

## **APPENDIX 8**

### **Plan for Resumption of Jury Trials**

The following steps will be taken to help ensure that jury selections and trials occur in the safest manner possible. The Court recognizes that public confidence will be undermined, and prospective jurors less likely to report for jury duty, if jury trials resume before all possible steps to ensure juror health and safety are in place. These steps will be adjusted as needed. The scheduling of criminal trials will take precedence over the civil trials and thus this plan focuses on criminal matters.

#### **1. LOCATIONS FOR TRIALS**

- a. All multi-defendant trials must take place in the Ceremonial Courtroom to provide for appropriate physical distancing for all trial participants and jurors. This means that only one multi-defendant trial may take place at a time in the courthouse.
- b. Given the number of multi-defendant trials to be scheduled, the Ceremonial Courtroom is likely not available to use for either jury selection or the trial of any single defendant case.
- c. Multi-defendant trials will run Monday-Thursday in the Ceremonial Courtroom, leaving Fridays for alternative uses.
- d. Trials in single defendant cases will be held in the presiding Judge's own courtroom, with public access primarily via video link to a second, borrowed courtroom and/or teleconference number since the jurors will be seated in designated appropriately physically distanced spaces in the gallery.

#### **2. LOCATIONS FOR JURY SELECTIONS**

- a. **Multi-Defendant Cases**: Jury selection will be in the Ceremonial Courtroom, with overflow prospective jurors waiting in the Jury Room.
- b. **Single Detained Defendant Cases**: Jury selection in a single detained defendant criminal case will generally be held in the presiding Judge's own courtroom with small groups of no more than 14 prospective jurors. Remaining jurors will wait in the jury room.
  - o To increase the number of prospective jurors asked collective voir dire questions simultaneously, a written questionnaire may be distributed in the jury room (which holds 50 socially distanced people) OR a second courtroom with a video link may be used.

- c. **Single NOT Detained Defendant Cases:** Use of the Jury Room for jury selections in criminal cases where the defendant is not detained is possible, at least for asking collective questions.

### 3. **SINGLE JURY SELECTION AT A TIME IN COURTHOUSE**

- a. The Jury Room may accommodate, with appropriate physical distancing, about 50 people. Consequently, only one criminal jury selection at a time can be held.
- b. Jury selections will be scheduled for one trial at a time on Mondays and Wednesdays to allow for 2-day jury selections.
- c. A master trial schedule will be maintained in the Clerk's Office to stagger jury selections so that no more than one selection occurs every two days.

### 4. **HEALTH AND SAFETY PROTOCOLS**

- a. All trial participants, including jurors, witnesses, parties, attorneys, and court staff, will be asked to conduct a daily self-health screening before coming to court and to use the temperature screening kiosk available at the entrance to the courthouse.
- b. Preferred access routes within the courthouse will be identified and communicated to trial participants.
- c. Courtrooms will be reconfigured in accordance with expert advice, *see* Appendix 2 (internal use only, not publicly available), and seats designated and marked in courtrooms. To ensure physical distancing of at least 6-feet, seating at each counsel table is limited to no more than 3 people. Jurors will be seated at designated spots in the gallery, which may accommodate a maximum of 14 people.
- d. Due to limited seating in courtrooms, presiding judges should determine how many observers each party plans to have attend and make necessary arrangements for an overflow courtroom and designated media room.
- e. Plexiglass barriers will be installed in front of witness boxes and other places as recommended.
- f. Jurors will be provided with an appropriate location to assemble, in a socially distant manner, during breaks in the trial.
- g. Jury deliberations will take place in grand jury rooms, which allow for appropriate physical spacing and privacy.
- h. Hand sanitizer dispensers will be placed at the entrance to the Jury Room and entrances to grand jury suites being used for petit jury deliberations.

- i. Capacity in restrooms will be limited to 50% (with signs) and jurors advised of hand hygiene protocols and to wear face coverings in restrooms.
- j. Instructions will be provided to jurors to report possible exposure to COVID-19 and symptoms immediately if feeling unwell and to leave the building.
- k. Judges and counsel should avoid bench conferences by holding legal discussions before, after or during breaks in trial. Bench conferences may also be held in jury rooms or by using a teleconference or other electronic communication method when possible.
- l. Trial participants will be provided with and asked to wear masks and, when possible, face shields.<sup>1</sup> A judge or witness sitting alone behind a plexiglass barrier may participate without a mask or face shield, as appropriate.
- m. Private communications between counsel and client will be facilitated by use of a non-smart telephone communications system supplied by the Court.
- n. Judges and Court staff will monitor and observe operation of this plan and make recommendations for adjustments as needed.

*(Updated as of August 10, 2020)*

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<sup>1</sup> The efficacy of face shields alone is subject to some debate. The Court-hired expert recommended that “cloth masks and/or full face shields . . . should be considered acceptable” personal protective equipment (“PPE”). See Appendix 2 at 3 (internal use only, not publicly available); see also Renée Bacher & Christina Ianzito, *Some Experts Say Face Shields Better Than Masks for Coronavirus Protection*, AARP (Jun. 15, 2020), [https://feeds.aarp.org/health/healthy-living/info-2020/shields-compared-to-masks.html?\\_amp=true](https://feeds.aarp.org/health/healthy-living/info-2020/shields-compared-to-masks.html?_amp=true). The CDC, however, currently advises that it “does not recommend use of face shields . . . as a substitute for cloth face coverings.” CENTERS FOR DISEASE CONTROL AND PREVENTION, *Considerations for Wearing Cloth Face Coverings*, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html> (last visited Aug. 10, 2020).