

APPENDIX 8

Plan for Resumption of Jury Trials During Period of November 9, 2020 to January 11, 2021

Pursuant to Standing Order No. 20-89, issued November 6, 2020, all civil and criminal petit jury selections and trials have been postponed until January 11, 2021, with limited exceptions. The only criminal jury trials authorized to proceed during the period from November 9, 2020 through January 11, 2021 are ones that (1) have a single defendant; (2) involve only a limited number of witnesses (none or very few of whom are civilians or who would need to travel from out of town); and (3) are anticipated to last less than two weeks, including jury selection. Only one trial will take place at a time in the courthouse.

The plan set forth below was developed in consultation with health and safety experts and with the input of experienced Court staff, the U.S. Attorney's Office and the Federal Public Defender. These steps are being taken to help ensure that jury selections and trials are resuming in the safest manner possible. These steps will be adjusted as needed.

1. JURY SELECTION

- a. Monday Schedule. Jury selections will be scheduled on Mondays, no more frequently than every two weeks to ensure that the prior trial has resolved with sufficient time for any extended jury deliberations.
- b. Health Screening. Prospective jurors will be screened with a four-question health checklist and have temperatures checked upon arrival at the courthouse on the day of jury selection.
- c. Masks Required. Prospective jurors and all other participants in the jury selection process are required to wear a face mask at all times. Prospective jurors will be provided with masks by the Court. Counsel and parties may be provided with clear facial masks as determined by the presiding Judge. In addition to face masks, clear face shields covering the full face may be worn over the face mask. Socially distant seating will be designated.
- d. Venire Panel. The Jury Office will direct an appropriate number of prospective jurors, randomly selected from among those qualified, to appear on the day of jury selection, as per regular practice. Upon arrival, and after completing and passing the health screening, prospective jurors

will be assigned to a designated courtroom or conference room to await further instructions. The presiding Judge will be given a panel sheet that lists the prospective jurors within each room in random order.

- e. Locations. During the jury selection process, prospective jurors initially will be seated in three or more courtrooms and/or conference rooms to ensure appropriate social distancing at all times. The presiding Judge and the parties will remain in the Ceremonial Courtroom. A member of the Court staff will be present in each room to facilitate the jury selection process by assisting and directing prospective jurors.
- f. Visual Capabilities. Video screens in each location will allow all prospective jurors to see the presiding Judge and trial participants in the Ceremonial Courtroom. Trial participants in the Ceremonial Courtroom will be able to see prospective jurors in the other rooms.
- g. Simultaneous General Questioning. The presiding Judge will ask general questions to the panel from the Ceremonial Courtroom using an internal video broadcasting system to address all prospective jurors simultaneously. Prospective jurors will be provided with paper and a pen for use during the general questioning by the presiding Judge. Prospective jurors should note the numbers of any questions for which they need to provide further information
- h. Individual Responses to Questioning. The presiding Judge will conduct individual follow-up questioning of prospective jurors in the Ceremonial Courtroom, and court staff will direct the movement of prospective jurors to and from the Ceremonial Courtroom in a manner that maintains social distancing at all times.
- i. Excused Prospective Jurors. Prospective jurors excused for cause following individual questioning will be dismissed and directed to leave the courthouse.
- j. Final Selection. Jurors who remain in the pool following individual questioning shall follow the directions of Court staff regarding where to sit. Once a sufficient number of prospective jurors have been qualified, the qualified venire panel will be given designated seating in the Ceremonial Courtroom for the final stages of jury selection, including the exercise of preemptory challenges.

2. TRIALS

- a. Location: All trials occurring before January 11, 2021 will take place in the Ceremonial Courtroom. As noted, only one trial will take place at a time in the courthouse. Additional courtrooms will be used during trials

to allow limited numbers of members of the public and media to observe trial proceedings via a video feed, as determined by the presiding Judge upon application from such visitors.

- b. Scheduling: In scheduling criminal trials, cases involving a detained defendant will be given preference over those with a defendant on pretrial release, with the length of pretrial detention a relevant factor in prioritizing such trials. A master trial schedule will be maintained in the Clerk's Office. Trials will take place on Mondays through Thursdays to ensure the availability of the Ceremonial Courtroom on Fridays for other proceedings, including naturalization ceremonies and grand jury impanelments.
- c. Requirements of Trial Participants:
 - i. 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.
 - ii. At the beginning of each trial day, the presiding Judge should remind all persons in the courtroom to notify the courtroom deputy clerk (or other designated Court staff) immediately if the person experiences symptoms consistent with COVID-19 or learns of exposure to an individual who has tested positive for the virus, with assurance that the person's identity will be kept confidential.
 - iii. All trial participants must wear face masks during trial proceedings except as directed by the presiding Judge, for example, for a brief in-court identification. Face shields may be worn over the face masks if desired. Jurors will be provided with facial masks by the Court. The defendant and any testifying witness may be required to wear a court-provided clear protective facial mask, which may also be provided to counsel and other trial participants.
 - iv. Attorneys and any assistants will remain at or near their assigned counsel table and podium throughout the trial, except as directed by the presiding Judge.
 - v. Judges and counsel should avoid bench conferences by holding legal discussions before, after or during breaks in trial. Bench conferences may also be held by using the court-provided private intercom system.
 - vi. Private communications between counsel and client will be facilitated by use of the court-provided private intercom system.

- d. Courtroom Safety Adaptations:
 - i. The Ceremonial Courtroom has been reconfigured in accordance with expert advice, *see* Appendix 2 (internal use only, not publicly available). Seats have been designated and marked. To ensure physical distancing of at least 6-feet, seating at each counsel table will be limited. Jurors and up to four alternate jurors will be seated at designated spots in the courtroom.
 - ii. Plexiglass barriers have been installed in front of the witness box and other places, pursuant to expert recommendations.
 - iii. Designated access routes within the courthouse and Ceremonial Courtroom will be identified and communicated to trial participants. For example, entrance to the Ceremonial Courtroom will be through the two double front doors and exiting will be through the side doors on either side of the courtroom.
 - iv. The air circulation within the Ceremonial Courtroom has been tested and approved and air filters have been enhanced.
- e. Jurors:
 - i. Jurors will be provided with an appropriate location to assemble before and during breaks in the trial, in a socially distant manner.
 - ii. Jury deliberations will take place in grand jury rooms or other courtrooms, so as to allow for appropriate physical spacing and privacy.
 - iii. Instructions will be provided to jurors to report to the courtroom deputy possible exposure to COVID-19 and/or any potential symptoms immediately.
- f. Additional Health and Safety Precautions: Hand sanitizer dispensers will be placed at the entrance to the Ceremonial Courtroom and other rooms used during trials. Capacity in restrooms throughout the courthouse is limited to 50% (with signs) and jurors will be advised of hand hygiene protocols and to wear face coverings in restrooms. Capacity in elevators is limited to two people. Enhanced cleaning protocols are in place throughout the courthouse.

- 3. **MODIFICATIONS TO PLAN:** Judges and Court staff will monitor and observe operation of this plan and make recommendations for adjustments as needed.

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