



PLAN FOR RESUMPTION OF JURY TRIALS

This memorandum summarizes the plan for conducting jury trials in the Eastern District of New York during the ongoing pandemic. The protocols outlined herein are also largely applicable to all in-person hearings and conferences. When followed, these protocols will permit jury trials and other proceedings to be conducted in a manner designed to help protect the health and safety of jurors, litigants, attorneys, court staff and the public, and ensure a fair trial. This plan has been developed by a committee of district and magistrate judges, and reviewed by an expert epidemiologist retained by the Court.

Summoning Jurors and Jury Selection

1. Prospective jurors will be sent information in advance of their reporting date describing the required health and safety practices at the courthouse, which include mandatory wearing of face masks/coverings, social distancing, temperature and COVID-related screening upon entry to the courthouse, and frequent cleaning.
2. Prospective jurors will receive a Supplemental Screening Questionnaire providing an opportunity to request, in advance, deferral of their service for legitimate pandemic-related reasons.
3. At the discretion of the presiding judge, prospective jurors randomly selected to be called to the courthouse for a petit jury selection will receive a case-specific questionnaire prepared in advance by counsel and approved by the judge, which each juror will be asked to complete on the first day that they are called in for service. After completing the questionnaire, they will be sent home. Only those prospective jurors who are not excused on consent of counsel following review of the questionnaire will be called back to the courthouse for in-person *voir dire* based on answers provided in the questionnaire. The questionnaire is designed to minimize both time and the need for extended colloquy during jury selection.
4. Prospective jurors will be summoned to the courthouse at staggered arrival times on the day they are required to report, to allow for questioning in smaller, socially-distanced groups. As a result, parties should expect jury selection to take longer than usual.
5. No more than one jury selection may be held on any given day, to minimize the number of prospective jurors who come to the courthouse at one time. The Court has established an internal mechanism to allocate courtroom space and resolve conflicting schedules.

6. Upon entry to the courthouse, all prospective jurors will be required to follow the entry screening protocols, and adhere to all required health and safety practices, including wearing masks while in public space.
7. The jury assembly room, where prospective jurors report on the date they are summoned, has been reconfigured to allow social distancing and limited contact with Jury Administration staff. Movement of prospective jurors from the jury assembly room to the courtroom will be conducted in a manner that permits adequate distancing during relocation, including while in elevators.
8. Masks/face coverings must be worn during the course of the proceedings. Courtrooms have been configured and marked to allow adequate spacing. The number of people at counsel table will be limited. Because of the need to use the entire courtroom to allow adequate spacing for prospective jurors, an overflow courtroom will be available for observation of jury selection by the public and the press.
9. Jury selection itself will be conducted in multiple courtrooms, in smaller groups, with proper distancing among trial participants and prospective jurors. The introductory information about the nature of the charges, and key general instructions would be given to each small group, who would remain in the Central Jury room in their assigned seats. A separate courtroom or other appropriate space will be used for individual juror questioning, obviating the need for sidebars requiring close contact. Prospective jurors may be excused as jury selection progresses, or if not excused, they will be assigned a seat in a separate courtroom until both peremptory and cause challenges are exercised.
10. Space that allows for privacy and proper social distancing will be provided for parties to confer as needed. In the courtroom, a two-way phone system will allow private communication between counsel and defendant (and an interpreter where required).
11. Jurors not selected for a particular jury will be asked to return to the Central Jury room, and will be given instructions to guide the remainder of their jury service.

Jury Trials

1. Trial participants, jurors, court staff, and courthouse visitors will be required to follow the entry screening protocols daily, and adhere to all required health and safety practices, including wearing masks while in public space.
2. As with jury selection, the trial phase itself will also be conducted in multiple courtrooms to ensure sufficient space for distancing – one courtroom for trial participants; a second for the public to observe proceedings via video when necessary due to limited seating in the primary courtroom; and a third for use as a jury room during breaks and deliberations as current jury rooms are not large enough for proper distancing. Priority seating for family members of the defendant and crime victims and their families must be considered based on available space.

3. Trials will be conducted only in courtrooms that are large enough to ensure proper social distancing. Capacity to do multiple trials at the same time will be limited because of the need to use multiple courtrooms for each trial as noted above.
4. All courtrooms have markings to ensure proper distancing at counsel tables, in the well, and in the gallery.
5. Jurors will be assigned seats in the gallery. Witnesses will testify from the jury box. Video screens will be available for the display of evidence to both the witness and jurors through the Court's electronic evidence presentation system.
6. While testifying, witnesses will be permitted to remove their masks *only after* donning a face shield. Otherwise, masks must be worn by all participants at all times.
7. Attorneys will conduct questioning from their respective counsel table, or at a standing podium next to their counsel table. Attorneys must be prepared to display evidence from counsel table via laptop through the Court's electronic evidence presentation system. Use of hard copy documents should be avoided where possible. To the extent that hard copies are required, additional copies should be created, and readied for a witness before he or she is called to testify. Attorneys will *not* be permitted to approach the witness.
8. Sidebars as traditionally conducted cannot occur given distancing requirements. Counsel should be mindful to raise issues that must occur outside the jury's presence at the start of a trial session, or during breaks in the trial, when the jury is not in the courtroom. In some cases, alternate space may be available for sidebar discussions while the jury remains in the courtroom.
9. Interpreters will use the Court's electronic system to provide translation services for defendants and witnesses.
10. A two-way phone system will allow private communication between counsel and defendant (and an interpreter where required) during the course of the trial.
11. Microphone covers will be used for multi-use microphones, with the cover being removed by the user when he or she is finished, and the cover replaced by the next user or by court staff. Wipes, hand sanitizer, gloves, and masks will be available in all courtrooms. Cleaning of courtrooms will be conducted at the end of the trial day, and during the course of the trial day as appropriate.
12. Judges will ensure sufficient distancing by court staff, including court reporters and interpreters, courtroom deputies, law clerks, and interns.
13. Jury deliberations will occur in a separate courtroom, secured from public view and outside access, and configured and/or marked for proper distancing. The Court will provide a mechanism for review of the trial evidence during deliberations. Wipes, hand sanitizer, gloves and masks will be available as well.