote monitors in cases such as those involving child pornography.

E. Juror Notebooks and Pens

Jurors will be given plastic bags to hold their notebooks and pens during trial. At the end of trial, the notebooks and pens will be collected and will not be reused for a two-week period. After this two-week decontamination period, the notes will be removed from the notebooks and shredded, and then the notebooks and pens may be reused.

F. Breaks

An empty courtroom or similarly large space (the “designated area”) will be available for jurors during trial breaks, so that jurors can maintain appropriate physical distancing. Jurors should also report at the start of each trial day to the designated area.

Consider providing for extended breaks during trial because the need to maintain appropriate physical distancing will likely cause delays in traveling between locations and use of the restroom.

For trials not held on a shortened schedule, for juror meal breaks during trial before deliberations begin, consider either informing jurors ahead of time that they should bring their meal with them or issuing a partial sequestration order, which would allow the Court to provide meals for the semi-sequestered jurors. If jurors are instructed to bring their lunches with them, consider developing a plan that will enable jurors to use the refrigerator and microwave in the jury room. Disposable gloves and disinfectant wipes are available to be placed in the jury room to facilitate the jurors’ physically distanced use of the refrigerator and microwave.

G. Movement of Jurors

The process of moving jurors between the designated area and the trial courtroom must be done in a way to maintain appropriate physical distancing, including allowing only two jurors in an elevator at a time. The movement of jurors should be logged to the extent practicable in the event a juror develops COVID-19 symptoms during trial and contact tracing is necessary. Consider having the jurors log their own movements or keeping a general log that includes the location of the designated area, the location of the restrooms used by jurors, any other locations regularly visited by jurors, and the times of breaks during the trial.

Additionally, precautions should be taken to ensure that the movement of jurors is done in a manner that does not reveal the in-custody status of a defendant.

H. Sidebar Discussions

Sidebar discussions during trial should be avoided because of the inability to maintain appropriate physical distancing. Any necessary discussions should take place in the courtroom outside the presence of jurors or in another manner that allows appropriate physical distancing to be maintained.

I. Confidential Communications Between Counsel and Parties

Judges should consider modifications to typical trial procedures to accommodate counsel's need to confer with each other and their clients during trial while maintaining appropriate physical distancing. The Court's IT Staff is available to provide assistance and support to allow attorneys and clients to speak confidentially while in court.

J. Court Interpreting

The Court's IT staff is available to provide assistance and support to allow interpreters to interpret for the person in need of services while maintaining appropriate physical distancing. Plexiglass will also be available for interpreters at the law clerk table in the courtrooms. Counsel should advise the Court in advance if the defendant or any witnesses will need the assistance of an interpreter and the language for which interpretation is necessary.

K. Witnesses

Due to the need to maintain appropriate physical distancing, the witness rooms attached to courtrooms will likely be able to accommodate only one witness at a time. Hand sanitizer and disinfectant wipes should be placed in the witness room. Consider alternative spaces for additional witnesses while they wait to testify that are distinct from the spaces where jurors are permitted to wait.

If a witness is waiting in another area of the courthouse, consider having a plan in place for how counsel will contact that witness when it is time to testify.

Consider instructing the jurors sitting in the gallery to be sure no one else is able to view their notepads.

L. Witness Examination and Evidence Presentation

Hand sanitizer, disinfectant wipes, disposable gloves, and face shields will be available to be placed at the witness stand. After each witness testifies, the witness stand will be wiped down with disinfectant wipes and the microphone cover removed. A new microphone cover will be placed over the microphone before the next witness testifies. Consider having the witness wipe down the witness stand and remove the microphone cover. The judge, court staff, or next witness could then place a new cover over the microphone before the next witness testifies.

Consider allowing counsel to question witnesses from counsel table. To the extent possible, each attorney should speak from the same individual microphone for the duration of the trial. If a shared lectern is used by counsel, have counsel wipe down the

lectern between each use, as well as remove and replace the microphone cover between uses.

To the extent possible, all evidence should be presented electronically during trial. Jurors who are seated in the juror box will be able to view evidence presented electronically on their individual screens. For jurors seated in the gallery, two large screens will be made available so that jurors can view the electronically presented evidence on those screens. The screens should be positioned in the courtroom in a manner that allows jurors to view the evidence and witness simultaneously.

When it is necessary to present physical evidence, arrangements or agreements should be made in advance regarding how the evidence will be presented so that appropriate physical distancing can be maintained during the presentation of the physical evidence. Precautions should be taken to ensure the handling of the evidence is done safely. Hand sanitizer, disinfectant wipes, and disposable gloves will be available.

M. Opening Statement and Closing Argument

Counsel should present their opening statements and closing arguments from either counsel table or the lectern after taking the necessary precautions of wiping down the lectern and removing and replacing the microphone cover between uses.

N. If a Trial Participant Is Suspected of or Diagnosed with COVID-19, Or Learns That within the Last 14 Days He or She Was in Close Contact with Anyone Suspected of or Diagnosed with COVID-19

The Court has a Suspected or Confirmed COVID-19 Case Response Protocol (last updated March 17, 2021). This Protocol must be followed if there is a trial participant who is suspected of or diagnosed with COVID-19, or who, within the last 14 days, was in close contact with anyone suspected of or diagnosed with COVID-19. Pursuant to this Protocol, among other actions, the trial participant should be asked to leave the courthouse immediately (or instructed not to report to the courthouse), and Christina Johnson-Ohwotemu should be notified. Trial participants experiencing COVID-19 associated symptoms should **not** be referred to the Federal Occupational Health (“FOH”) clinic. FOH clinics are not equipped to evaluate, test, or treat suspected or confirmed COVID-19 cases.

If a trial participant is suspected of or diagnosed with COVID-19 during trial, or learns that within the last 14 days he or she was in close contact with anyone suspected of or diagnosed with COVID-19, the presiding judge should assess, in consultation with counsel: (1) whether the trial participant can continue to participate in the trial and, if so, in what manner to ensure the safety of the other trial participants; (2) if the trial

participant cannot continue to participate in the trial, whether the trial can proceed without the trial participant; and (3) whether the trial participant’s suspected or confirmed COVID-19 diagnosis or potential exposure to COVID-19 is cause for continuing the trial or declaring a mistrial because of the need for everyone involved in the trial to self-isolate/quarantine. Under the Court’s Protocol, individuals who were in close contact with the suspected or confirmed COVID-19 case should be asked to self-isolate/quarantine.

As noted above, CDC defines “close contact” as “[s]omeone who has been within 6 feet of an infected person (laboratory-confirmed or a clinically compatible illness) for a cumulative total of 15 minutes or more over a 24-hour period (*e.g., three individual 5-minute exposures for a total of 15 minutes*).”¹⁹ Additionally, someone infected with the virus that causes COVID-19 can spread the virus “starting from 2 days before they have any symptoms (or, for asymptomatic patients, 2 days before the positive specimen collection date), until they meet criteria for discontinuing home isolation.”²⁰

CDC advises that the following people need to quarantine:

People who have been in close contact with someone who has COVID-19—excluding people who have had COVID-19 within the past 3 months or who are fully vaccinated.²¹

CDC provides different factors to consider when determining whether someone who has had COVID-19 within the past 3 months or been fully vaccinated does not need to quarantine:

- People who have tested positive for COVID-19 within the past 3 months and recovered do not have to quarantine or get tested again as long as they do not develop new symptoms.
- People who develop symptoms again within 3 months of their first bout of COVID-19 may need to be tested again if there is no other cause identified for their symptoms.
- People who have been in close contact with someone who has COVID-19 are not required to quarantine if they have been fully vaccinated against the disease and show no symptoms.²²

¹⁹ *Appendix A – Glossary of Key Terms, supra* note 3 (emphasis in original).

²⁰ *Id.*

²¹ *When to Quarantine*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html> (last updated Mar. 12, 2021).

²² *Id.*

CDC also notes “[a] number of factors can influence COVID-19 exposure risk, including type, proximity, and duration of exposure, environmental factors (e.g., crowding), vaccination status, prior COVID-19 infection, and mask use.”²³ Additionally, because the types of masks used and whether they are used consistently and correctly varies, CDC advises that “mask use is not considered when determining COVID-19 exposure and the definition of a close contact during case investigation and contact tracing, regardless of whether the person diagnosed with and/or the person exposed to COVID-19 was wearing a mask.”²⁴

V. Deliberations

A. Location

Deliberations should occur in the designated area where juror breaks take place during trial or in the trial courtroom itself, so that jurors can practice physical distancing during deliberations. Hand sanitizer, disinfectant wipes, disposable gloves, disposable masks, and face shields should be in the designated deliberation area. Additionally, make sure to turn off any audio feeds from the courtroom during deliberations.

B. Exhibits

During deliberations, there are two options available for how jurors may view exhibits.

One option is to give paper exhibits to jurors. If this option is chosen, instruct counsel to place documents in plastic covers so that the documents may be wiped down between handling.

Alternatively, jurors may view evidence electronically during deliberations. Guidance concerning how jurors can view electronic evidence during deliberations will be provided at a later date.

C. Concluding Remarks to Jurors

At the conclusion of the trial, jurors and trial participants should be admonished to contact the courtroom deputy if, within the 14 days following the conclusion of the trial, they are suspected of or diagnosed with COVID-19, or learn that they had close contact with someone suspected of or diagnosed with COVID-19 during the time they were serving on the jury. If such information is received, jurors, trial participants, and others who were in close contact with the reporting individual should be notified without revealing the reporting person’s identity.

²³ *Appendix A – Glossary of Key Terms, supra* note 3.

²⁴ *Id.*

Consider including the following as part of post-discharge instructions to the jury:

Please notify the courtroom deputy if, within the next 14 days, you are suspected of having or are diagnosed with COVID-19, or learn that you had close contact with someone suspected of having or diagnosed with COVID-19. After we receive this information, if it is determined that you had close contact with any other jurors or trial participants, we will notify those persons to provide them with the information without revealing your identity.