

## APPENDIX 8

### **Plan for Resumption of Jury Trials During March 15, 2021 – August 31, 2021**

Pursuant to Standing Order No. 20-93, issued December 17, 2020, all civil and criminal petit jury selections and trials were postponed until March 15, 2021. The plan set forth below is for the gradual resumption of jury trials beginning after March 15, 2021 and 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 resume in the safest manner possible and will be adjusted as needed.

#### **1. JURY SELECTION**

- a. Staggered Jury Selections. No more than one jury selection will take place in the courthouse on the same day.
- b. Health Screening. Prospective jurors will be screened with a short 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 at all times a face mask that comports with current safety guidance (*i.e.*, KN-94 mask or double-mask with more than two layers and nose wire). 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 should note 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 directed to check in with a member of the Jury Office for further instructions.
- j. Final Selection. After individual questioning, qualified prospective jurors in the venire panel will be directed by court staff to designated seating in the Ceremonial Courtroom for the final stages of jury selection, including the exercise of preemptory challenges.

## 2. TRIALS

- a. Location. During the period from March 15, 2021 through August 31, 2021, a maximum of three trials will be held in the courthouse at one time, with only a single trial on each of the 2<sup>nd</sup>, 4<sup>th</sup> and 6<sup>th</sup> floors of the courthouse. Additional courtrooms will be designated on each floor for supporting use during trials, including for jury deliberations and to allow limited numbers of members of the public and media to observe trial proceedings via a video feed at the discretion of the presiding Judge.
- b. Scheduling. Trials will be scheduled in accordance with a master trial schedule developed by the Court, giving priority to criminal trials with detained defendants and accounting for additional factors, including length of pretrial detention, numbers of witnesses from out of town, and previously set trial dates.
- 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. All jurors will be individually screened with a short health checklist and will have temperatures checked upon arrival at the courthouse each day.
  - iii. 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.

- iv. 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 face 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.
  - v. 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. In order to maintain social distancing requirements, each trial team may be asked to limit the number of people at counsel table. Additional members of a trial team will be able to view a video feed of the proceedings from another courtroom.
  - vi. 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.
  - vii. Private communications between counsel and client will be facilitated by use of the court-provided private intercom system.
- d. Courtroom Safety Adaptations:
- i. Trial courtrooms will be reconfigured in accordance with expert advice, *see* Appendix 2 (internal use only, not publicly available). Seats will be 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 witness boxes and other places, pursuant to expert recommendations.
  - iii. The seating assignments for trial participants and the placement of plexiglass barriers have been determined so as to optimize sight lines to the extent possible and consistent with health and safety protocols.
  - iv. Designated access routes within the courthouse will be identified and communicated to trial participants.
  - v. The air circulation within the designated trial courtrooms 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, the designated trial courtrooms, 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.

*(Issued: July 15, 2020; Updated: August 11, 2020; November 17, 2020; March 4, 2021)*