



Supreme Court of Arkansas

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Re: Assessing facilities for jury trials

Dear Circuit Judges:

As you continue preparing for the return to in-person proceedings, special attention and planning may be necessary for jury trials. Judicial circuits across the state vary widely in facilities, number of judges, and resources available to comply with health and safety recommendations for COVID-19. Court facilities should be assessed to determine the number of individuals that may be in the space while adhering to social distancing recommendations.

In many courthouses around the state, the size of courtrooms and jury rooms make it impossible to comply with the recommendations when holding a jury trial. In other courthouses, there may be only one courtroom that could accommodate the necessary number of people for a jury trial. The challenges are different for each of you. As you develop plans to address your specific needs, I would like to highlight some of the recommendations offered by the task force of judges addressing the return to the new normal for court operations.

- 1. Explore using alternative facilities for jury trials.** Identify and assess the feasibility of holding jury trials in larger facilities such as auditoriums, school gymnasiums, or other buildings in your local area in order to maintain social distancing of at least 6 feet. Using sites other than the courthouse will require a significant amount of advanced planning. Gaining permission to use the site, determining the timeframes the site is available, and coordination and good communication with both court staff and non-court staff are just a few of the considerations when using a location other than courthouse.
- 2. Rotate when judges hold trials.** For larger circuits where there are multiple judges located in the same courthouse, it may be useful to rotate the scheduling of trials or other proceedings.
- 3. Continue conducting online proceedings in all cases where feasible even after the prohibition on in-person proceedings is lifted and phase in jury trials.** This limits the risk of exposure for all involved and eases the strain on limited resources like masks, hand sanitizer, and on staff required to implement screening measures.

- 4. Conducting civil jury trials with six jurors if all parties to the litigation consent.**
Reducing the number of jurors to six would permit many judges to continue to use their courtrooms to hold jury trials while also allowing jurors to maintain the recommended six-foot distance while in the jury box and jury room.

Given the amount of coordination it will require to design and implement plans for jury trials in light of COVID-19, I urge you to begin working now to determine your needs and identify alternative sites.

Sincerely,



John Dan Kemp

Considerations in Resuming Court Operations

A Pandemic Resource from NCSC

May 1, 2020 | Version #1



1. **Judge and Court Staff Health – how the courts will ensure judges and court staff do not enter the courthouse if they are sick or show signs or symptoms of being sick and will limit judges and court staff from exposure to the degree possible.**

Courts should take precautions to ensure judges and courts staff do not enter the courthouse when there is a likelihood that they may have COVID-19, and courts should take reasonable steps to protect judges and court staff from contracting COVID-19. Courts should consider encourage teleworking for judges and court staff whenever possible and feasible.

2. **Scheduling – how the courts will coordinate scheduling to reduce occupancy in the courthouse to the lowest degree possible.**

In-person proceedings must be scheduled to reduce the number of people entering or congregating in the courthouse at any one period of time. Judges in counties and cities with multiple judges in a courthouse must coordinate scheduling of any in-person proceedings to reduce the number of people in the courthouse at one time.

3. **Criteria for In-Person Hearings**

Courts should continue remote proceedings in all cases where it is possible and practicable. Courts should establish criteria that will provide clear guidance on when an in-person hearing will be held (if a remote proceeding is not possible or impracticable).

4. **Vulnerable Populations – how the courts will work with vulnerable individuals and those who live with or are caregivers for vulnerable individuals and provide accommodations to reduce the appearance of those individuals at the courthouse.**

Vulnerable individuals are those over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems that are compromised, such as by chemotherapy for cancer or other conditions requiring such therapy.

5. Social Distancing – how the courts will ensure that adequate social distancing of at least 6 feet will be maintained for all individuals in a courthouse.

Courts should consider how to ensure distancing in public common areas, galleries of courtrooms, wells of the courtroom, hallways, elevators, restrooms, or other locations where the public might gather. Special attention should be given to scheduling in buildings with multiple courtrooms, as common areas such as halls and elevators may become crowded in such a way that it is impossible to maintain appropriate social distancing.

6. Hygiene – how the courts will ensure that individuals in the courthouse will have access to supplies to maintain high levels of hygiene

Courts should consider having hand sanitizer dispensers available at various locations around the courthouse, including at the entry and exits from the building and courtrooms. Courts should ensure that tissues are available for public use in courtrooms and other public areas. Courts should post readily visible signage reminding individuals of best hygiene protocols.

7. Screening – how the courts will ensure temperature screening of all individuals entering the courthouse or courtroom areas

Individuals feeling feverish or with measured temperatures equal to or greater than 100°F, or with new or worsening signs or symptoms of COVID-19 such as cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or having known close contact with a person who is confirmed to have COVID-19 must not be permitted entry. Special attention should be given to how inmates from jail facilities who may be transported to a courtroom will be screened, including consideration of a lower threshold temperature of 99.6°F as an indicator of symptoms. Screeners should be provided appropriate face protection and gloves.

8. Face coverings – how the courts will ensure face coverings over the nose and mouth are worn

Cloth face coverings, at a minimum, are highly recommended for individuals while in the courthouse. Courts should consider requiring face coverings, and should consider providing face coverings for those seeking entrance to a court facility. Should an individual be in the courthouse for lengthy periods of time, surgical face masks should be considered.

9. Cleaning – how the courts will ensure frequent and appropriate cleaning of surfaces in and around courtrooms and common areas

Sanitizing should be routinely and more regularly performed, including when a transition of participants occurs within a courtroom (i.e. between hearings).