

REVISED JUNE 9, 2021
21st Judicial District
Riley & Clay Counties
Conducting Jury Trials
Under Pandemic Conditions

This document represents the court’s updated plan to conduct jury trials while prioritizing the safety of everyone participating in the judicial process. Updates to jury trial plans are no longer required to be approved by the Office of Judicial Administration. Nonetheless, we periodically consult with local public health officials to update protocols that will minimize the risks to all participants and spectators, including jurors, attorneys, witnesses, parties, members of the public, the press, and court employees.

Table of Contents

I.	Initial Considerations	3
II.	Discussion	5
A.	Communicating with Jurors.....	5
1.	..Develop a plan for communication with the public using social media, court website, or local news outlets.....	5
2.	Send a personalized COVID letter and insert with the jury summons	6
3.	Modify language in the juror summons to include COVID concerns.....	6
B.	Securing Adequate Jury Pools.....	6
1.	Review existing juror utilization rates and adjust summons accordingly.....	6
2.	Develop a plan for deferral or excusal of certain jurors.....	7
3.	Alternate juror considerations	7
4.	Peremptory strikes	7
5.	Reduced jury panels	8
6.	Health screening and self-monitoring	8
C.	Utilizing Pretrial Measures to Minimize Length of Juror Service.....	8
1.	Settlement conferences and mediations.....	8
2.	Encouraging stipulations	8
3.	Prioritizing jury trials	8
D.	Protecting Juror Health before the trial starts.....	9
1.	Space Preparation	9
2.	Jury trial courtrooms: Riley Clay.....	10
3.	Face coverings	10
4.	Arrival for jury service	10
5.	Staff interactions with jurors.....	11

- 6. Preparing the courtroom for jury selection and trial 11
- 7. Supreme Ct. Admin. Order 2020-PR-93..... 12
- E. Conducting a Fair Trial While Protecting Juror Safety 12
 - 1. General considerations for adequate physical distancing..... 12
 - 2. Juror considerations..... 12
 - 3. Selection/Seating..... 12
 - 4. Audio and Record Taking..... 13
 - 5. Court Interpreting..... 13
 - 6. Evidence presentation..... 13
 - 7. Sidebar 13
 - 8. Counsel..... 13
 - 9. Defendants in Criminal Cases 13
 - 10. Witnesses 13
 - 11. Breaks in Proceedings..... 14
 - 12. Deliberations 14
 - 13. Exit survey 14
 - 14. Virtual Proceedings.....14

I. Initial Considerations

Throughout the pandemic, the Kansas Supreme Court has issued multiple orders relating to the operations of courts. More recently, S.Ct Order PR 2021-48 sets minimum health standards, but otherwise largely places the responsibility and certain decision making with the Chief Judges in consultation with county health directors. For purposes of this updated plan, the 21st judicial district still refers to:

- Orders of the Kansas Supreme Court and Chief Justice;
- All COVID-19 Safety Directives of the Office of Judicial Administration;
- Any applicable order or guidance from local public health officials;
- Any orders issued by the Kansas Governor;
- All guidelines from <https://covid.ks.gov/ad-astra-a-plan-to-reopen-kansas>;
- Any applicable guidelines of the Occupational Safety and Health Administration; and
- Guidelines from the Kansas Department of Health and Environment.
- The State Ad Hoc Jury Task Force Report, released its recommendations on July 17, 2020.

Additionally, district courts were ordered to present a plan to OJA for approval that provides the following:

- A location that allows for social distancing where people can remain at least six feet apart;
- How and where sidebars will occur with social distancing;
- How exhibits will be handled between attorneys and court staff, and by jurors;
- A video stream of the proceedings for viewing by the public and others not physically present, if necessary;
- The handling of venire and jury from entry into the facility through discharge, including items such as:
 - Special social distancing requirement—both for the room in which the proceeding is being conducted and during recesses;
 - Assuring jurors' ability to hear and see witnesses and exhibits;
 - How food will be handled and delivered to jurors;
 - Where the jury will deliberate and how the jury will leave for and return from deliberation;
 - Procedures for potential jurors and jurors to report any of the situations that would require the individual to be denied access to the courthouse and actions for response by the court and parties; and
- A review of the procedures from the front door to jury rooms with court staff, attorneys, and county and facility personnel.

- ❖ Conduct jury trials while protecting the safety of participants;
- ❖ Summon juries while following safety directives;
- ❖ Explain the process to the public; and
- ❖ Execute other actions to help resume jury operations.

The district court considered the following items in conducting jury trials. The following items are included in the content of this plan.

COVID-19 Jury Trial Checklist

- Develop plan for communication with public using social media, court website, or local news outlet (consider Task Force video)
- Use pretrial conferences, settlement conferences, and mediation
- Consider virtual proceedings for part or all of civil trial
- Modify language in juror summons to include COVID concerns
- Send Task Force COVID letter and insert with juror summons
- Increase number of juror summons
- Develop plan for deferral or excusal of certain jurors
- Survey available spaces for jury selection and / or trial
- Determine the process for screening jurors
- Develop staging process for jurors to stagger arrival times and minimize interaction
- Ensure adequate signage about health and safety protocols is posted
- Create and implement protocols for heightened cleaning and sanitizing
- Create and implement mask protocols (comply with KSC administrative orders)
- Create and implement building / facility protocols for adequate physical distancing (Reconfigure space, limits on number of people in elevators, Plexiglass barriers)
- Develop protocols for trial participants to ensure adequate physical distancing (sidebars and attorney / client communication)
- Develop a plan for storage of juror personal items and pens / paper used for notes
- Develop a plan for juror breaks (identify specific restrooms and eating areas for use)
- Develop a plan for handling exhibits including photocopies and technology needed
- Develop a plan for interpreters, including adequate physical distancing

- Ensure public access through seating, live stream, or closed-circuit television
- Develop a plan for managing juror health concerns and safety non-compliance issues that arise during trial
- Address COVID and other procedural issues during jury orientation
- Examine small panels of 12 or less with adequate physical distancing
- Provide microphone and PA system for all participants
- Admonish jury during trial regarding masks and open court proceedings
- Use courtroom or other larger space for jury deliberations
- Collect and share data with OJA on any virtual proceedings

II. Discussion

The following considerations are based on the recommendations of local health officials and the Ad Hoc Jury Task Force. As such, all judges of the 21st Judicial District are expected to follow the plan contained herein. It is also recognized under the circumstances of any particular case or trial judges may need to exercise certain discretion as long as the health of participants is a foremost consideration.

After approval by the Supreme Court, the 21st judicial district resumed jury trials in the fall of 2020. The court used the time following the first trial to review the effectiveness of our plan and adjust processes accordingly. Furthermore, the Court considered further adjustments after all trials during this COVID-19 era. We will not initiate more than two jury trials at a time.

In Clay County we will be able to meet the requirements of the Supreme Court Order mandates in the existing courtroom with a few adjustments. In Riley County, due to limited size of our courtrooms adaptations are more challenging. Plexi-glass dividing jurors when physical distance cannot be maintained will be used in both counties. The County health departments have approved using these engineered structures.

We have made arrangements for an alternative jury trial selection venue in Riley County at the Wareham Opera House ("Wareham"). It is a performance and event venue located 100 feet east of the Riley County Courthouse. We have performed several site tours to evaluate and identify adaptations to make the Wareham to be Covid compliant. The facility has plenty of spaces to allow for confidential conversations between attorneys and their clients. RCPD has toured the site and will provide security. County I.T. staff has also toured the space and will be able provide the necessary internet and audio/visual technology to allow for the effective presentation of evidence.

A. Communicating with Jurors

1. Develop a plan for communication with the public using social media, court website, or local news outlets.

a. Local News Outlet Partnership

We have published our use of the alternative venue. Further inquiries will be directed to our Court Administrator.

b. Website Content

The court will provide information to the public on the court's website about steps being taken to create a safer environment in the courthouse. The court will also provide a link to the Kansas Courts video <https://www.kscourts.org/About-the-Courts/Court-Administration/Court-Initiatives/Ad-Hoc-Jury-Task-Force>. We plan to create our own educational video on the safety precautions we are taking during the pandemic.

The video will include a step-by-step walkthrough of the various stages of being a juror, including check-in procedures, jury selection, sitting through trial, deliberating, and coming and going from the courthouse. The video will identify all additional safety protocols that have been put in place in each step of the jury process.

The court provides a designated phone number and e-mail in our communication and on our website. Prospective jurors can use this contact information to ask specific questions related to the pandemic.

2. Send a personalized COVID letter and insert with the jury summons

As part of the summons, the court shall notify prospective jurors of existing safety protocols and what to expect upon arrival at the courthouse. If we ever have a trial where virtual jury selection can be utilized we will adopt a customized letter explaining that process.

3. Modify language in the juror summons to include COVID concerns

The court has adopted the model supplemental questionnaires from the Task Force report that include COVID and technology screening questions.

Jurors will be required to complete the Task Force's COVID-19 supplemental jury questionnaire that asks relevant medical questions. Per Supreme Court Rule 167, juror questionnaires are not a public record; the court will provide information to prospective jurors that any revealed health information will not be subject to public disclosure.

The court has about 1200 pre-screened jurors available for summons per quarter. Jurors will have the option to reply to the supplemental health questionnaires by postal mail, fax or email to the court.

Because the health supplemental questionnaires will be sent weeks prior to trial, the answers to the health questions may be outdated by the time the jurors report. Therefore, jurors will be asked to immediately contact the jury department should the information provided on the supplemental questionnaire change prior to the assigned summons date.

Additionally, on the day service begins, the court will ask prospective jurors whether any of the information provided in the questionnaire or supplemental questionnaire has changed.

B. Securing Adequate Jury Pools

1. Review existing juror utilization rates and adjust summons accordingly

Summons: Historically, the court relies on prior trials to determine the appropriate juror

summons rate under pre-pandemic conditions. We always planned on the “high side”, but under these conditions have determined juror summons need to increase by at least 25% over prior rates. The jury coordinator shall review the juror yield to consult with the presiding judge for adjusting the increased level of summons.

Follow-up: The Jury coordinator will begin issuing follow-up communication for any prospective juror that fails to return their supplemental health questionnaire.

2. Develop a plan for deferral or excusal of certain jurors

- a. The Task Force recommends liberally granting deferral requests where appropriate reasoning is provided. The court will determine whether an excusal or deferral is more sensible. A juror with a chronic high risk medical condition may be excused. A juror with a recent exposure may be deferred.
- b. The Task Force recommends courts consider fair cross section implications of utilizing blanket deferral policies. As such, excusals or deferrals shall be considered on an individual basis.
- c. The presiding judge or a designee will prescreen juror responses to the supplemental questionnaires when jurors have expressed an inability to serve.
- d. Judges are encouraged to defer jurors prior to coming into the courthouse and require others to appear for selection. In the review, judges will consider insufficient answers or failures to respond as a reason to proceed to summon that person for further inquiry.
- e. Judges may choose to utilize virtual jury summons sessions on requests for deferral. This may aid in reducing the number of persons unnecessarily entering the courthouse. This suggestion is supported by the panel that would like to have virtual jury selection to limit exposure to others.
- f. In the event that any trial lends itself to virtual jury selection or jury trial, the Task Force technology pre-screening questionnaire will be included in the summons.

3. Alternate juror considerations

Each division is asked to plan for the loss of a greater number of seated jurors during the pandemic due to illness or the need to care for sick family members. The Riley County Health Department is using a contact-tracing program. This may result in a juror being required to immediately self-quarantine after exposure to COVID-19. Judges shall take into consideration the possibility of losing jurors during trial when considering the number of alternate jurors to seat. During pre-trial, the court is encouraged to put on the record the plan for alternate jurors and contingencies for loss of jurors once the panel is sworn.

4. Peremptory strikes

Per statute, only through stipulation of parties may peremptory strikes be reduced. As advised by the Task Force, a Judge that gains this stipulation shall make a record informing parties that the refusal to stipulate will not result in any disadvantage in the case. Peremptory strikes shall be considered by the parties at the pretrial conference or in

advance of jury selection.

5. Reduced jury panels

Per statute, only through stipulation of parties may the size of a civil jury panel be reduced. As advised by the Task Force, the court is encouraged to seek smaller jury panels in civil cases.

6. Health screening and self-monitoring

Per Kansas Supreme Court Administrative Orders, all entrants to the courthouse are asked to self-screen for COVID symptoms in Clay County. In Riley County security will conduct the screening questions. At the time of check-in, each prospective juror will be asked about any changes to the same COVID-19 related supplemental questions as provided with the summons. Court security is trained and can conduct temperature screenings as needed.

C. Utilizing Pretrial Measures to Minimize Length of Juror Service

1. Settlement conferences and mediations

Although the court has attempted to triage cases during the pandemic, more than standard attempts will be made to resolve cases. Historically, settlement conferences have not been used in criminal cases in our district. While not mandatory, settlement conferences and mediations will remain available prior to jury trials. Criminal defendants should be advised on the record of their right to refuse to participate in a settlement conference and that this choice will not be held against the defendant or the State.

2. Encouraging stipulations

As noted by the Task Force, jury trials are most efficient when issues that can be raised are resolved on the record pretrial. The following recommendations of the Task Force apply to this court.

Parties should be encouraged to review K.S.A. 60-216(c) pertaining to matters to be considered at the pretrial conference, and Kansas Supreme Court Rule 140 pertaining to the final pretrial conference procedure.

In an effort to reduce the time spent in trial, courts are encouraged to be diligent during pretrial conferences to simplify the issues, determine the issues of law that may eliminate or affect the trial of issues of fact, and obtain admissions and stipulations to avoid unnecessary proof of an issue. Any modification of trial processes, such as reducing the number of jurors or peremptory strikes, should be resolved at the time of the pretrial hearing and be included in a pretrial order.

3. Prioritizing jury trials

Generally, the following priority is applied to jury trials:

- ❖ Criminal felony and misdemeanor cases, where the defendant is in custody;
- ❖ Criminal felony cases, where the defendant is not in custody;
- ❖ Criminal misdemeanor cases, where the defendant is not in custody; and
- ❖ Civil and any other jury trial cases.

However, certain circumstances (length of trial, venue, availability of counsel and witnesses), could lead to a lower priority trial being scheduled ahead of a higher priority case in certain scenarios. For example, at times it may be more sensible to schedule a six person misdemeanor jury trial or a civil trial with fewer peremptory challenges, rather than a lengthy off grid felony trial. This priority list does not preclude the ability of civil trials to move forward.

D. Protecting Juror Health before the trial starts

1. Space Preparation

Paths of Travel: Paths of juror travel from the entrance into the courthouse to rooms within the courthouse are clearly marked. Social distancing markers are placed throughout the courthouse, in and near restrooms, and by elevators. The elevator is limited to one person. Signs are posted encouraging the use of stairs as alternatives to elevators. County facilities staff are to continually spray and wipe down handrails and doorknobs used by anyone in the courthouse throughout the day. Jury selection conducted at the Wareham site, will use similar markings and signage will be installed.

Courtrooms: Extra seating has been removed in certain areas. A combination distancing and plexi-glass is being utilized in both Riley and Clay counties. The Wareham has excess space to accommodate six foot distancing.

Layouts: In Riley County the gallery can be used as a jury box. In Clay County the gallery is being used for jury selection.

Common areas: Juror amenities will be limited. The court will provide individual bottled water, notepads, pens, and other items as preferred by the prospective juror panel.

Restrooms: Signs limiting occupancy and requiring physical distance in the waiting line are used. Additional special signage regarding importance of proper hand washing is posted in all restrooms and nearby public spaces.

Cleaning: Staffing will conduct deep cleaning of all juror-occupied spaces after each session. Hand sanitizer and cleaning liquid is available throughout the courtroom and common areas.

2. Jury trial courtrooms:

- a. A mock jury trial was held in September, 2020 and subsequent trials have followed. Adjustments are made after trials to test the adequacy of social distancing, the ability to hear, sight lines, look for "blind spots" and to enhance safety and user experience before broad jury trial application.
- b. The Riley County Courtrooms received expensive new audio upgrades. Amplification will be better than ever if the courtrooms can be utilized.
- c. Jurors in Riley County will be spaced several feet apart and divided by plexi-glass in the gallery and /or the jury box. Jurors in Clay County will be divided by plexi-glass.
- d. Members of the media could be seated in the traditional jury box or gallery depending on the courtroom. If needed, video of the proceedings can be provided to another room of the courthouse. Livestreaming is available also.
- e. The remainder of the courtroom is arranged with an orientation mindful of the juror's seating.

3. Face coverings

S.Ct. Administrative Order 2021-PR-48 sets minimum standards for the use of face coverings in the courthouse and spaces. In June, 2021 the district issued administrative orders further governing face coverings.

Witnesses and defendants: The Task Force recommends that as a method to protect the safety of trial participants while also ensuring compliance with the Sixth Amendment Confrontation Clause, face shields or clear masks will be worn by witnesses and defendants. The Court has purchased and stockpiled clear masks. Plexi-glass barriers can also provide additional protection to witnesses if it is necessary for an attorney to approach the witness. They are movable and could be used at the theatre site also.

Adequate supply: Disposable face coverings shall be available for the use of jurors. However, court participants may bring their own face coverings subject to court approval. To prepare for jury trials, courts are asked to coordinate with court administration to ensure a sufficient supply of disposable face coverings are available. The extended use face coverings may result in the need to replace the covering throughout the day. As such, division should plan for and secure from the court administrator a back-up supply of disposable face coverings throughout the trial.

This court recognizes the risks involved in outside face coverings, including:

- a. Contaminated/un-sanitized face coverings brought into the courthouse. Jurors will be reminded each day of the importance of washing face coverings;
- b. Jurors failing or refusing to bring their own face covering. Jurors will be offered disposable face coverings. Individual divisions may determine appropriate steps for the refusal to comply with A2020-PR-090 and AO 20-13 which could lead to contempt; and
- c. Political statements or otherwise controversial or insightful personalized face coverings. Each division will make an ad hoc determination on the appropriateness of any message as would be determined for any other item of clothing worn in a courtroom.

4. Arrival for Jury Service

Signage: As required by Orders 2020-PR-48 and 76, appropriate signage is posted at the courthouse (and theatre site) entrance and throughout the courthouse about face coverings, social distancing, and hygiene. Directional signs and taped arrows are on the floor for proper distancing of jurors, attorneys, and members of the public waiting in the security line.

Check-in: Jurors will be greeted after security screening. The jury coordinator or designee will be present to check jurors in a physically distanced area. The Court will continue to explore implantation of an automated check-in system. Additional court personnel will be stationed to assist prospective jurors in finding their assigned seat in the courtroom or assembly area.

High touch surfaces: Facilities staff are too frequently clean high touch areas along the path of jurors.

Juror belongings: For the health of the jurors and the court staff, jurors will be instructed to keep their items separate from other jurors.

Voir dire panel size: Prior Supreme Court Mandate ¶9 limited the size of venire members. However, larger panels were allowed when physical distancing and/or plexi-glass are utilized. The Clay County Courthouse and the Wareham (or other alternative trial venues) provides adequate space to allow for physical distancing. The Clay County gallery has over 100 seats. Likewise, the Wareham provides abundant space. The Riley County Courtrooms do not have as much as much space, but are equipped with plexi-glass when spacing is not adequate. The presiding division and the jury coordinator will coordinate setting time slots. Time will be built in for cleaning in between panels.

5. Staff interactions with jurors.

- a. Jurors will be offered a digital copy of existing jury service documents and sent links to the court website. Paper copies of the juror handbook will be available, but jurors will be instructed not to share.
- b. Jurors will be instructed to self-report to the jury staff any symptoms they may have that morning before entering the courthouse.
- c. Staff will be trained to limit contact with jurors and documents that jurors have handled.
- d. Jurors will report directly to the division on subsequent trial days.
- e. Juror orientation will include a review of the steps the court is taking to increase juror safety and steps they must take for their enhanced safety.
- f. If meals are provided to jurors, they will be box lunches. Only pre-packaged food will be offered to jurors. Individual bottled water will be provided.

6. Preparing the courtroom for jury selection and trial.

- a. Local public health officials have been consulted about the courthouses. Alternative venues will be further reviewed by them.
- b. Riley County Courthouse courtrooms have limited space available after social distancing is applied. If adequate space is not available, the court will livestream the trial via YouTube. Clay County and the Wareham have adequate space and ability to safely seat members of the public.
- c. Even when social distancing is possible, clear dividers have been installed in appropriate places in the courtroom.
- d. Current courthouse audio-visual considerations:
 - i. Our court is able to publish electronic evidence and has used a large screen television monitor to ensure all jurors are able to view evidence as presented and speakers to hear all the testimony.
 - ii. The court worked with the IT department regarding the placement of microphones for, juror voir dire, court reporting, the viewing of electronic evidence, and remote presentation of proceedings.

- Sidebars: unless all involved are fully vaccinated

and masked bench conferences will be conducted outside the courtroom to allow for social distancing. At alternative sites, plexi-glass or adjoining rooms will be used to mitigate risks.

7. The venire panel and jurors are subject to screening upon entry. Signs are posted with court contact information if a person cannot pass the screening questions and protocol.

E. Conducting a Fair Trial While Protecting Juror Safety

1. General considerations for adequate physical distancing

The venire panel and jury seating will physically distanced and / or separated by plexi-glass. Signs, markings and layouts are all configured with physical distancing in mind. It's recognized this could impeded normal communications. The Supreme Court mandate allows the court to enter an order relaxing the physical distance between the client and attorney if they mutually agree. More so, if there is not an agreement, when break during the trial, the attorney or client can request to speak while physically distanced. Judges may ask the defendant whether they were able to speak to their attorney and place the answer on the record. As part of orientation, an initial jury instruction, and admonishments at breaks, jurors will be reminded physical distance, sanitize and wash hands regularly for 20 seconds. Court personnel will monitor lines and staging areas for physical distancing.

2. Juror considerations

The court is encouraged to be mindful of the temperature in the courtroom. Where possible, the thermostat may need to be lowered to compensate for the additional heat experienced by individuals while wearing face coverings. Each juror will be given a bag with items such as mini sanitizer, water bottle and if allowed to take notes by the judge, a pencil and notepad. If the juror brings items to court they can be stored in the bag under their seat. A note will also be included with a phone # and e-mail reminding a juror to stay home if they do not feel well or have COVID-19 symptoms. If a multi-day trial, the judge will also communicate this message to the jury. If anyone becomes aware of health concerns such as symptomatic jurors (or court participants) or safety non-compliance issues, it will be reported to the presiding judge. The presiding judge will likely need to keep their focus on the legalities of the case and should notify the court administrator who can assist and communicate to the Chief judge, bailiff, security, screening, and jury coordinator for a timely response and action. Thereafter, if there is an exposure, then others will be informed as needed.

3. Selection/Seating

Seats will be assigned for voir dire with court staff directing prospective jurors to the appropriate location. For individual voir dire, prospective jurors will remain in the courtroom in assigned seats, and individual interviews will occur in a separate location outside the courtroom such as chambers or the jury room. Middle row seating will be left vacant unless it is adequately distanced from other persons. Some seating has been removed from some courtrooms to accommodate physical distancing.

4. Audio and Record Taking

After each trial, the court reporter will provide an assessment so that any needed adjustments can be executed.

5. Court Interpreting

The use of remote interpretation by video shall be further considered. The court has clear face masks available for any in-person court hearing that assists in the ability to read lips. At this time no jury trials have been flagged as needing an interpreter.

6. Evidence presentation

The use of additional monitors shall be considered depending on the circumstances of the trial. Stipulations will be sought regarding three dimensional exhibits, such as KBI testing items. Gloves and sanitizer will be available.

The court continues to identify ways to present evidence digitally. Those technologies will continue to be tested and potentially implemented—with budget constraints considered—for use in jury trials.

7. Sidebar

At courthouses, sidebars may be conducted by court and counsel in adjoining chambers where physical distancing can occur. At an alternative venue, an adjoining room or plexi-glass in the courtroom will be used to separate counsel.

8. Counsel

When possible counsel may present evidence electronically, using a computer or document camera in order to avoid handing paper to the witness. Witnesses such as an officer or expert should be instructed to bring their own report and notes. If non-admitted documents are needed, for example to refresh the memory of a witness, then an extra copy should be made to avoid passing it back and forth. If it becomes necessary to exchange a document then sanitizer is to be used contemporaneously.

9. Defendants in Criminal Cases

The court will provide separate secure and adequate space for attorney-client conferences to be held outside the presence of others. Defense counsel will be asked to accept, on the record, the setup for the courtroom once the issues are briefed by the parties. During the final pretrial conference, the counsel shall address, on the record, any objections related to the courtroom layout, courtroom rules.

10. Witnesses

The court is authorized under Supreme Court Order PR-2020-54 to conduct remote testimony. During the pretrial conference, counsel should raise on the record to verify any witnesses that shall testify remotely with consent of the parties.

Seating: The witness stand is relocated six feet or more from other participants.

Admonition: If clear face coverings are used by witnesses, then the court is prepared to explain to jurors that the court has ordered the use of face coverings and therefore the jury shall not make a credibility determination about the witness based on compliance with an order of the court. Again, the court may allow the witness to remove their mask.

Confrontation Clause: If a witness is asked to make an identification during the trial, then permission may be granted by the presiding judge to remove a mask.

Witness stand sanitization: The witness stand, microphone, and chair shall be sanitized (Clorox wipes and/or ionization gun) between each witness.

11. Breaks in Proceedings

It is important for the court to be mindful of mask fatigue. With the use of face coverings, judges will monitor the need for additional breaks of case participants and jurors. During breaks, jurors will be in the custody of the bailiff or designated court personnel who will insure that physical distancing is occurring.

12. Deliberations

In-person deliberation will occur in the courtroom unless reduced jury size (misdemeanor) is conducive to the size of the jury room. The bailiff and court security will ensure juror deliberation remains confidential.

a. Notetaking/Questions

- i. Only the jury foreperson will write jury questions and complete the verdict form.
- ii. The court will ensure a large supply of single-use notebooks and pens on hand.
- iii. Jurors will be instructed to store their own notebooks and pens at the end of the trial day in the jury room in their designated space.

b. Lunch/snacks: If any food is provided, it will be boxed lunches and pre-packaged single-serve snacks for jurors.

c. The court will dispose of pens and juror notebooks after each trial.

13. Exit survey. The Court will consider developing an exit survey to gain feedback on improving the proceedings from the juror's perspective.

Drafts of the initial jury plan were distributed to various stakeholders for feedback (County attorney office, public defender office, all district judges, judges in other districts, court administrator, and the jury coordinator). The jury plan was approved by OJA and distributed to all court staff and the bar. This updated version has been provided to OJA also. It will be available to participants. This updated version will be e-mailed to members of the bar and available for future reference electronically by contacting the jury coordinator.

VIRTUAL JURY TRIALS PROCEEDINGS

Constitutional, statutory, and logistical hurdles present challenges to using to virtual proceedings for criminal and civil jury trials. Some divisions and parties may choose to conduct virtual jury proceedings in whole or in part. Even partial adoption of virtual proceedings may mitigate some risk for viral contagion. Pretrial conferences, motion hearings, jury selection, witness testimony, presentation of exhibits, opening statements, closing arguments, and jury deliberation could be conducted virtually, with the balance of trial conducted in-person with physical distancing and other precautions.