

**FREQUENTLY ASKED QUESTIONS (“FAQS”) ABOUT RESUMPTION OF CRIMINAL TRIALS  
DURING PERIOD OF MARCH 22 TO AUGUST 31, 2021**

As set forth in Standing Order 21-10 (March 5, 2021) (BAH), this Court is beginning a limited resumption of jury trials after March 15, 2021. Answers to some frequently asked questions (“FAQs”) are below.<sup>1</sup> Flexibility in application of this guidance is assumed, since each presiding Judge may make adjustments as circumstances require. Updates to these FAQs are anticipated, as informed by experience when trials resume. Additional guidance regarding how jury selections and trials will take place may be found in Appendix 8 to this Court’s Continuity of Operations Plan for the COVID-19 Pandemic (COOP Plan) available here: [Link to updated Appendix 8 Plan for Resumption of Jury Trials During March 15, 2021 to August 31, 2021](#) (March 4, 2021).

**SEATING IN COURTROOM:**

- Who will be physically present in the main trial courtroom for trial proceedings? Subject to the presiding judge’s discretion, generally, the main trial courtrooms may accommodate, consistent with social distancing requirements, the presiding judge, the courtroom deputy, a court reporter, two law clerks; up to two attorneys at each counsel table, including the defendant at defense table and case agent at the government’s table; two deputy Marshals, and fourteen jurors.
- Will the jurors be seated in the courtroom to be able to observe the defendant, witnesses, and attorneys clearly? Jurors will generally be seated, socially distanced, in the gallery, where members of the public would ordinarily sit. In all courtrooms, jurors will be seated so as to have a clear view of witnesses and attorneys. A defendant will be seated so as to be visible to all members of the jury. The plexiglass barriers that have been installed throughout the courtroom to decrease the risk of transmission of COVID-19, including around the witness box, should not affect jurors’ (or counsel’s) ability to observe witnesses.
- Will counsel and parties have a clear view of witnesses during testimony? Yes. The courtrooms have been arranged to ensure that a witness in the witness box is readily observable by the jurors and from the parties’ tables.
- How many attorneys will be permitted to sit at each party’s table? Each party’s table can seat two socially distanced attorneys, meaning that there is room at a defendant’s table for the defendant and up to two members of the trial team and room at the government’s table for up to two members of the trial team.
- May the individuals at each party’s table sit closer to each other than the six feet mandated by social distancing requirements? No. The parties’ tables are each equipped with a court-provided private intercom system, which will permit each side to communicate privately among themselves, without the need to violate social distancing requirements. Communications over this system will not be audible to members of the public.
- May the parties propose an alternative courtroom layout? No, but subject to the presiding judge’s discretion. In consultation with an independent infectious disease expert, the Court has determined the optimal layout of the courtroom so as to ensure trial participants’ safety with appropriate social distancing

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<sup>1</sup> Issued March 12, 2021.

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while also optimizing sight lines to the extent possible. If a party has a concern with the layout in a particular courtroom, that concern should be brought to the attention of the presiding judge.

**PRESENTATION OF EVIDENCE**

- *Will individual monitors be set up for each juror to view documents and other evidence?* No. A large monitor will be installed on each side of the gallery, where the jurors will be seated, which will allow them to view documents and other evidence. Jurors will typically not have individual screens for viewing evidence and documents. Subject to the presiding judge’s discretion, counsel may be able to hold up exhibits before jurors.
- *May witness testimony be taken by video?* Subject to the presiding judge’s discretion, parties may agree to present testimony by video. The technology necessary to facilitate testimony by video can be provided and set up by the Court.

**COMMUNICATIONS IN COURTROOM**

- *How will communications be facilitated between government counsel and defense counsel inside the courtroom?* The court-provided private intercom phones can be used for this purpose.
- *How will sidebars/bench conferences be conducted?* Bench conferences during trial are discouraged. Instead, such discussions should be held before or after the day’s trial proceedings, or during trial breaks. As necessary, however, a bench conference may be conducted using the court-provided private intercom phones.

**MASKS REQUIRED**

- *Will the Court provide trial participants with masks?* Yes. In anticipation of the resumption of trials, the Clerk’s Office has a supply of KF94 mask, surgical masks, and clear plastic masks to be made available to the presiding judge, Court staff and trial participants, including jurors. In addition, the Court has a supply of face shields, which can be used in conjunction with a mask for further protection.

**COVID-19 TESTING**

- *Will jurors, witnesses, and attorneys be tested for COVID-19?* No. All trial participants will be asked to conduct a daily self-health check before arriving at court, and then will be required to use the temperature screening kiosk at the courthouse entrance when they arrive in the morning. Jurors will also be individually screened with a short health checklist and have their temperatures checked upon arrival at the courthouse each day. In addition, trial participants will be reminded to notify the courtroom deputy immediately if they develop COVID-19 symptoms or learn that they have been exposed to a person who has tested positive for COVID-19.
- *Will defendants be tested for COVID-19?* Defendants housed at the DC Jail will be tested for COVID-19 roughly one week before trial begins and housed in a special Enhanced Monitoring Unit (“EMU”) where they will be monitored carefully for COVID-19 symptoms for the duration of the trial.

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- *Will defendants be quarantined and isolated during and after trial?* No. Defendants are not quarantined at D.C. Jail following a court appearance or trial but rather placed in an EMU for 14 days after the last court appearance. This means detained defendants will reside in an EMU for the duration of the trial, plus 14 days.

**VACCINATIONS NOT REQUIRED BUT ENCOURAGED**

- *Will arrangements be made by the Court to have counsel or other trial participants vaccinated before trial?* No. The Court cannot facilitate vaccinations for counsel or other trial participants. Counsel are, of course, encouraged to get vaccinated if they qualify under the current vaccination programs. D.C. Jail is beginning to vaccinate residents there.

**PUBLIC AND MEDIA ACCESS**

- *How will public access to trials be facilitated?* During both voir dire and trial proceedings, the presiding judge’s courtroom deputy will activate the courtroom’s public access telephone line. This line, the phone number for which is available on the Court’s website, will allow members of the public to listen in to both voir dire and the trial. During voir dire, the public phone line will permit members of the public to listen to group questioning of the jury pool and follow-up questioning of individual potential jurors, both of which will be conducted in open court. Individual potential jurors will be identified only by juror number.

In addition to the public access telephone line, a separate courtroom will be available for a limited number of people (family members/public/media/additional trial team members) to view a live video stream of the trial proceedings.

- *Will seats be reserved in the courtroom for a defendant’s family and friends, or for other members of the public?* No. The gallery, where members of the public would ordinarily be seated, will be occupied by the jury. If a defendant has friends or family that wish to observe trial proceedings, they are encouraged to call in to the public access telephone line. Alternatively, space permitting, a small number of observers will be able to view a live video stream of the proceedings in a separate courtroom designated for that purpose.

**ATTORNEY-CLIENT COMMUNICATIONS**

- *How will defendants be able to communicate with their attorneys during trial?*

- Mornings in the cellblock at the courthouse: Since detained defendants arrive at the courthouse as early as 7:30 AM, attorneys may confer with a client in the cellblock before trial begins. As shown in the photographs, the cellblock has been outfitted with protective screening and PPE will be provided.



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- Evenings at D.C. Jail: Contactless visiting rooms for attorneys are available at the D.C. Jail 24/7. Attorneys and clients are completely separated by plexiglass that runs up to the ceiling and phones are used to talk to each other. These rooms are available for use for extensive meetings after the court day.
- At trial: Attorneys will be able to speak to clients with appropriate socially distancing at counsel table using the court-provided private intercom phones.
- NOTE: The VTC rooms at the D.C. Jail are staffed from 9 AM–6 PM and so are likely closed by the time trial is over, and thus are not a good option for counsel discussions with a defendant during trial. Additionally, the small cell blocks attached to courtrooms are too small for social distancing and are consequently not available for attorney–client visits.