



United States District Court  
for the District of Columbia

Continuity of Operations Plan  
during the  
COVID-19 Pandemic

ISSUED: July 15, 2020

## Table of Contents

- I. Introduction
- II. Approach
- III. The Community Shutdown
- IV. Phased Restoration of Operations
  - a. Phase 1
  - b. Phase 2
  - c. Phase 3
  - d. Complete Restoration of Court Operations
- V. Appendices<sup>1</sup>
  - 1. Guidelines for Employees During Covid-19 Pandemic (*Internal Use Only*)
  - 2. Report of Court-Hired Expert and Courtroom Schematics (*Internal Use Only*)
  - 3. Standing Orders List
  - 4. Contact Tracing Protocol for Responding to A Confirmed COVID-19 Case Within The Courthouse
    - 4.1. D.D.C. Contact Tracing Form
  - 5. Protocol for Remote Hearings with Defendants Detained at DC Jail (*Internal Use Only*)
  - 6. Plan for Resumption of Grand Jury Proceedings
  - 7. Plan for Resumption of In-Person Court Proceedings
  - 8. Plan for Resumption of Jury Trials
  - 9. Options for Management of Chambers Operations (*Internal Use Only*)
  - 10. Plan for Remotely Onboarding Law Clerks (*Internal Use Only*)

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<sup>1</sup> Certain appendices are designated for internal use only by the Court and, consequently, are not made publicly available.

## **I. Introduction**

In March 2020, the Coronavirus Disease (COVID-19) global pandemic reached a critical stage in the United States. The Mayor of the District of Columbia declared a state of emergency in the District of Columbia on March 11, 2020, and on March 13, 2020, the President of the United States declared a national emergency under the National Emergencies Act, 50 U.S.C. §§ 1601, *et seq.*<sup>2</sup> On March 29, 2020, the Judicial Conference of the United States found that conditions due to the national emergency declaration would materially affect the functioning of the federal courts.<sup>3</sup>

This Court has taken a series of actions in response to the COVID-19 pandemic and the evolving guidance from public health and safety officials. The impact of the COVID-19 pandemic continues to fluctuate over time and by region, with decisions regarding court operations based on public health and safety guidance in combination with consideration of local and courthouse conditions and in consultation with multiple stakeholders.

This Court's Continuity of Operations Plan during the COVID-19 Pandemic (the Plan) parallels the phased approach taken by local, state and federal governments in planning for the resumption of regular activities within communities and normal business operations. The health and welfare of Court staff, employees of other agencies operating within the courthouse, jurors, witnesses, parties in cases before the Court, visitors, and the general public, is of paramount importance and guides our decision-making as the Court moves towards resumption of normal operations. At the same time, restrictions on court operations has implications for the rights of criminal defendants and other litigants that compel the need to restore normal operations as soon and as safely as possible.

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<sup>2</sup> *Mayor Bowser Declares Public Health Emergency*, OFFICE OF THE MAYOR OF THE DISTRICT OF COLUMBIA, <https://mayor.dc.gov/release/mayor-bowser-declares-public-health-emergency> (last visited July 15, 2020); *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, OFFICE OF THE PRESIDENT OF THE UNITED STATES, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/> (last visited July 15, 2020)

<sup>3</sup> Memorandum, dated March 29, 2020, from James C. Duff, Director of the Administrative Office of the United States Courts, *Re: Update on CARES Act Provisions for Criminal Proceedings*, at 1.; *see also* Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, 134 Stat. 281, Div. B, Title V, § 15002(b)(1)–(2).

## II. Approach

This Plan identifies and defines stages of court operations during the national recovery from the COVID-19 pandemic, beginning with the initial “community shutdown,” continuing through three graduated phases of restoration of operations, and ending with the complete resumption of regular court operations. This Plan also sets forth guidelines and expectations in each of these phases for Court employees, counsel and litigants with business before the Court, and visitors to the courthouse.

Progression through the phases outlined in this Plan requires regular inquiry into the following factors:

1. Facility Exposure Risk: Have there been any confirmed or suspected cases of COVID-19 within the courthouse community in the prior 14 days? If cases have occurred, have appropriate mitigation strategies been implemented, including notification of and consultation with the local health department, coordination with GSA regarding appropriate enhanced cleaning, and contact tracing?
2. Community Case Analysis: What is the trend in the number of COVID-19 cases and extent of community transmission of the virus, and the percentage of COVID-19 positive tests in the District of Columbia metropolitan area over the last 14 days?
3. Community Actions and Restrictions: What community restrictions have been imposed, eased, or re-implemented over the last 14 days by local and regional government authorities? What is the status of key elements of public and community infrastructure, including public transportation, schools and childcare facilities?
4. Court and Facility Readiness: Are all safeguards necessary to support the transition to a less restrictive phase in place within the courthouse, including any necessary physical modifications to courthouse spaces and staff education and training on new protocols?

Based upon consideration of the above factors and in consultation, as appropriate, with multiple stakeholders (including the Judges and unit heads of this Court, the Chief Judges of the U.S. Court of Appeals for the D.C. Circuit and local courts, the Circuit Executive's Office, the U.S. Marshals Service, the U.S. Attorney's Office for the District of Columbia, the Federal Public Defender for the District of Columbia, and the DC Office of the Attorney General), the Chief Judge will determine when this Court should transition between phases of this Plan. **Progression through the phases may not be one-directional. A return to a more restrictive phase may be necessary if conditions warrant.**

**This Plan will remain in effect until national suppression of the COVID-19 pandemic or development of an effective treatment or vaccination permits the full restoration of regular court operations.**

In developing this Plan, information from a number of sources has been considered, including the Federal Judiciary COVID-19 Recovery Guidelines<sup>4</sup> and other guidance from the Administrative Office of the Courts (AO); public health and safety guidance from the District of Columbia Government and Department of Health and other local and federal government sources; the White House's Guidelines for Opening up America Again,<sup>5</sup> and the report and recommendations of an infectious disease expert retained by this Court, *see* Appendix 2 (internal use only, not publicly available), among others.

### **III. The Community Shutdown**

The District of Columbia and the greater metropolitan area entered into a large-scale community shutdown in March 2020, following the local and national declarations of a state of emergency.<sup>6</sup> Those declarations were soon followed by

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<sup>4</sup> James C. Duff, *Updated Guidance Regarding Judiciary Response to COVID-19*, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, <http://jnet.ao.dcn/about-ao/directors-office/updated-guidance-re-judiciary-response-covid-19> (link accessible only on Court network).

<sup>5</sup> *Opening Up America Again*, OFFICE OF THE PRESIDENT OF THE UNITED STATES, <https://www.whitehouse.gov/openingamerica/> (last visited July 15, 2020).

<sup>6</sup> *Mayor Bowser Issues Stay-At-Home Order*, OFFICE OF THE MAYOR OF THE DISTRICT OF COLUMBIA, <https://mayor.dc.gov/release/mayor-bowser-issues-stay-home-order> (last visited July 15, 2020) (issuing stay-at-home order on March 30, 2020); *As COVID-19 Crisis Escalates in Capital Region, Governor Hogan Issues Stay at Home Order Effective Tonight*, OFFICE OF THE GOVERNOR OF MARYLAND, <https://governor.maryland.gov/2020/03/30/as-covid-19-crisis-escalates-in-capital-region-governor-hogan-issues-stay-at-home-order-effective-tonight/> (last visited July 15, 2020) (issuing stay-at-home order on March 30, 2020); *Governor Northam Issues Statewide Stay at Home Order*, OFFICE OF THE GOVERNOR OF VIRGINIA,

the closing of local businesses and public schools, “stay-at-home” orders across the greater metropolitan area, cancellations of public events, bans on mass gatherings, restrictions on mass transit, and other actions designed to slow the community transmission of COVID-19.

In response to the community shutdown, and in accordance with public health guidance, this Court took the following actions, beginning in mid-March, 2020:

### **1. Access to Courthouse**

- **RESTRICTED Access to Courthouse** limited to judges, court staff, visitors with official business and the media. Individuals diagnosed with, exposed to, or suffering symptoms consistent with COVID-19 were required to obtain permission from the Chief Judge to enter. (SO 20-8).<sup>7</sup>
- **REQUIRED Use of Facial Coverings or Masks** in common and public areas of courthouse. (SO 20-26).<sup>8</sup>
- **CANCELLATION of Public and Private Events** scheduled to take place in courthouse spaces, including the Ceremonial Courtroom, the Annex Atrium, the Cafeteria, the Historic Judges’ Dining Room, conference rooms, dining rooms and other spaces.

### **2. Clerk’s Office and Probation Office Operations**

- **Clerk’s Office** remained open for essential operations, with following modifications: public intake counters were closed but electronic filing

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<https://www.governor.virginia.gov/newsroom/all-releases/2020/march/headline-855702-en.html> (last visited July 15, 2020) (issuing stay-at-home order on March 30, 2020).

<sup>7</sup> This Court’s Standing Orders are denoted by “SO.” A list of the Standing Orders issued in connection with the COVID-19 pandemic is provided in Appendix 3, with links to the text of selected orders, which have been posted on the Court’s website.

<sup>8</sup> The efficacy of different types of facial coverings 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 (internal use only, not publicly available); see also Renée Bacher and Christina Lanzito, *Some Experts Say Face Shields Better Than Masks for Coronavirus Protection*, AARP (June 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 Centers for Disease Control (“CDC”) of the U.S. Department of Health and Human Services, however, currently “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#surgical-masks> (last visited July 15, 2020).

was available; drop box and emailing was made available for *pro se* litigants; special instructions were put in place for sealed filings; restitution payments were required to be made online; certificates of good standing were provided electronically. (SO 20-9, 20-19, 20-29).

- Probation Office remained open for essential operations, with probation officers encouraged to telework and off-site visits limited to supervisees in critical cases, utilizing audio and video conferencing as appropriate.

### 3. Court Employees

- Telework strongly encouraged for (1) all non-essential personnel, including law clerks and interns; and (2) all vulnerable individuals and those caring for vulnerable individuals.<sup>9</sup>
- Reasonable Accommodations made by supervisors for those employees relying on public transportation or having childcare or other concerns.
- Employee Guidelines developed to ensure safety of courthouse staff and visitors and staff advised to follow these guidelines. *See* Appendix 1 (internal use only, not publicly available).
- On-boarding New Employees performed remotely under HR-devised system, with background checks performed remotely without fingerprinting in accordance with AO guidance. *See* Appendix 8; *see also* *Coronavirus (COVID-19) Guidance: Human Resources and Benefits FAQs*, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, <http://jnet.ao.dcn/news-events/coronavirus-covid-19-guidance/coronavirus-covid-19-guidance-human-resources-and-benefits-faqs#onboarding-process-changes> (last visited July 15, 2020) (link accessible only on Court network).

### 4. In-Person Court Proceedings

- POSTPONED Civil and Criminal Jury Trials, in stages, through September 8, 2020, with Speedy Trial Act (“STA”), 18 U.S.C.

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<sup>9</sup> The CDC defines vulnerable individuals as those who are 65 years of age or older and individuals of any age with underlying medical conditions, particularly if not well controlled, including those who suffer from chronic lung disease, moderate to severe asthma, serious heart conditions, immune disorders, obesity, diabetes, and chronic kidney or liver disease. *People Who Are at Increased Risk for Severe Illness*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html> (last visited July 15, 2020).

§ 3161(h)(7)(A), exclusion for criminal trials. (SO 20-9, 20-19, 20-29, 20-62).

- POSTPONED Other In-Court Proceedings through August 17, 2020, with STA exclusion for criminal cases. Necessary proceedings held at discretion of presiding judge: (1) in civil cases, via audio/video conferencing; and (2) in criminal matters, via video conferencing or teleconferencing, if video conferencing is not reasonably available, with defendant's consent, after consultation with counsel, in accordance with appropriate authorizations, (SO 20-9, 20-19, 20-29, 20-62), or in person if urgent (20-62).<sup>10</sup>

##### **5. Video/Audio Conferencing of, and Public Access to, Court Proceedings**

- AUTHORIZED Video/Audio Conferencing for certain criminal and juvenile proceedings pursuant to the CARES Act, Judicial Conference findings and authorization, and standing orders. (SO 20-17, 20-54).
- AUTHORIZED Public Access for court proceedings conducted by video/audio conferencing, with individual public access teleconference lines established for each judge and public access numbers provided on the Court's website, pursuant to Judicial Conference approval of temporary exception to general ban on broadcasting from district courts in order to permit public and media access. (SO 20-20, 20-29).<sup>11</sup>

<sup>10</sup> The CARES Act authorizes the Chief Judge of the district court to authorize the use of video and teleconferencing, with the defendant's consent after consultation with counsel, for (1) ten enumerated criminal proceedings, and (2) felony pleas and sentencings, upon the presiding judge in a particular case finding "for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice." CARES Act, Div. B, Title V, § 15002(b)(1)-(2). This CARES Act authority was contingent on the Judicial Conference of the United States finding that emergency conditions due to the President's declaration of a national emergency, under the National Emergencies Act, 50 U.S.C. §§ 1601, *et seq.*, for COVID-19 "will materially affect the function" of the federal courts generally or a particular district court. The Judicial Conference made this requisite finding on March 29, 2020. Memorandum, dated March 29, 2020, from James C. Duff, Director of the Administrative Office of the United States Courts, *Re: Update on CARES Act Provisions for Criminal Proceedings*, at 1. The CARES Act authorization for use of video and teleconferencing for certain criminal proceedings ends at the earlier of (1) thirty days after the date on which the national emergency ends, or (2) when the Judicial Conference finds that the federal courts are no longer materially affected. CARES Act, Div. B, Title V, § 15002(a), (b)(5).

<sup>11</sup> Judicial Conference policy generally prohibits the broadcasting of proceedings in federal district courts, *see* JCUS-Sep 94, pp. 46-47; *Guide to Judiciary Policy*, Vol. 10, Ch. 4, and Federal Rule of Criminal Procedure 53 prohibits "the taking of photographs in the courtroom during judicial proceedings or the broadcasting of judicial proceedings from the courtroom." The Executive Committee of the Judicial Conference approved a temporary exception to the Judicial Conference policy to allow a judge to use teleconference technology to provide the public and media audio access to court proceedings while public access to federal courthouses is restricted due to COVID-19, in light of the CARES Act. *See* Memorandum, dated March 31, 2020, from James C. Duff, Director of the



- ESTABLISHED Video/Audio Conferencing Protocols for hearings with defendants detained at DC Jail. *See Appendix 5* (internal use only, not publicly available).

## **6. Grand Juries**

- SUSPENDED Grand Jury Sessions until week of June 29, 2020, with tolling of Speedy Trial Act time for indictment and requirement that D.C. United States Attorney's Office (DC-USAQ) file bi-weekly reports on all matters to which tolling provision applied. (SO 20-9, 20-19, 20-29, 20-62).
- CANCELLED Impanelments of new grand juries for May through September.
- EXTENDED Terms of all sitting grand juries by six months. (SO 20-23, 20-24, 20-25).

## **7. Court Ceremonies And Events**

- POSTPONED Naturalization Ceremonies, in stages, through August 17, 2020. (SO 20-9, 20-19, 20-29, 20-62).
- CANCELLED Attorney Admissions Ceremonies through September 7, 2020, with applications submitted electronically and approved on the papers. (SO 20-9, 20-19, 20-29).
- CANCELLED Public and Private Events in courthouse.

## **8. Administrative Matters**

- CJA Vouchers: Interim vouchers permitted in all pending matters. (SO 20-12).
- U.S Marshals Service (USMS) Process Service: Requirement of personal service suspended through June 15, 2020. (SO 20-18).
- Certain Statutory Deadlines for Administrative and Civil Judicial Asset Forfeiture: Blanket EXTENSION granted for 60 days. (SO 20-27).

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Administrative Office of the United States Courts, *Use of Teleconference Technology to Provide Public and Media Access to Court Proceedings* (relating to civil matters); Memorandum, dated April 2, 2020 from James C. Duff, Director of the Administrative Office of the United States Courts, *Guidance on the Use of Video and Teleconference Technology To Provide Access to the Public and the Press in Criminal Proceedings* (relating to criminal matters and cautioning that "traditional forms of 'broadcasting' court proceedings, such as livestreaming court hearings on the internet, would still be prohibited by Rule 53.")

- Information About Medical Status of Residents of DC Jail: DC Department of Corrections (DOC) ordered to provide information about COVID-19 test results to USMS; USMS to provide information to Court. (SO 20-30).

#### **9. Courthouse Facility:**

- Regular Cleaning protocols redefined to mandate the use of EPA-approved disinfectants. On request, cleaning in chambers and other private office areas allowed to be suspended to limit visitors.
- Enhanced Cleaning arranged for “high touch” surfaces (*e.g.*, elevator buttons, door handles and knobs, push bars, stair rails and restrooms).
- Hand sanitizer dispensers installed throughout building and disinfecting wipes and hand sanitizer distributed to judges, court staff and Court Security Officers (CSOs).
- Personal Protection Equipment (PPE) provided in form of face masks to visitors at courthouse entrances and face shields for court employees and courtroom participants, with supplies obtained by Circuit Executive and Clerk of Court.
- Signage and floor markers developed and installed throughout courthouse to provide reminders about social distancing, face masks and hygiene, including in elevators and other public or common areas; signs placed on public and private restroom doors indicating maximum capacity.
- “Enhanced screening” considered at courthouse entrance, coordinated with other courthouse tenants and USMS.
- Closure of courthouse facilities (*i.e.*, cafeteria, jury assembly areas).<sup>12</sup>

#### **10. Court Management Planning Steps**

- Appointment of Critical Missions Task Force comprised of three district court judges (Judges A.B. Jackson, Moss and McFadden), one magistrate judge (Magistrate Judge Harvey), and the Clerk of Court to consider impact of COVID-19 on jury trials and grand juries, identify issues to be addressed, and make recommendations to full Court.

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<sup>12</sup> The courthouse Fitness Center remained open with precautionary measures, pursuant to instructions from the Circuit Executive’s Office.

- Hiring Infectious Disease Expert to provide a report and recommendations regarding implementing public health and safety guidance within the courthouse and courtroom settings, particularly for trials and grand juries. See Appendix 2 (internal use only, not publicly available).
- Grand Jury Session Resumption Plan, including written and electronic communications to regular and alternate grand jurors, re-location of sessions within courthouse and coordination with D.C. U.S. Attorney's Office.
- Ensuring Adequate PPE Supplies for court staff and visitors as access restrictions eased.
- Ensuring Plexiglass Barriers are in place in courthouse, Clerk's Office and chambers for safeguarding staff as access restrictions are eased.
- In-House Contact Tracers Appointed and Trained from various court units.

#### **IV. Phased Restoration of Operations**

Following approximately ten weeks of large-scale community restrictions, the District of Columbia and neighboring jurisdictions began the process of easing restrictions on community and business operations. On May 29, 2020, the District of Columbia entered its first phase of reopening, which lifted the “stay-at-home” order and allowed limited retail operations, outdoor dining, and the reopening of parks and recreation centers, and continued to require six-foot physical distancing from people not in the same household and use of face coverings in public settings, especially where social distancing is difficult to maintain, and to prohibit gatherings of more than 10 people.<sup>13</sup>

#### **PHASE ONE**

This Court slowly transitioned into its Phase One starting in mid-June, upon review and analysis of the community case trends, local and regional community

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<sup>13</sup> Mayor's Order 2020-067, *Phase One of Washington, DC Reopening* (May 27, 2020), available at: [https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/MO2020-067.pdf](https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/MO2020-067.pdf), and further information at: *Phase One*, OFFICE OF THE MAYOR OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/phaseone> (last visited July 15, 2020).

actions and eased restrictions, and the readiness within the courthouse to conduct additional limited operations safely.

Expectations during Phase One:

1. **Access to Courthouse**: restrictions remain in place.
2. **Clerk's Office and Probation Office Operations**:
  - Clerk's Office: operations remain limited.
  - Probation Office: operations remain limited, with limited off-site visits to supervisees in critical cases.
3. **Court Employees**
  - Telework continues to be strongly encouraged for all non-essential personnel, including law clerks and interns, and all vulnerable individuals and those caring for vulnerable individuals should continue to telework.
  - Reasonable Accommodations will continue to be made by supervisors for those employees relying on public transportation or having childcare or other concerns.
  - Remote on-boarding of new employees continues.
  - Employee Guidelines continue to be followed. *See Appendix 1 (internal use only, not publicly available).*
  - In-Person Meetings limited to no more than 10 employees, who are expected to maintain appropriate physical distancing and to wear face masks.
  - In-House Contact Tracers identified and trained.
4. **In-Person Court Proceedings**
  - Civil and Criminal Jury Trials REMAIN SUSPENDED
  - Other In-Person Court Proceedings REMAIN SUSPENDED, unless urgent (*e.g.*, classified or grand jury matters). Precautions to be followed identified in *Plan for Resumption of In-Person Court Proceedings*. *See Appendix 7.*

## **5. Video/Audio Conferencing of Court Proceedings**

- Certain Criminal and Juvenile Proceedings: AUTHORIZATION CONTINUES for use of video and audio conferencing, so long as CARES Act and Judicial Conference authorizations remain in place.
- Civil Proceedings: CONTINUES, no special authorization required, but subject to Federal Rule of Civil Procedure 43(a).
- Public Access Lines: AUTHORIZATION CONTINUES so long as CARES Act and Judicial Conference authorizations remain in place.

## **6. Grand Jury:**

- Sessions: RESUMED, after three-month suspension, as of June 30, 2020, due to critical need expressed by DC-USAO, with appropriate precautions in place. *See* Appendix 6.
- Impanelments: None.
- Remote Indictment Returns protocol developed, in accordance with Federal Rule of Criminal Procedure 6(f) (authorizing, “[t]o avoid unnecessary cost or delay, the magistrate judge [to] take the return by video teleconference from the court where the grand jury sits”).

## **7. Courthouse Ceremonies**

- Naturalization Ceremonies: REMAIN POSTPONED through August 17, 2020 (SO 20-9, 20-19, 20-29)
- Attorney Admissions Ceremonies: REMAIN CANCELLED through September 7, 2020, with applications processed and approved on the papers (SO 20-9, 20-19, 20-29)

## **8. Administrative Orders**

- CJA Vouchers: Interim vouchers continue to be permitted in all pending matters. (SO 20-12).
- USMS Process Service: Requirement of personal service resumed June 15, 2020.
- Certain Statutory Deadlines for Administrative and Civil Judicial Asset Forfeiture: Blanket EXTENSION of 60 days. (SO 20-27).
- Information About Medical Status of Residents of DC Jail: DC DOC ordered to provide information about COVID-19 test results to USMS; USMS to provide information to Court. (SO 20-30).

**9. Courthouse Facility:**

- Restrictions and precautions CONTINUE.

**10. Court Management Planning Steps**

- Plans for resumption of in-court proceedings and trials, including readiness of physical spaces, is finalized.
- Public health guidance continues to be monitored regularly.
- Guidance being given to other agencies in courthouse reviewed.
- COVID-19 related orders are reviewed, renewed and updated as needed.
- Training of court employees to serve as contact tracers.
- Development of response protocol in event of active or possible COVID-19 case in courthouse

**PHASE TWO**

On June 22, 2020, the District of Columbia entered its second phase of reopening, which further eased restrictions on retail and other establishments, but continued to require six-foot physical distancing and use of face coverings in public spaces, and to prohibit gatherings of more than 50 people. This Court will only enter its **Phase Two** when, at a minimum, the District of Columbia has been in its second phase for at least 14 days, without evidence of a local resurgence in COVID-19 cases. In addition, the Court must be satisfied, pursuant to the considerations outlined above, that any risks posed by any COVID-19 cases occurring within the courthouse have been completely mitigated; that the overall case trends and the state of community restrictions within the DC metropolitan area support further easing of restrictions by the Court; and that the Court is ready with all necessary safeguards in place to support safely the activities detailed below.

**Expectations During Phase Two:**

1. **Access to Courthouse:** RESTRICTIONS REVIEWED and possibly adjusted, after consultation with Chief Judge of D.C. Circuit and Circuit Executive.

## **2. Clerk's Office and Probation Office Operations:**

- Clerk's Office: OPERATIONS may REMAIN LIMITED, but the number of essential personnel needed to support operations on site increased incrementally.
- Probation Office: On-site personnel at courthouse may increase; off-site visits to supervisees as deemed necessary.

## **3. Court Employees**

- Telework will continue to be encouraged, in consultation with supervisors, particularly for vulnerable individuals and those caring for vulnerable individuals.
- Reasonable Accommodations will continue to be made by supervisors for employees who need to rely on public transportation or who have childcare or other concerns.
- In-Person Meetings limited to minimum necessary but in no case more than 50 employees. All in-person meetings must take place in a room sufficiently large for employees to maintain a minimum of six feet of physical separation from each other. Employees are expected to wear face masks.
- Employee Guidelines should continue to be followed. *See Appendix 1 (internal use only, not publicly available).*

## **4. In-Person Court Proceedings**

- Civil and Criminal Jury Trials: REMAIN SUSPENDED, with exception of any urgent criminal trials that must occur to avoid constitutional or Speedy Trial Act violations.
- Other In-Person Court Proceedings: PERMITTED IF NECESSARY, as determined by presiding Judge, but only with precautions in place *See Appendix 7.*
- Video and audio teleconferencing should continue to be used to the greatest extent possible, so long as CARES Act and Judicial Conference authorizations remain in place.

**5. Video/Audio Conferencing of Court Proceedings**

- Certain Criminal and Juvenile Proceedings: AUTHORIZATION CONTINUES so long as CARES Act and Judicial Conference authorizations remain in place.
- Civil Proceedings: CONTINUES, no special authorization required, but subject to Federal Rule of Civil Procedure 43(a).
- Public Access lines: AUTHORIZATION CONTINUES so long as CARES Act and Judicial Conference authorizations remain in place.

**6. Grand Jury**

- Sessions: RESUME BUT LIMITED TO ONE SESSION PER WEEK PER GRAND JURY, with appropriate precautions in place. See Appendix 6.
- Impanelments: None.
- Remote Indictment Returns: CONTINUE.

**7. Courthouse Ceremonies**

- Naturalization Ceremonies: REMAIN POSTPONED.
- Attorney Admissions Ceremonies REMAIN CANCELLED, with applications processed electronically and approved on the papers.

**8. Administrative Orders**

- CJA Vouchers: Interim vouchers continue to be permitted in all pending matters.
- Certain Statutory Deadlines for Administrative and Civil Judicial Asset Forfeiture: Blanket EXTENSION of 60 days. (SO 20-27).
- Information About Medical Status of Residents of DC Jail: DC DOC continues to provide information about COVID-19 test results to USMS; USMS continues to provide information to Court. (SO 20-30).

**9. Courthouse Facility**

- Cafeteria may resume limited operations with physical distancing and other safety protocols in place.
- Other precautions remain in place, including continuation of enhanced cleaning, especially of high touch surfaces. Requirements of masks and social distancing continue.



## **10. Court Management Planning Steps**

- Continue planning for increased resumption of in-person proceedings and jury trials, adjusting plans as needed.
- Finalize plans for selecting juries and monitor jury data to ensure a fair cross section for venire panels.

## **PHASE THREE**

The District of Columbia had not entered its third phase as of July 15, 2020, and had not issued a projected date for that phase, when gatherings of up to 250 people may be allowed, and teleworking would be “encouraged” rather than “strongly recommended.”<sup>14</sup> This Court will only enter its **Phase Three** when, at a minimum, the District of Columbia has been in its third phase for at least 14 days, without evidence of a local resurgence in COVID-19 cases. In addition, the Court must be satisfied, pursuant to the considerations outlined above, that any risks posed by any COVID-19 cases occurring within the courthouse have been completely mitigated; that the overall case trends and the state of community restrictions within the DC metropolitan area support further easing of restrictions by the Court; and that the Court is ready with all necessary safeguards in place to support safely the activities detailed below.

Expectations during Phase Three:

1. **Access to Courthouse:** RESTRICTIONS will be REVIEWED and ADJUSTED, after consultation with Chief Judge of D.C. Circuit and Circuit Executive.
2. **Clerk’s Office/Court & Probation Office Operations:** RESUME full operations.
3. **Court Employees:**
  - Telework may be encouraged and permitted. Vulnerable individuals and those caring for vulnerable individuals may return to work but

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<sup>14</sup> *ReOpen DC*, OFFICE OF THE MAYOR OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/reopendc> (last visited July 15, 2020)

should take precautions including physical distancing, wearing face coverings, frequent hand-washing and cleansing of spaces used, etc.

- Reasonable Accommodations may continue to be made by supervisors for employees who need to rely on public transportation or who have childcare or other concerns.
- Employee Guidelines should continue to be followed, with employees encouraged to minimize time spent in crowded environments. *See Appendix 1 (internal use only, not publicly available).*

#### **4. In-Person Court Proceedings**

- Civil and Criminal Jury Trials MAY RESUME with all appropriate precautions in place. *See Appendix 8.*
- Other In-Person Court Proceedings MAY RESUME but only with precautions in place. *See Appendix 7.*

#### **5. Video and Audio Conferencing**

- Certain Criminal and Juvenile Proceedings: AUTHORIZATION CONTINUES, so long as CARES Act and Judicial Conference authorizations remain in place.
- Civil Proceedings: CONTINUES, no special authorization required but subject to Federal Rule of Civil Procedure 43(a).
- Public Access lines: AUTHORIZATION CONTINUES, so long as CARES Act and Judicial Conference authorizations remain in place.

#### **6. Grand Jury Sessions**

- Sessions: CONTINUE with precautions.
- Impanelments: may RESUME with appropriate public health and safety precautions.
- Indictment Returns: may RESUME IN PERSON.

#### **7. Courthouse Ceremonies**

- Naturalization Ceremonies: may RESUME in accordance with public health and safety guidelines.
- Attorney Admissions Ceremonies: may RESUME in accordance with public health and safety guidelines.

## **8. Administrative Requirements**

- CJA Vouchers: Interim vouchers may continue to be permitted in all pending matters. (SO 20-12).
- Certain Statutory Deadlines for Administrative and Civil Judicial Asset Forfeiture: extension is ended.
- Information About Medical Status of Residents of DC Jail: DC DOC reporting continues.

## **9. Courthouse Facility**

- Possible termination of “enhanced screening” at doors to courthouse, after consultation with Chief Judge of D.C. Circuit and Circuit Executive.
- Large venues and common areas (e.g., cafeteria) may operate with limited protocols, including physical distancing.
- Modifications to physical spaces, including courtrooms, remain in place, in accordance with public health and safety guidelines and recommendations of infectious disease expert.

## **Complete Restoration of Court Operations**

The Court will only move to a complete restoration of full and unrestricted court operations upon on a successful review of the relevant factors and a public health announcement that COVID-19 has been suppressed within the United States and/or an effective treatment or vaccine is available.

## **APPENDICES TO COOP PLAN FOR THE DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

1. Guidelines for Employees During Covid-19 Pandemic (*Internal Use Only*)
2. Report of Court-Hired Expert and Courtroom Schematics (*Internal Use Only*)
3. Standing Orders List
4. Contact Tracing Protocol for Responding to A Confirmed COVID-19 Case Within The Courthouse
  - 4.1. D.D.C. Contact Tracing Form
5. Protocol for Remote Hearings with Defendants Detained at DC Jail (*Internal Use Only*)
6. Plan for Resumption of Grand Jury Proceedings
7. Plan for Resumption of In-Person Court Proceedings
8. Plan for Resumption of Jury Trials
9. Options for Management of Chambers Operations (*Internal Use Only*)
10. Plan for Remotely Onboarding Law Clerks (*Internal Use Only*)

**APPENDIX 1**

**Guidelines for Court Employees  
During COVID-19 Pandemic**

*(Internal Use Only, Not Publicly Available)*

**APPENDIX 2**

**Report of Court-Hired Expert**

**&**

**Courtroom Schematics**

*(Internal Use Only, Not Publicly Available)*

## APPENDIX 3

### **Standing Orders Issued During COVID-19 Pandemic**

Standing orders issued by Chief Judge Beryl A. Howell are listed below. Selected standing orders may be found on the Court's website at the following link:

<https://www.dcd.uscourts.gov/coronavirus-covid-19-response-information-and-announcements>.

1. *In Re Restrictions on Courthouse Visitors*, Standing Order No. 20-8 (BAH), March 13, 2020
2. *In Re Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-9 (BAH), March 16, 2020
3. *In Re Interim Vouchers for Payments Under the Criminal Justice Act in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-12 (BAH), March 23, 2020
4. *In Re Use of Video Teleconferencing and Teleconferencing for Certain Criminal and Juvenile Delinquency Proceedings*, Standing Order No. 20-17 (BAH), March 29, 2020
5. *In Re Suspension of Process Service by U.S. Marshals Service in District of Columbia Due to Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-18 (BAH), March 31, 2020
6. *In Re Extension of Postponed Court Proceedings in Standing Order 20-9 and Limiting Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-19 (BAH), April 2, 2020
7. *In Re Public and Media Access to Judicial Proceedings During COVID-19 Pandemic*, Standing Order No. 20-20 (BAH), April 8, 2020
8. *In the Matter of Grand Jury 19-1 Extension*, Standing Order No. 20-23 (BAH), April 10, 2020
9. *In the Matter of Grand Jury 19-5 Extension*, Standing Order No. 20-24 (BAH), April 10, 2020
10. *In the Matter of Grand Jury 20-1 Extension*, Standing Order No. 20-25 (BAH), April 10, 2020
11. *In Re Use of Face Coverings or Masks in Public Areas of the E. Barrett Prettyman Courthouse and the William B. Bryant Annex During COVID-19 Pandemic*, Standing Order No. 20-26 (BAH), April 27, 2020
12. *In Re Matter of Certain Administrative and Civil Forfeiture Proceedings*, Standing Order No. 20-27 (BAH), May 5, 2020

13. *In Re Further Extension of Postponed Court Proceedings in Standing Order 20-9 and Limiting Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order 20-29 (BAH), May 26, 2020
14. *In Re Reporting to the U.S. Marshals Service of COVID-19 Status of Defendants Detained Per Order of this Court and Housed in the D.C. Department of Corrections*, Standing Order No. 20-30 (BAH), May 28, 2020
15. *In Re First Extension of Authorization for Use of Video Teleconferencing and Teleconferencing for Certain Criminal and Juvenile Delinquency Proceedings*, Standing Order No. 20-54 (BAH), June 26, 2020
16. *In Re Partial Sequestration of Grand Juries 19-1, 19-5 and 20-1 for Purposes of Providing Lunch and [to] Minimize Risk of Exposure to and Community Transmission of COVID-19*, Standing Order 20-55 (BAH), June 30, 2020
17. *In Re Third Further Extension of Postponed Court Proceedings Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic*, Standing Order No. 20-62 (BAH), July 9, 2020

*(Updated July 15, 2020)*



## **APPENDIX 4**

### **Contact Tracing Protocol for Responding to a Confirmed COVID-19 Case in the Courthouse**

The following protocol will be implemented in response to a reported case of an employee or other individual testing positive for COVID-19 being physically present in the courthouse.

In implementing this protocol, the Court will protect the privacy of, and neither retain nor divulge medical information about, an individual except as required by the DC Department of Health and to enable the Court's contact tracers to perform their public safety task. In addition, the steps in this protocol will be tailored to meet the specific set of facts relating to each instance of a reported positive COVID-19 test.

- An employee who receives a positive COVID-19 test result should notify the Clerk of Court immediately and provide as much information as known (*e.g.*, when was the positive test received, when was the employee last at the courthouse, where was the employee in the courthouse, with whom did the employee physically interact in the courthouse). The employee may be asked to complete a tracing form (the AO Contact Tracing Template, adopted by the Court, is available here and is attached as Appendix 4.1) and/or provide a copy of their relevant daily tracing logs. If the employee is in the courthouse, he or she should immediately isolate and prepare to leave the building.
- Upon notice that an employee or any other person in the courthouse has received a positive test result, the Clerk of Court will provide the pertinent information to an in-house contact tracer designated by the Clerk of Court to take the lead in addressing the matter and also notify the Chief Judge that a contact tracing matter has been initiated.
- If the employee or other individual with the positive test is still in the courthouse, a contact tracer will locate and assist the employee or other individual in departing without further interaction with others. As a reminder, any employee who learns that he or she has been in contact with a person who has tested positive for COVID-19 should not be in the courthouse for at least 14 days from the date of that contact, even if that employee or the person testing positive is asymptomatic, unless the employee tests negative for COVID-19

five days after the contact. *See* Appendix 1 (internal use only, not publicly available).

- The assigned contact tracer will reach out to the DC Department of Health to alert the agency of a positive COVID-19 test in the courthouse.
- The assigned contact tracer will work with the DC Department of Health to develop a plan of specific response for the case.
- The Clerk of Court and/or assigned contact tracer will notify the Chief Deputy of Administration of the areas in the courthouse where the employee or other individual testing positive was present.
- The Chief Deputy of Administration will review the affected courthouse spaces and determine, in consultation with the Clerk of Court (and Circuit Executive, if appropriate), whether employees in the affected spaces need to be relocated and the areas closed until completion of enhanced cleaning. The Chief Deputy of Administration will work with the General Services Administration (“GSA”) to have the impacted areas thoroughly cleaned and sanitized as appropriate to the situation.
- Any court staff, jurors, or other courthouse visitors, or others who may have been in contact with the employee or other individual testing positive will be immediately notified if possible and advised about resources for local testing options.
- The Clerk of Court or Chief Deputy of Administration will provide a report documenting the status and actions taken to the Chief Judge as promptly as possible, and further notice will promptly be given to the Circuit Executive.
- The Circuit Executive will promptly distribute a courthouse-wide notification of the positive COVID-19 test in the building and inform tenants of the affected areas without providing specific individually identifiable information.

Additional helpful information may be found at:

[https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/06152020\\_COVID-19\\_DC\\_Health\\_Guidance\\_for\\_Office\\_Building\\_Reopening.pdf](https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/06152020_COVID-19_DC_Health_Guidance_for_Office_Building_Reopening.pdf) and <https://coronavirus.dc.gov/>.

**APPENDIX 4.1**

**D.D.C. Contact Tracing Form**

# D.D.C. Contact Tracing Form

COVID-19



Once an employee has presented symptoms of Coronavirus Disease 2019 (COVID-19), it is critical for the employee's supervisor to quickly identify the locations the employee has visited and contacts he/she had starting five days before the employee began developing symptoms. Please use the following pages to list the ill employees identified and unknown risk contacts starting five days before onset of symptoms.

Please return this information to the Clerk of the Court so that she can coordinate the appropriate cleaning of facility spaces.

## **Talking with Your Employee**

After an employee lets the supervisor know he has symptoms of COVID-19, please follow up with him. You can refer to the paragraph below for ideas to speak with your employee about the people and spaces he has been in contact with starting five days before developing symptoms.

"I'm sorry you're not feeling well. As we discussed, please seek out medical attention and do not return to work. Please let us know the outcome of your doctor's visit.

As required, I reported your case to the Clerk of the Court and she has asked that you use the criteria in this template to identify people that you were in contact starting five days before you began experiencing symptoms and their risk level."

If your employee is comfortable filling out this form on his own, e-mail it to the employee. You may also choose to go through it with him by asking questions on the phone and writing down the employee's answers.

## **Determining At-Risk Contacts**

Use the Decision Tool at the end of this document to determine which type of contact the employee had:

- Identified Risk
- Unknown Risk

**Date of Symptom Onset:** \_\_\_\_\_

**Identified Risk Contacts**

In the table below, please list all identified risk contacts the symptomatic employee had starting five days before the onset of symptoms.

Questions for the employee to consider:

1. With whom did you live or work closely with starting five days before you began feeling sick (i.e., people with whom you spent more than fifteen minutes and who were standing closer than six feet)?
2. With whom did you eat lunch or spend more than fifteen minutes in a room with who was closer than six feet to you?
3. Is there anyone you accidentally coughed or sneezed on?

Name	Date of Contact	Type of Contact (1,2,3)	Office Location and Room #	Number	Email

**Types of contact:**

- 1 – Live in the same household
- 2 – Accidental coughing or sneezing
- 3 – Within 6 feet for a prolonged period (> 15 minutes)

If the ill employee had a contact defined by the Decision Tool as identified risk, direct the contact(s) to take the action listed in the Decision Tool at the end of this document.

In addition, please list all the locations within the facility that the ill employee visited starting five days before the onset of symptoms. Please be as specific as possible.

Location, including room number	Date	Duration of time in this location

**Unknown Risk Contacts**

In the table below, please list all contacts the symptomatic employee had starting five days before the onset of symptoms.

Question for the employee:

1. With whom did you spend time in the same room with for more than fifteen minutes and who was closer than six feet away from you? Further than six feet away?
2. With whom did you spend time in the same room with for less than fifteen minutes and maintained a greater than six-foot distance away from you? Closer than six feet away?

Name	Date of Contact	Type of Contact (1,2,3)	Office Location and Room #	Number	Email

**Types of contact:**

1 – Within 6 feet for a short period of time (< 15 minutes)

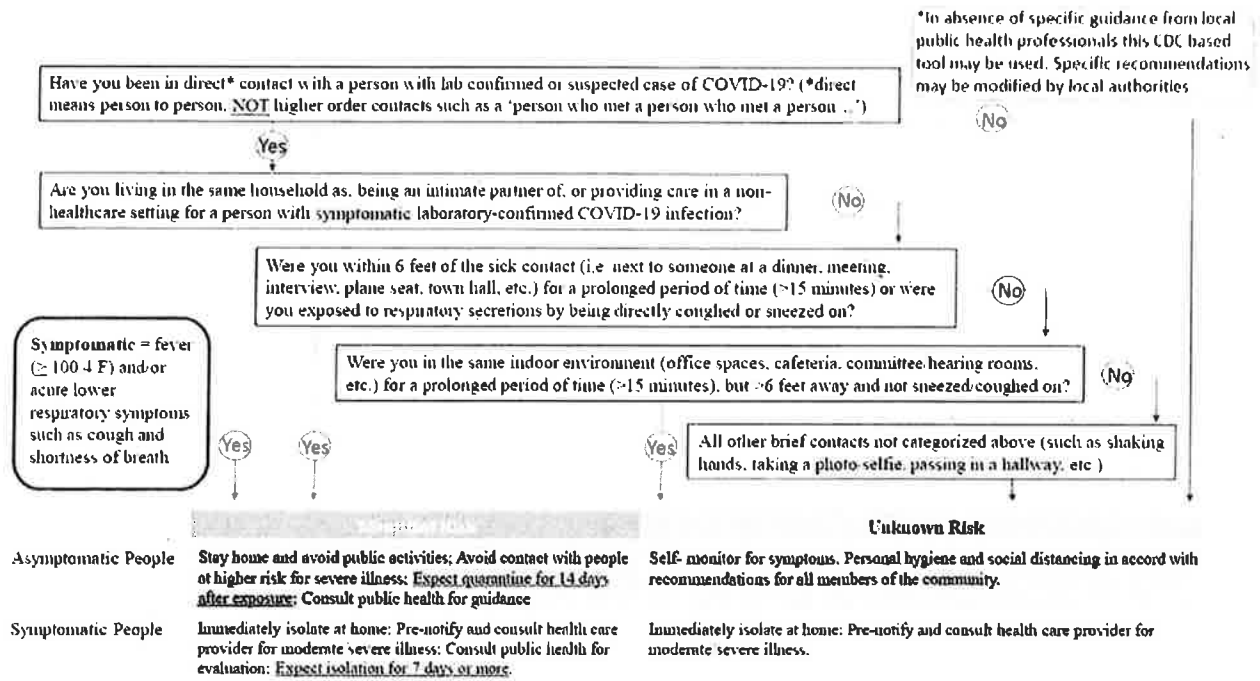
2 – Greater than 6 feet (short or long period of time)

If the ill employee had a contact defined by the Decision Tool as an unknown risk, direct the contact(s) to take the action listed in the Decision Tool at the end of this document.

In addition, please list all the locations within the facility where the ill employee visited starting five days before the onset of symptoms. Please be as specific as possible.

Location, including room number	Date	Duration of time in this location

## Decision Tool



### Self-Monitoring Guidance for Asymptomatic People (per CDC)

**Pre-Screen:** Measure your temperature daily and assess symptoms each day prior to work, and before entering the worksite. Report abnormal temp. or symptoms to your supervisor.

**Regular Monitoring:** Continue to self-monitor throughout the day and report abnormal temperature or symptoms to your supervisor.

**Wear a Mask:** always Wear a face mask/covering while in the workplace for 14 days after last exposure.

**Social Distance:** Maintain 6 feet and practice social distancing as work duties permit in the workplace.

**APPENDIX 5**

**Protocol for Remote Hearings with Defendants Detained at DC Jail**

*(Internal Use Only, Not Publicly Available)*



## **APPENDIX 6**

### **Plan for Resumption of Grand Jury Sessions**

The following steps will be taken to ensure that resumption of grand jury sessions can occur in a safe manner. These steps may be adjusted as needed.

- Grand jury meetings will take place in a courtroom, rather than the regular grand jury rooms, to allow for appropriate physical spacing between grand jurors of at least 6 feet; seats will be measured and marked to ensure appropriate spacing.
- Grand jurors will be provided with facial coverings or masks and are required to wear them while in the grand jury meeting room, on breaks, and during sessions. The court reporter, witnesses and Assistant U.S. Attorneys will also wear facial coverings or masks.
- Grand jurors will be asked to maintain appropriate physical distancing at all times in the courthouse.
- Hand sanitizer is available throughout the courthouse and a dispenser will be located outside of the grand jury meeting space. Grand jurors will be requested and encouraged to use hand sanitizer when entering and exiting the courtroom meeting space. Disinfecting wipes will also be available.
- The frequency of meetings for each grand jury has been reduced to once per week.
- To the extent feasible, the court reporter, witnesses and attorneys may participate in grand jury sessions by videoconference from another location in order to further reduce the number of people in the meeting room.
- The Court will arrange a location within the courthouse for grand jurors to eat lunch in a safe and appropriately distanced manner. The Court will provide bottled water and lunch as feasible. (*See In Re Partial Sequestration of Grand Juries 19-1, 19-5 and 20-1 for Purposes of Providing Lunch and [to] Minimize*

*Risk of Exposure to and Community Transmission of COVID-19, Standing Order No. 20-55 (BAH)).*

- The courtrooms and bathrooms used by the grand juries will be specially cleaned before each grand jury session convenes. The courtrooms designated for grand jury use will not be used for other proceedings. Enhanced cleaning of high-touch areas throughout the courthouse, including elevator buttons, door handles, handrails and restrooms will also occur.
- The Constitution Avenue entrance to the courthouse may be open for grand jurors on the mornings of grand jury sessions. Elevators may be specially designated for grand juror use.
- The Court will provide parking spaces for grand juror use upon request so as to decrease reliance on public transportation.
- Grand jurors will be asked to complete a health self-assessment prior to reporting to the courthouse for grand jury service.
- Grand jurors will be provided with a questionnaire in order to facilitate communication with the Court about any areas of concern with respect to grand jury service during the COVID-19 pandemic.
- Court staff will monitor and observe the effectiveness of this Plan and recommend any necessary changes.

*(Updated as of July 15, 2020)*

## APPENDIX 7

### **Plan for Resumption of In-Person Court Proceedings In Phase 2**

1. *Remote Proceedings Continue to be the Norm.* During Phase 2, routine court proceedings, including matters before Magistrate Judges, will continue to be held remotely by audio and video conferencing.
  - a. *Authorization for Remote Criminal Proceedings Generally:* The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Div. B, Title V, § 15002(b) (enacted March 27, 2020), authorizes, during emergency conditions with appropriate findings by the Chief Judge, the “use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available” for most criminal proceedings, with consent of the defendant, after consultation with counsel.
  - b. *Authorization for Remote Felony Pleas and Sentencings:* Under the CARES Act, felony pleas and sentencings, under Federal Rules of Criminal Procedure 11 and 32, may also be conducted remotely, with the consent of the defendant after consultation with counsel, when the Chief Judge “specifically finds” that such felony pleas and sentencings “cannot be conducted in person without seriously jeopardizing public health and safety,” *see* D.D.C. Standing Order Nos. 20-17, 20- 54, 20-75 (March 29, 2020; June 26, 2020; and Sept. 23, 2020, respectively), and the presiding district judge “in a particular case finds for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice.”
2. *Party Request for In-Person Proceeding.* The presiding Judge may grant a request from a party to hold a court proceeding in person if the presiding Judge agrees that an in-person appearance by a party is necessary.
3. *Hybrid Proceedings.* If a request for an in-person proceeding is granted, the presiding Judge should determine whether all, or only requesting, parties and counsel as well as court personnel must appear in person. Considering the continuing challenges with public transportation and remote schooling during the COVID-19 pandemic in this metropolitan area, “hybrid” proceedings with some participants appearing via audio or videoconference should be permitted to allow for more expeditious hearings when all participants may be safely available.
4. *Face masks.* Face masks covering the mouth and nose should be worn by all in-court participants. The Court encourages the use of disposable masks as disposable masks may allow speakers to be more easily understood than cloth masks. The Court will provide disposable masks upon request.

5. *Courtroom Set-up.* The following courtroom conditions are important to mitigate public health and safety risks:

- a. In-person proceedings will only take place in courtrooms in which **plexiglass barriers** have been installed and designated seating areas have been marked.
- b. No more than 3 people should be seated at a counsel table, physically distanced from each other by 6 feet, with plexiglass separators between them if possible.
- c. Attorneys and their clients may use the wireless private intercom system (Clear-Com) provided by the Court to communicate privately in the courtroom and use a court-provided cleansing wipe to clean the headsets before and after the proceeding.
- d. The number of persons in a courtroom should be limited to the minimum necessary. Although the gallery of each courtroom may accommodate up to 14 individuals with seating distanced at least 6 feet apart, during Phase 2, visitor access to the courthouse continues to be restricted. *See* ¶ 7 (regarding public access).
- e. Any individual seeking to observe an in-person court proceeding from the gallery must receive permission in advance from the presiding Judge. Prior to any in-court proceeding, the parties may seek permission from the presiding Judge for the attendance of any individual other than the counsel and party. The presiding Judge may permit seating for a limited number of guests of each party and members of the media or arrange for use of an overflow courtroom.

6. *Entry Screening.* All persons attending a court proceeding at the courthouse must abide by all screening requirements for entry into the courthouse. If an attorney or party fails to pass the screening test at the temperature kiosk, they should leave the building immediately and contact the courtroom deputy for further instructions.

7. *Media and Public Access.* Given the limited seating available in courtrooms, *see* ¶ 5.d., and the need, due to public health and safety, to keep the number of people in a courtroom to a minimum, media and public access to in-court proceedings will generally continue to be provided through the Court's public access audioconference lines. A presiding Judge may provide public access to a proceeding through videoconferencing if the videoconferencing system being used affords sufficient safeguards against possible disruption of the proceeding by an outside observer.

a. *High-Interest Matters.* The Media Room may be open for coverage of high-interest matters. During Phase 2, access to the Media Room will be limited to only 4 members of the media per day. Anyone using the Media Room must sit in a designated seats and wear a face mask at all times.

8. *Multi-Defendant Cases.* Given the limitation on the number of individuals who may be seated at counsel table, *see* ¶ 5.b., in-person proceedings in multi-defendant cases should be held in the Ceremonial Courtroom and scheduled on the master calendar, unless an alternative seating arrangement is agreed to, in consultation with the U.S. Marshals Service (USMS), in the presiding Judge's courtroom.

9. *Scheduling.*

- a. *DOC Testing Protocol.* Any in-person proceeding with a defendant detained at the DC Jail or another facility should be scheduled at least **five days in advance** in order to facilitate pre-appearance testing for COVID-19 or other protocols. **NOTE:** After a defendant housed at the DC Jail is tested a few days prior to an in-person court proceeding, that defendant is not isolated at the jail and may be exposed to COVID-19 after the test but before the court proceeding. Facilities other than the DC Jail may not have a testing protocol in place before in-court proceedings.
- b. *Single In-Court Proceeding Per Day Per Courtroom.* To ensure adequate time for deep-cleaning of the courtroom after each in-person proceeding during Phase 2, **no more than one in-court proceeding per day in any one courtroom should be scheduled.**
- c. *USMS Limitation.* Due to both staffing shortages at the USMS and the need to maintain appropriate distancing in the courthouse cellblock, the USMS is able to accommodate up to 8, possibly 10, detained defendants at the courthouse for in-person proceedings each day. The Court will monitor the numbers of individuals being requested to be produced at the courthouse each day to ensure the courthouse cellblock capacity is not exceeded. **NOTE:** The USMS is unable to accommodate attorney visits in the cellblock.

## **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).



**APPENDIX 9**

**Options for Management of Chambers Operations**

*(Internal Use Only, Not Publicly Available)*

**APPENDIX 10**

**Plan for Remotely Onboarding Law Clerks**

*(Internal Use Only, Not Publicly Available)*