

# United States District Court for the Eastern District of Pennsylvania COVID-19 Reopening Guidelines

Date: October 1, 2020

These guidelines are subject to modification, rescission, or replacement as circumstances may warrant. The latest version of these guidelines will be available on the District website:

<http://www.paed.uscourts.gov/response-to-covid-19>

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## **I. Introduction**

The COVID-19 Pandemic has affected every niche of American life, and our legal system is no exception. The United States District Court for the Eastern District of Pennsylvania, and all of its public servants, have been working diligently since March of 2020 to keep our court systems functioning, our communities safe, and our rights and liberties protected. As we discern a path forward for reopening our District and its facilities, these Guidelines will describe the protocols that have been or will be implemented to safely, gradually restore the full range of services that the Court provides. Paramount among our concerns are the health and welfare of every judiciary employee, contractor, and member of the public who enters our facilities. The Court continues to closely monitor government policy changes, directives from the Administrative Office of the United States Courts (“AO”), the Centers for Disease Control and Prevention (“CDC”) guidelines, public health advancements, and the state of the Pandemic locally, nationally, and worldwide. These Guidelines will be updated periodically, as needed.

## **II. Contact Information**

### **Court Contacts**

Kate Barkman, Clerk of Court:  
215-597-9221  
[kate\\_barkman@paed.uscourts.gov](mailto:kate_barkman@paed.uscourts.gov)

Deana May, Human Resources Administrator:  
267-299-7091  
[paedhumanresources@paed.uscourts.gov](mailto:paedhumanresources@paed.uscourts.gov)  
[deana\\_may@paed.uscourts.gov](mailto:deana_may@paed.uscourts.gov)

### **General Services Administration (“GSA”) Cleaning Contacts**

Philadelphia:  
215-861-1313  
For emergencies: contact Alex Pape at [alexander.pape@gsa.gov](mailto:alexander.pape@gsa.gov) or 215-279-3563

Allentown, Reading, and Easton:  
844-963-7155  
[R03.3pk.customer.service.desk@gsa.gov](mailto:R03.3pk.customer.service.desk@gsa.gov)

### **The William H. Hastie Library of the United States Court of Appeals for the Third Circuit Contacts**

Michael Hayes, Manager of Research Services:  
267-299-4310  
[michael\\_hayes@ca3.uscourts.gov](mailto:michael_hayes@ca3.uscourts.gov)

Stephanie Bowen, Assistant Librarian and Archivist:  
267-299-4311  
[stephanie\\_bowen@ca3.uscourts.gov](mailto:stephanie_bowen@ca3.uscourts.gov)

Alysa Little, Library Assistant:  
267-299-4303  
[alysa\\_little@ca3.uscourts.gov](mailto:alysa_little@ca3.uscourts.gov)

### **III. Standing Orders**

Below is a list of all Standing Orders issued by Chief Judge Juan R. Sánchez in response to the COVID-19 Pandemic.

All Standing Orders are available online: <http://www.paed.uscourts.gov/response-to-covid-19>

- 09/24/2020: Standing Order In Re: Video Teleconferencing and Telephone Conferencing for Criminal Proceedings Under the CARES Act – Second Extension
- 08/31/2020: Standing Order In Re: Fifth Extension of Adjustments to Court Operations Due to the Exigent Circumstances Created by COVID-19
- 07/31/2020: Standing Order In Re: Fourth Extension of Adjustments to Court Operations Due to the Exigent Circumstances Created by COVID-19
- 07/10/2020: Standing Order In Re: Ensuring Public Access to Court Records during the COVID-19 Pandemic
- 06/30/2020: Standing Order In Re: Third Extension of Adjustments to Court Operations Due to the Exigent Circumstances Created by COVID-19
- 06/26/2020: Standing Order In Re: Video Teleconferencing and Telephone Conferencing for Criminal Proceedings Under the CARES Act – Extension
- 06/19/2020: Standing Order In Re: Use of Masks or Face Coverings in Public Areas of the Edward N. Cahn U.S. Courthouse and Federal Building
- 05/29/2020: Standing Order In Re: Second Extension of Adjustments to Court Operations Due to the Exigent Circumstances Created by COVID-19
- 05/28/2020: Standing Order In Re: Use of Masks or Face Coverings in Public Areas of the James A. Byrne U.S. Courthouse
- 05/13/2020: Standing Order In Re: Use of Electronic Signatures in Prisoner and Pro Se Cases
- 04/30/2020: Standing Order In Re: Extending Administrative and Civil Forfeiture Deadlines
- 04/15/2020: Standing Order In Re: Expanded Use of Electronic Signatures Due to the Exigent Circumstances Created by COVID-19
- 04/13/2020: Standing Order In Re: Interim Payments to CJA Panel Attorneys and Service Providers
- 04/10/2020: Standing Order In Re: Extension of Adjustments to Court Operations Due to the Exigent Circumstances Created by COVID-19
- 03/30/2020: Standing Order In Re: Video Teleconferencing and Telephone Conferencing for Criminal Proceedings Under the CARES Act
- 03/25/2020: Standing Order In Re: Temporary Closing of the James A. Byrne U.S. Courthouse in Philadelphia

- 03/20/2020: Supplemental Standing Order In Re: Courthouse Access During COVID-19 Outbreak
- 03/18/2020: Standing Order In Re: Additional Adjustments to Court Proceedings Due to the Exigent Circumstances Created by COVID-19
- 03/17/2020: Standing Order In Re: Electronic Filing of Complaints in Civil Cases
- 03/17/2020: Standing Order In Re: Courthouse Access During the COVID-19 Outbreak
- 03/16/2020: Standing Order In Re: Temporary Suspension of Attorney Admission Ceremonies
- 03/13/2020: Standing Order In Re: Temporary Continuance of Civil and Criminal Jury Trials Due to the Exigent Circumstances Created by COVID-19

## IV. Phased Approach

### **Introduction**

The AO, through its Federal Judiciary COVID-19 Recovery Guidelines (“FJCRG”), recommends that courts follow a **four-phased approach** to fully reopening our country’s federal courthouses to unrestricted staffing and operations. The goal of the phased approach is to mitigate the risk of COVID-19 exposure while protecting any employee, contractor, or member of the public who enters our facilities, especially those individuals who may be or are particularly vulnerable to or at high-risk for severe illness if they contract COVID-19.<sup>1</sup> Each phase details the operations that are appropriate at a given time in response to the then-current COVID-19 conditions in our community.

The AO has issued what are referred to as “Gating Criteria” to assist individual courts in determining when it is appropriate and safe to begin the process of reopening and to transition from one phase of the recovery process to a less restrictive phase. *See* Appendix A: Gating Criteria. The Gating Criteria provide a framework for assessing local COVID-19 exposure risks and managing the safe return of our employees, partners, and the public to our facilities. The Gating Criteria are based on 14-day trends of local information to determine local exposure risks. Decisions regarding when the Gating Criteria have been satisfied and the District will enter new

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<sup>1</sup> According to the CDC, older adults and individuals with the following medical conditions are at an increased risk of severe illness from COVID-19 (and, thus, are considered “vulnerable individuals” for the purposes of these Guidelines): cancer, chronic kidney disease, chronic obstructive pulmonary disease (“COPD”), immunocompromised state from a solid organ transplant, obesity (body mass index of 30 or higher), serious heart conditions (such as heart failure, coronary artery disease, or cardiomyopathies), sickle cell disease, and type 2 diabetes mellitus. Additionally, individuals with the following medical conditions may be at increased risk of severe illness: moderate to severe asthma, cerebrovascular disease, hypertension or high blood pressure, immunocompromised state (from blood transplants, bone marrow transplants, immune deficiencies, HIV, use of corticosteroids, or use of various immune-weakening medicines), neurologic conditions (such as dementia), liver disease, pregnancy, pulmonary fibrosis, smoking, thalassemia, and type 1 diabetes mellitus. Children who have medical complexity or who have the following medical conditions might be at an increased risk for severe illness compared to other children: neurologic, genetic, or metabolic conditions, or congenital heart disease.

phases will be determined by the Chief Judge in consultation with the Eastern District of Pennsylvania (“EDPA”) Emergency Group<sup>2</sup> and the EDPA Advisory Group.<sup>3</sup>

**The Eastern District of Pennsylvania entered Phase One in June of 2020 and remained in Phase One through September 30, 2020. The Court moved to Phase Two on October 1, 2020.** These Guidelines apply to the general public, Clerk’s Office employees, and to judicial staff at the discretion of each judge. The Guidelines also apply to employees of Probation and Pretrial Services whenever they are in the James A. Byrne United States Courthouse in Philadelphia, the Edward N. Cahn United States Courthouse in Allentown, or any other EDPA court location. The Guidelines will be updated periodically as the District moves into subsequent phases or reverts to a prior phase.

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<sup>2</sup> The Emergency Group consists of the Chairs of the Court’s Criminal Business Rules and Jury Committees, the Magistrate Judge Liaison, the U.S. Marshal, the Warden of the Federal Detention Center Philadelphia, the Chief U.S. Probation Officer, the Chief U.S. Pretrial Services Officer, the Clerk of Court, the Clerk of Bankruptcy Court, the Chief Federal Defender, the First Assistant United States Attorney, the Philadelphia Field Office Manager for the U.S. General Services Administration, and members of their respective leadership teams.

<sup>3</sup> The Advisory Group consists of the Chairs of the following Court committees: the Criminal Business Rules Committee, the Civil Business Rules Committee, the Jury Committee, the Space and Operations Committee, and the Education Committee.

## Phase One

Phase One permits the limited resumption of in-court proceedings and the modification of court facilities once shelter-in-place and stay-home orders are no longer in place for the counties within the District's jurisdiction.<sup>4</sup> During Phase One, the following guidelines, protocols, and recommendations are in place:

### Judicial Proceedings:

- Masks or face coverings are **required** in the courtroom during in-court proceedings.
  - Judges may allow case participants to remove their masks while speaking, but are encouraged to do so sparingly. Notably, electronic sound recordings (ESRs) have not been affected by individuals wearing masks while speaking.
- Video and telephone conferencing are to be used **to the greatest extent possible**.
  - Judges are strongly encouraged to only use audio functionality whenever possible, in order to preserve most of the Court's bandwidth for critical court operations that may require video functionality.
  - The September 24, 2020 Standing Order extended authorization of video and telephone conferencing for criminal case events pursuant to Section 15002(b) of the CARES Act through December 23, 2020. Accordingly, with a defendant's consent after consultation with counsel, video and telephone conferencing are available for all criminal case events listed in Section 15002(b) of the CARES Act, as well as for felony pleas under Federal Rule of Criminal Procedure 11 and felony sentencings under Federal Rule of Criminal Procedure 32, *if the presiding judge finds for specific reasons that the felony plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice.*
- Magistrate Judge Court is held by video conference with the Federal Detention Center two days a week.
- Jury trials will not be regularly conducted, with a few scheduled exceptions.
  - The Court will begin scheduling jury trials on a limited basis, pursuant to the Initial Guidelines for the Reinstitution of Jury Trials (*see* Appendix D) and the Standing Order issued on August 31, 2020.
  - One criminal jury trial will be conducted beginning the week of September 14, 2020. Thereafter, any and all subsequently scheduled jury trials will occur on the

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<sup>4</sup> The Eastern District of Pennsylvania includes the following Pennsylvania counties: Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, and Philadelphia. On June 5, 2020, the stay-at-home orders previously in place in counties throughout our District were lifted as the counties moved into Governor Wolf's "Yellow Phase." On June 25, 2020, eight of the nine counties in our District moved to the "Green Phase" of Pennsylvania reopening, and on July 3, 2020, Philadelphia County entered a modified version of the "Green Phase."

same floor. Courtrooms will be cleaned and disinfected daily during trial and between trials.

- Criminal cases will be prioritized over civil cases for the foreseeable future.
  - Pursuant to the Standing Order issued on August 31, 2020, all civil jury trials scheduled to begin before November 2, 2020 are continued until further order of the Court.
- Courtrooms will be rearranged to allow for social distancing.
- All potential jurors will receive, along with their summons, a daily health assessment and a letter describing court procedures in light of COVID-19.
- Proceedings requiring witness testimony, such as most pre-trial evidentiary hearings, suppression hearings, and bench trials, should not be scheduled unless a courtroom is set up to safely permit this activity and must comply with the scheduling protocol established and circulated among the judges. Exceptions may be made in the event of an emergency.
- Some essential proceedings that cannot be conducted via video or telephone conferencing may be conducted, consistent with the established scheduling protocol. Judges are to use their discretion in determining what proceedings are essential and must schedule any proceedings in accordance with the scheduling protocol established and circulated among the judges. At a maximum, four designated courtrooms in the Byrne Courthouse will be available for essential in-person proceedings, Monday through Thursday. Each designated courtroom will be available for a morning and an afternoon session, and no more than two proceedings may be conducted per session. As jury trials resume, fewer courtrooms may be available for other in-person proceedings, depending on staffing constraints.
- For those essential in-court proceedings that are appropriately scheduled, the following rules must be followed:
  - Criminal cases are to be given priority over civil cases.
  - Non-custodial criminal defendant cases should be given priority over custodial criminal defendant cases.<sup>5</sup>
  - Shorter proceedings should be prioritized over longer proceedings, in order to limit the length of time the individuals present are exposed to each other.
  - Strict six-foot physical distancing must be maintained in the courtroom.

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<sup>5</sup> Custodial defendants are being transported from the Federal Detention Center (“FDC”) for in-court proceedings. Any such defendants are screened for COVID-19 symptoms and have temperature checks before leaving and upon reentering the FDC.

For reference, the FDC’s current safety procedures include suspension of social visitation, limited inmate movement, screening of all persons who enter the facility, testing and quarantining of all new commitments to the facility, and modified operations within the housing unit to maximize social distancing, along with providing masks to inmates and staff when social distancing is not possible. In-person attorney visits remain available during limited weekday hours, and defendants may access the law library and discovery room.

- For this reason, judges should avoid proceedings involving large numbers of participants and attendees.
    - No more than ten people (not including court staff and case participants) may be present in the gallery area of a courtroom at one time.
      - Litigants (in civil cases), family members of the defendants or victims (in criminal proceedings), and the press have first priority for seating in a courtroom.
    - If requested in advance, a dial-in phone number can be provided so that interested parties, including the media, may listen to the proceeding remotely.
      - After every proceeding, GSA will perform standardized cleaning and disinfecting of the courtroom consistent with, and pursuant to, CDC guidelines.
- In criminal cases in which matters have been continued pursuant to the Court’s Standing Orders, the time period from March 13, 2020 through November 2, 2020 shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A).
- Judges are encouraged not to require Pretrial Services Officers to attend in-court proceedings and to discuss any issues by phone prior to hearings.
- In-person settlement conferences or mediations are suspended, but these proceedings may occur via phone or video conferencing.
- Arbitration hearings remain continued until further notice.
- Naturalization ceremonies may be conducted remotely via video conferencing; in-person naturalization ceremonies at EDPA courthouses and court locations remain suspended until further notice.

**Clerk’s Office Operations:**

- Incoming mail is being processed daily, Monday through Thursday.
- Since this District entered Phase One in June 2020, Clerk’s Office employees, including courtroom deputies, have been reporting to work in person one day a week with staggered start times on a rotating basis to minimize the number of individuals present in all buildings at one time, and to limit employee exposure. Beginning the week of September 8, 2020, Clerk’s Office employees have begun reporting in person two days per week. When Clerk’s Office employees are not reporting to work in person, they are working remotely.
  - All reporting employees must wear masks while in the building, maintain social distancing, and follow all posted signs.
  - Identified vulnerable employees and those who reside with vulnerable individuals may not be required to report to work in person, pending supervisor approval.
    - If an employee becomes or ceases to be a “vulnerable individual,” he or she should bring it to a supervisor’s attention.

- Attorney admission ceremonies are indefinitely suspended. However, attorneys seeking admission to practice in this District pursuant to Local Civil Rule 83.5(a) may be admitted upon submission of the required application with certification and payment, subject to review by the Court.
- Attorneys are asked to file all non-sealed motions and documents via ECF whenever possible.
  - If *pro se* litigants (or other individuals without ECF access) need to file non-sealed motions and documents, they should e-mail their document in PDF format, if possible, to [paed\\_documents@paed.uscourts.gov](mailto:paed_documents@paed.uscourts.gov) or utilize the Clerk’s Office drop box, which is checked daily Monday through Thursday.
  - To file sealed documents, attorneys and litigants should e-mail the document in PDF format, if possible, to [paed\\_documents@paed.uscourts.gov](mailto:paed_documents@paed.uscourts.gov) and indicate that the document is to be filed under seal by writing “sealed” in the e-mail subject line and in the body of the e-mail.
  - If litigants have an emergency filing that requires immediate attention, they should notify the Clerk’s Office of the emergency nature of the filing by e-mailing the filing in PDF format, if possible, to [paed\\_documents@paed.uscourts.gov](mailto:paed_documents@paed.uscourts.gov) and calling one of the following numbers: 215-597-0374 or toll-free at (800) 525-5726 or (877) 437-7411.

**Public Access:**

- Access to the James A. Byrne United States Courthouse in Philadelphia, the Edward N. Cahn United States Courthouse in Allentown, and other EDPA court locations is currently limited to judges, court personnel, and individuals attending scheduled court proceedings or having official business with the Court.
  - Even if their access is permitted, the following individuals are not to enter EDPA courthouses and court locations:
    - People who have been advised to self-quarantine by any doctor, hospital, or health agency;
    - People who reside with, or have had close contact with, someone who has been advised to self-quarantine by any doctor, hospital, or health agency;
    - People who have been diagnosed with, or have had known contact with anyone who has been diagnosed with, COVID-19; and
    - People experiencing symptoms of respiratory illness such as fever, severe cough, or shortness of breath.
- If members of the public are to report to an EDPA courthouse or court location for official business (*i.e.*, attorneys, witnesses, litigants, jurors, or contractors), those individuals should contact the person or chambers who directed them to report if they are not feeling well, are exhibiting COVID-19 symptoms, or live with someone who has been exhibiting symptoms.

- At the presiding judge’s discretion, these individuals will either participate in proceedings remotely or the proceeding will be rescheduled.
- If, after visiting an EDPA courthouse or court location, any individuals experience COVID-19 symptoms, test positive for COVID-19, or learn of prior exposure to COVID-19, they should immediately notify the chambers of the judge before whom they appeared, whoever directed them to report to the courthouse or court location, or one of the Court Contacts on page 3 of their status so that contact tracing can occur and exposed individuals can be contacted.
- Jurors have specific protocols detailed in the Initial Guidelines for the Reinstitution of Jury Trials (*see* Appendix D) regarding post-service notification of exposure or illness.
- Public access to the Clerk’s Office is limited to filings via the drop box.

**Employee Access and Procedures:**

- Employees are able to enter EDPA courthouses and court locations as needed.
- If an employee is sick or experiencing symptoms associated with COVID-19, the employee must stay home and cannot enter the court facilities. The employee should continue to work remotely until he or she has consulted with a medical doctor, his or her symptoms have ceased, and/or he or she has tested negative for COVID-19.
  - Symptoms include: cough, shortness of breath, difficulty breathing, fever, chills, muscle pain, headache, sore throat, new loss of taste or smell, congestion, nausea or vomiting, diarrhea, and fatigue.
- If an employee within the last fourteen days has been exposed to someone who has COVID-19, the employee must stay home and cannot enter the court facilities. The employee should continue working remotely until he or she has consulted with a medical doctor, his or her symptoms have ceased, and/or he or she has tested negative for COVID-19.
- If an employee is going to enter a facility, it is strongly recommended that the employee complete a daily health self-assessment before doing so, in order to self-screen for possible symptoms of or exposure to COVID-19.<sup>6</sup>
  - All Clerk’s Office employees are **required** to perform the self-assessment before reporting to work each day.
- Judges are strongly encouraged to have their law clerks and interns work remotely, in order to limit the number of individuals present in court facilities at one time.
  - If it is necessary for law clerks to report to chambers, it is recommended that they report on a staggered basis so that shared workspaces are occupied by no more than one law clerk at time.

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<sup>6</sup> See Appendix B.

- If more than one law clerk must report at a time, it is recommended that chambers be rearranged to satisfy physical distancing requirements in accordance with CDC recommendations.
    - If judicial staff are reporting to chambers on a frequent or increased basis and a judge wishes for his or her chambers to receive additional cleaning on occasion, the judge may request such cleaning by contacting the Help Desk at 267-299-7101.
- Judges and their staff should minimize business travel and adhere to CDC guidelines regarding isolation following any travel.
- If an employee travels to a state or region with a high COVID-19 case count, or to a state on Governor Wolf's list of states from which Pennsylvanians should quarantine after visiting, the employee should notify his or her supervisor immediately.
  - All Clerk's Office employees are required to report such travel to their supervisors, and will be instructed to work remotely for fourteen days upon returning.
  - Judges are encouraged to require their law clerks to work remotely for fourteen days upon returning from any such areas, as well.

**Facility Procedures:**

- Masks or face coverings are **required** in common or public areas of EDPA courthouses and court locations.
  - If someone does not have a mask, one will be provided for them upon entry.
- Court Security Officers will ensure that all entrants are complying with all applicable Standing Orders.
- Hand sanitizing stations are available at all courthouse entrances and throughout the buildings. All individuals are asked to use hand sanitizer upon their admittance to the building.
- When in common or public areas of EDPA courthouses and court locations, all people should maintain physical distancing of at least six feet between themselves and others.
  - While waiting in line, including at an entrance to the building, security screening, or waiting for an elevator, everyone must maintain six feet of distance between themselves and any other person.
  - In courtrooms being used for in-court proceedings, seating areas are marked to indicate physical distancing requirements.
  - Markings will be placed on benches and other public seating areas, indicating where it is permissible to sit.
  - When riding elevators, individuals must follow any applicable capacity restrictions and stand on opposite sides of the elevator near any designated markers in order to maintain physical distancing. Elevators in the Byrne and Cahn Courthouses will be limited to two individuals at a time. While inside the elevator, individuals are encouraged to face forward and not speak.

- Instructional signage has been placed throughout our facilities to remind entrants about the District’s rules and proper social distancing protocols.
- According to its own guidelines, the Green Byrne Child Care Center is operating at less-than-full capacity and minimizing the number of people entering the facility.
  - Child pick-up and drop-off now occur outside and at scheduled times, to avoid having parents and caregivers enter the facility.
  - All staff and contractors that enter the facility are required to wear masks at all times while inside.
- The Snack Bar located on the second floor of the James A. Byrne United States Courthouse in Philadelphia is closed until further notice.
- The Arch Street Cafe located on the ground floor of the William J. Green Federal Building in Philadelphia is open for limited hours: Monday through Thursday from 7:20 am to 4:00 pm and Friday from 7:20 am to 3:00 pm.
- Vending machines in all buildings remain fully stocked.
- The cafeteria located on the second floor of the William J. Green Federal Building in Philadelphia is closed until further notice.
- The William H. Hastie Library of the United States Court of Appeals for the Third Circuit (“Hastie Library”) is indefinitely closed to the public. Court personnel have physical access to the Hastie Library using their court ID badges. Library staff are primarily working remotely, with occasional in-person reporting.
  - It is requested that court personnel who require books or other materials first contact library staff<sup>7</sup> to coordinate pick-ups and availability before going to the library. Library staff will check out the desired materials and leave them at the pick-up cart at the front of the library on a coordinated day. Likewise, to return materials, please place them at the book return cart at the front of the library.
  - Court personnel who require research assistance should contact library staff, who are available for remote research assistance Monday through Friday from 8:30 am to 5:00 pm.

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<sup>7</sup> See Section II: Contact Information.

## Phase Two

For the Court to transition into Phase Two, there should be no evidence of a COVID-19 resurgence within the jurisdiction and the Court must satisfy the Gating Criteria a second time. Phase Two contemplates an increase in the number of in-court proceedings but still encourages telework whenever feasible. During Phase Two, the following guidelines, protocols, and recommendations will be in place:

### **Judicial Proceedings:**

- Masks or face coverings will remain **required** in the courtroom during in-court proceedings.
- Video and telephone conferencing should continue to be used **to the greatest extent possible**.
- Jury trials will continue to be conducted on a limited basis, pursuant to the Initial Guidelines for the Reinstitution of Jury Trials (*see* Appendix D) and the August 31, 2020 Standing Order, in the manner described in Phase One.
- In-person proceedings will continue to be conducted in a limited number of designated courtrooms. As jury trials resume, fewer courtrooms may be available for other in-person proceedings, depending on staffing constraints. The existing scheduling protocol will be revised accordingly.
- Proceedings requiring witness testimony, such as most pre-trial evidentiary hearings, suppression hearings, and bench trials, may be scheduled in accordance with the most current scheduling protocol and only in courtrooms that are set up to safely permit this activity.
- For the in-court proceedings that are scheduled, specific rules will be delineated which must be followed.
- After every in-court proceeding, GSA will perform standardized cleaning and disinfecting of the courtroom consistent with, and pursuant to, CDC guidelines.
- The restrictions on in-person settlement conferences and mediations from Phase One remain in effect.
- Arbitration hearings may resume by remote means only, in accordance with the Local Rules of Civil Procedure; in-person arbitration hearings will remain suspended.
- Naturalization ceremonies may be conducted remotely via video conferencing; in-person naturalization ceremonies at EDPA courthouses and court locations will remain suspended until further notice.

### **Clerk's Office Operations:**

- Clerk's Office employees will continue reporting to work on a rotating basis as described in Phase One.
  - Approved identified vulnerable employees and those employees who reside with vulnerable individuals will not be required to report to work in person.
- Attorney admission ceremonies will remain suspended. However, as in Phase One, attorneys seeking admission to practice in this District pursuant to Local Civil Rule 83.5(a) may be admitted upon submission of the required application with certification and payment, subject to review by the Court.
- The procedures for filing motions and other documents established in Phase One remain in effect.

### **Public Access:**

- Policies regarding public access to EDPA courthouses, court locations, and the Clerk's Office as delineated in Phase One continue to apply.

### **Employee Access and Procedures:**

- Employees are able to enter EDPA courthouses and court locations as needed.
- Telework should continue whenever feasible, especially for identified vulnerable employees and those employees who reside with vulnerable individuals.
- The protocols for sick or exposed employees as delineated in Phase One continue to apply.
- Employees should continue to complete daily health self-assessments before entering a facility.
- Judges are strongly encouraged to have their law clerks and interns work remotely, in order to limit the number of individuals present in court facilities at one time.
  - The recommendations from Phase One to ensure compliance with CDC guidelines remain in effect.
- Essential business travel may resume for judges and their staff, but should be followed by strict adherence to CDC guidelines regarding isolation upon return.

### **Facility Procedures:**

- Masks or face coverings remain **required** in common or public areas of EDPA courthouses and court locations.
- Hand sanitizing stations are available at all courthouse entrances and throughout the buildings. Everyone is asked to use hand sanitizer upon their admittance to the building.

- When in common or public areas of EDPA courthouses and court locations, everyone should maintain physical distancing of at least six feet between themselves and others.
- The Green Byrne Child Care Center's procedures will be updated upon further notice therefrom.
- The Hastie Library procedures from Phase One remain in effect, until further notice therefrom.

## Phase Three

For the Court to transition into Phase Three, there should be no evidence of a COVID-19 resurgence within the jurisdiction and the Court must satisfy the Gating Criteria a third time. Phase Three permits an increase of in-court proceedings and increased staffing of courthouse facilities. During Phase Three, the following guidelines, protocols, and recommendations—or something similar thereto—will be in place:

### **Judicial Proceedings:**

- Masks or face coverings will remain **required** in the courtroom during in-court proceedings.
- Video and telephone conferencing should continue to be used to the greatest extent possible.
- The number of in-court proceedings permitted may increase and the corresponding scheduling protocol will be revised accordingly.
- For the various types of in-court proceedings that are scheduled, specific rules will be delineated which must be followed.
- Jury trials will continue to be conducted on a limited basis, pursuant to the Initial Guidelines for the Reinstitution of Jury Trials, *see* Appendix D, any revisions thereto, and any relevant Standing Orders.
  - Criminal cases will continue to be prioritized over civil cases until the criminal case backlog decreases.
- After every proceeding, GSA will perform standardized cleaning and disinfecting of the courtroom consistent with, and pursuant to, CDC guidelines.
- The restrictions on in-person settlement conferences and mediations from Phase One remain in effect.
- Arbitration hearings may be held by remote means only, in accordance with the Local Rules of Civil Procedure; in-person arbitration hearings will remain suspended.
- Naturalization ceremonies may continue to be conducted remotely via video conferencing; in-person naturalization ceremonies at EDPA courthouses and court locations will remain suspended until further notice.

### **Clerk's Office Operations:**

- Clerk's Office employees may begin reporting to work on a more frequent, but still rotating, basis.
  - Approved identified vulnerable employees and those employees who reside with vulnerable individuals will continue not to be required to report to work in person.
- Attorney admission procedures from Phases One and Two remain in effect.

- The procedures for filing motions and other documents established in Phases One and Two remain in effect.

**Public Access:**

- Policies regarding public access to EDPA courthouses, court locations, and the Clerk's Office as delineated in Phase One continue to apply.

**Employee Access and Procedures:**

- Employees are able to enter EDPA courthouses and court locations as needed.
- The same protocols for sick or exposed employees as delineated in Phase One continue to apply.
- Employees should continue to complete daily health self-assessments before entering a facility.
- Judges are encouraged to ensure that their law clerks are able to social distance within chambers if they are required to return to work.
- Judges and their staff should continue to restrict business travel to only such travel as is essential, and to adhere to CDC guidelines regarding isolation following any travel.

**Facility Procedures:**

- Masks or face coverings remain **required** in common or public areas of EDPA courthouses and court locations.
- Hand sanitizing stations are available at all courthouse entrances and throughout the buildings. Everyone is asked to use hand sanitizer upon their admittance to the building.
- When in common or public areas of EDPA courthouses and court locations, all people should maintain physical distancing of at least six feet between themselves and others.
- The Green Byrne Child Care Center's procedures will be updated upon further notice therefrom.
- The Hastie Library procedures from Phase One remain in effect, until further notice therefrom.

## Phase Four

For the Court to transition into Phase Four, there should be a public health determination that COVID-19 has been suppressed within the United States, particularly within the Commonwealth of Pennsylvania. Phase Four is the highest-functioning phase, with most operations returning to their pre-pandemic status. During Phase Four, the following guidelines, protocols, and recommendations—or something similar thereto—will be in place:

### **Judicial Proceedings:**

- Masks or face coverings may remain required in the courtroom during in-court proceedings, unless an individual is specifically excused from doing so by the presiding judge.
  - This requirement will be reassessed before the District enters Phase Four, in accordance with guidance from public health officials and the AO.
- All types of judicial proceedings may be scheduled, including jury trials. The judges will no longer be subject to a scheduling protocol and will be free to schedule in-person proceedings as they wish.
- For all in-court proceedings, specific rules will be delineated which must be followed.
- For jury trials, the District will continue to follow the Initial Guidelines for the Reinstitution of Jury Trials and any revisions thereto. *See* Appendix D.
- In-person settlement conferences and mediations may resume.
- In-person arbitration hearings may resume.
- Naturalization ceremonies may continue to be conducted remotely via video conferencing; in-person naturalization ceremonies will be held consistent with the Court's availability.
- The frequency of GSA cleaning and disinfecting of the courtroom and other public spaces will be reassessed and modified in accordance with guidance from public health officials and the AO.

### **Clerk's Office Operations:**

- The Clerk's Office may resume full, unrestricted in-person staffing.
  - Approved identified vulnerable employees and those employees who reside with vulnerable individuals may now be required to return to work; however, supervisors should be flexible regarding leave requests and accommodations (like teleworking) for those employees.
- In-person attorney admission ceremonies may resume.

**Public Access:**

- The general public will resume access to EDPA courthouses, court locations, and the Clerk's Office; however, public access to the Clerk's Office may be on a limited basis.

**Employee Access and Procedures:**

- Supervisors should continue to be flexible regarding accommodations for identified vulnerable employees.
- The protocols for sick or exposed employees as delineated in Phase One continue to apply.
- Judges are encouraged to ensure that their law clerks are able to social distance within chambers.
- Judges and their staff may resume business travel on a discretionary basis, but should adhere to CDC guidelines regarding isolation following any travel.

**Facility Procedures:**

- Masks or face coverings may remain required in common or public areas of EDPA courthouses and court locations.
  - This requirement will be reassessed before the District enters Phase Four, in accordance with guidance from public health officials and the AO.

## **V. Human Resources Protocols**

### **Accommodations for All Employees**

Reasonable accommodations are to be liberally provided to all employees under the following circumstances:

- Employees who have childcare issues because their children's schools or daycares are closed.
- Employees who are caring for relatives or cohabitants who are ill or vulnerable individuals.
- Employees who utilize public transportation to commute to the workplace, taking into consideration the availability of and restrictions related to local transit.
- Employees who are confirmed as having contracted COVID-19 and/or employees who are suspected to have COVID-19 and are required or recommended by a medical doctor to quarantine at home.
- Employees who reside in an area that becomes subject to a federal, state, or local quarantine or isolation order related to COVID-19, or are living with an individual who is so subject.

### **Accommodations for Vulnerable Employees**

The following reasonable accommodations should be granted to employees who are vulnerable individuals, throughout all phases of reopening:

- Increased period of time in which to telework and not report in person.
- Flexible leave granted for health and safety concerns.

### **COVID-19 Reporting**

As discussed in Section IV, employees who think or know that they either have COVID-19 or have been exposed to COVID-19 should promptly report that information to their supervisors. Employees should regularly complete the Contact Tracing Daily Log (developed by the Clerk's Office), so that in the event that they need to report exposure or infection, they can provide the log to their supervisor.<sup>8</sup> All interactions between an employee, his or her supervisor, and the Human Resources Administrator regarding COVID-19 reporting are completely confidential.

The Court will be following CDC contact-tracing guidance for promptly notifying employees of possible exposure. Individuals will only be notified if they have been exposed to an

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<sup>8</sup> See Appendix C.

individual who has tested positive for COVID-19, or who is presenting with COVID-19 symptoms that are not attributable to another reasonable diagnosis. Exposure risk begins when someone has been within six feet of the infected person for 15 minutes or more within 48 hours prior to the sick individual showing COVID-19 symptoms.

When deciding whether to make a COVID-19 report, employees should consider the following guidelines:

- Any symptoms should be considered as being related to COVID-19 unless there is specific information that the symptom is not related to COVID-19.
- If someone in an employee's household is diagnosed with COVID-19, the employee should notify a supervisor.

## **VI. Conclusion**

Everyone is encouraged to take CDC-recommended precautions in order to reduce the transmission of the virus,<sup>9</sup> namely: wash one's hands often; avoid touching one's eyes, nose, and mouth; practice social distancing by maintaining a distance of at least six (6) feet between oneself and others; wear a mask or face covering when around others; cover one's mouth and nose when coughing or sneezing; and monitor one's health daily. For the safety of our community, individuals (including employees and visitors) should not come to the building if they are sick or have suspected exposure to the virus.

These Guidelines are subject to modification, rescission, or replacement at the sole discretion of the Chief Judge in consultation with the Emergency Group<sup>10</sup> and the Advisory Group<sup>11</sup> and will be updated periodically, as needed.

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<sup>9</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> for a comprehensive list of the CDC's preventative recommendations.

<sup>10</sup> See *supra* n.2.

<sup>11</sup> See *supra* n.3.

## **VII. Appendices**

### **Appendix A: Gating Criteria (Administrative Office of the United States Courts)**

## Judiciary COVID-19 Gating Criteria Checklist

The [Federal Judiciary COVID-19 Recovery Guidelines \(FJCRG\)](#) presents a framework for assessing local COVID-19 exposure risks and managing a safe return of employees, partners, and the public to courts and offices. Within the FJCRG, Gating Criteria assessments function at key decision points to justifiably and safely shift a court unit or office's operational posture through the FJCRG's Four Phases approach.

Gating Criteria is based on 14-day trends of local information (facility exposure, community case, and community action) to determine local COVID-19 exposure risks. The following Judiciary COVID-19 Gating Criteria Checklist is a step-by-step methodology for performing a Gating Criteria assessment and Phase Adjustment recommendation in support of the FJCRG.

### Step 1: Determine Facility Exposure Risk

Facility exposure risk analysis is intended to identify and evaluate COVID-19 impacts on facility safety. For this step, communicate with your local General Services Administration (GSA) building representatives and Facility Security Committee to assess:

YES  NO Has there been a COVID-19 confirmed or suspected COVID-19 case in the facility within the prior 14-days?

YES  NO If a confirmed or suspected case has occurred, have appropriate mitigation strategies been implemented? These include:

- Consulting with your [local health department](#) for appropriate actions;
- Coordinating with [GSA](#) to perform a "[Deep Cleaning and Disinfection](#)" of exposed areas;
- Conducting [contact tracing](#) to stop community spread; and
- Additional actions as detailed within [Judge and CUE Checklist for Potential COVID-19 Exposures](#).

If the answer was "no" to question 1 or "yes" to question 2 circle "PASS" in Column 1 of the [Step 4: Gating Criteria and Phase Adjustment Recommendation table](#). Otherwise, indicate "FAIL."

### Step 2: Community Case Analysis

Community Case Analysis is intended to measure COVID-19 current community spread risks by identifying the cumulative case count trend over the previous 14-day period.

YES  NO Has there been a sustained downward trending of cumulative daily COVID-19 case counts over the previous 14-day period?

- Utilize [the JDART 14-Day COVID Trend Service](#) or [local public health agency information](#) to identify the cumulative case count trend every 14 days.
  - Trends are based on 14-day snapshots of data to ascertain a "general direction." If a single data point is outside the perceived trend, it should not be weighed disproportionately to the other data points. Trend analysis should be performed every 15-30 days to capture a new 14 day trend snapshot, not every day.

If the answer above is “yes”, circle “PASS” in Column 2 of [Step 4: Gating Criteria and Phase Adjustment Recommendation table](#). Otherwise, indicate “FAIL.”

**Step 3: Community Action Assessment**

A Community Action Assessment is intended to measure COVID-19 impacts to the local community by evaluating local COVID-19 government and community response actions over the previous 14-day period.

- YES  NO Are local community restrictive movement and/or shelter in-place orders being lessened?
- Utilize [the JDART 14-Day COVID Trend Service](#), [National Governors Association](#) webpage, and/or your local state government web resources. Additional community considerations within this determination include:
    - YES  NO Are partner agencies (GSA, USMS, FPS, USAO, and BOP) able to support a court unit or office phase transition?
    - YES  NO Is your state and/or local municipality reducing community restrictions (i.e. opening public venues to some degree)?
    - YES  NO Are other community services and businesses (e.g., public transportation, schools, grocery stores, restaurants, and markets) adopting less restrictive postures?

If the answer above is “yes”, circle “PASS” in Column 3 of [Step 4: Gating Criteria and Phase Adjustment Recommendation table](#). Otherwise, indicate “FAIL.”

**Step 4: Gating Criteria and Phase Adjustment Recommendation**

A decision to transition to the next *less* restrictive phase is only justified when all Gating Criteria (see below) indicate “PASS.” If any Gating Criteria indicate “FAIL,” consider remaining at current phase or transitioning to next *more* restrictive phase if trends indicate a significant risk increase. Phase Adjustment recommendations should not be less stringent than [local health guidance](#).

Facility Exposure		Community Case		Community Action	
PASS	FAIL	PASS	FAIL	PASS	FAIL

This Gating Criteria analysis and Phase Adjustment recommendation should be performed at 15 to 30-day intervals. This assessment was performed by [*insert name of court unit position*] for the [*name of court unit/office/district*] on [*insert date*]. Recommendation is to:

- Transition to next *less* restrictive phase
- Remain at current Phase
- Transition to next *more* restrictive phase

The next Gating Criteria analysis and Phase Adjustment Recommendation will be submitted on \_\_\_\_

## **Appendix B: Employee Daily Health Assessment**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA  
Office of the Clerk of Court

**EMPLOYEE DAILY HEALTH ASSESSMENT**

Regarding your personal health, please answer the following questions:

Are you **currently** experiencing, or have you experienced **within the past 7 days** any of the following symptoms?

Fever (temperature of 100.4 F or higher)	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Chills or Sweats	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Headache	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Sore Throat	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Frequent Cough	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Shortness of Breath at Rest	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Pain or Tightness in Your Chest	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Flu-like Symptoms	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Muscle Pain (Non-Exercise Related)	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
New Loss of Ability to Taste or Smell	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

Are you well, but a member of your household is sick with bronchitis-like or cold symptoms?

Yes  No

Are you or a member of your household awaiting COVID-19 test results, or have you been told to self-isolate?

Yes  No

**If you answered Yes to any of the above questions, DO NOT report to work.  
Stay home and consult your personal physician for further guidance.**

**Contact your supervisor if you are not reporting to work.**

## **Appendix C: Employee Contact Tracing Daily Log**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA  
Office of the Clerk of Court

**EMPLOYEE DAILY LOG**

As we work towards reconstituting on-site operations in the courthouse, the safety and health of all employees are of the utmost importance. Even still, an employee may still contract COVID-19 from another employee *or* from a non-employee. Once an employee has presented symptoms of the Coronavirus Disease 2019, it is critical for the employee to quickly report this to the employer and identify the locations the employee has visited and contacts he/she had starting five days before the onset of symptoms.

**To facilitate “contact tracing” for suspected positive cases of COVID-19, employees are asked to complete this Employee Daily Log, starting 5 days before first reporting to work to the courthouse, and every day (including weekends) to keep track of people encountered and locations visited by the employee.**

You will not be asked to submit these Daily Logs but please maintain them in a readily accessible location such as an electronic file for possible referral. These logs may help you recall where you were and who you had contact with on a given day. In addition, you may be asked to follow-up on this log by your supervisor through a phone call. Your supervisor is required to complete a detailed Contact Tracing Form for every reported case. Engaging in a detailed and thorough conversation with your supervisor will make it easier for contact tracing.

The prompt reporting of symptoms or positive identification also ensures that appropriate cleaning of facility spaces is addressed immediately.



## **Appendix D: EDPA Initial Guidelines for the Reinstitution of Jury Trials**

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF  
PENNSYLVANIA

Initial Guidelines for the Reinstitution of  
Jury Trials

## PREAMBLE

These guidelines have been prepared to assist Presiding Judges in the reinstatement of jury trials. This is a fluid process, and the guidelines are certainly subject to revision as additional information becomes available and as current conditions change. These guidelines will assist the Presiding Judge in following the four major restrictions put into place due to the COVID-19 pandemic during a jury trial. The restrictions are as follows:

1. The wearing of masks by all persons in the courthouse;
2. Maintaining a proper social distance of six feet from other individuals;
3. Reducing the number of touch points for any individual and cleaning and disinfecting touch points; and
4. Current limits of no more than 25 people in a room.

Recognizing that this is a changing process, the Jury Committee welcomes input from all Presiding Judges and other Judges who may have information or experiences that will contribute to improving the process.

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## 1. Scheduling Jury Trials

- Criminal jury trials will initially be scheduled in Courtrooms 12A and 12B of the Byrne Courthouse after September 14, 2020. During the initial test period, only one trial will take place at a time due to staffing concerns. If the Court remains in Phase II of the Reopening Guidelines, we will remain in the test period for jury trials.
- After the initial test period for jury trials, when the Court moves to Phase III of the Reopening Guidelines, trials will also be scheduled in Courtrooms 3A and 3B (or Courtrooms 10A and 10B). Due to staffing concerns, until the Court has moved to Phase IV of the Reopening Guidelines, trials will not expand beyond two floors of the Byrne Courthouse.
- The Court will prioritize criminal jury trials to decrease the current backlog before moving to civil jury trials.
- Jury trials will be scheduled to commence with voir dire on Mondays and Wednesdays.
- The Chair of the Jury Committee will maintain and make available to all judges of the Court a list of all scheduled jury trials and their anticipated length.
- The Chief Judge reserves the right to halt the jury trial process if the current situation would warrant it.

*Note: These requirements will limit the number of jurors in the courthouse at any single time and ensure that sufficient space is available for voir dire and trial proceedings with appropriate distancing in place.*

## 2. Juror Summons and Drawing of Jury Pools

- We are hoping to assemble a pool of at least 52 qualified jurors for each jury trial.

*Note: As the failure to appear (FTA) percentage due to the COVID crisis is unknown, the jury staff will initially be increasing the panel size by 25%.*

- The clerk will include with the materials sent to each drawn juror:
  - A daily health assessment, to be performed by all jurors each day before reporting to court, which will ask the following:
    - Have you been diagnosed with, or had close contact with anyone

who has been diagnosed with, COVID-19 within the last 14 days?

- Have you experienced any listed symptoms associated with COVID-19 in the last 7 days, or is a member of your household experiencing symptoms?
  - Are you or a member of your household awaiting COVID-19 test results, or have you been told to self-isolate?
  - Have you traveled to any state currently on Pennsylvania's quarantine list in the last 14 days?
  - The daily health assessment will also direct that jurors who answer "yes" to any of these questions must **not** report to court and must contact Jury Administration at 267-299-7299.
- A letter from the Court, which will:
- Explain the procedures and protocols adopted by the Court to protect against transmission of COVID-19 (including the requirement that masks must always be worn except as directed by the Presiding Judge).
  - Explain that jurors will be required to wear a mask or face covering that covers the wearer's nose and mouth when entering the building and when in common or public areas of the courthouse; that jurors are expected to supply their own mask or face covering but will be provided a mask if they do not have one; and that jurors should still maintain safe distancing from others; and
  - Instruct jurors to review the daily health assessment the day before they report for jury service and before reporting to court each day of their jury service.
- Once a pool is drawn, the clerk will (1) exclude from the pool any juror who reports symptoms consistent with COVID-19 or recent exposure to an individual diagnosed with COVID-19, (2) notify the juror by letter that he or she is excluded and must not report for service, and (3) notify the Chief Judge and Presiding Judge of the juror's exclusion.

*Note: An additional number of qualified jurors will likely need to be drawn to account for those dismissed for COVID-related reasons. The goal is to ensure that the pool available for selection, after dismissal of those individuals,*

*is approximately 52 jurors.*

*Drawing 52 qualified jurors will hopefully leave us with at least 32 after the other challenges. It seems likely that around 20% of those drawn will be either excluded or dismissed, either because they are essential to COVID treatment or recovery efforts or because they report symptoms or exposure. It has been reported that around 30% of the population says that they are “very” worried about COVID, and – applying that figure to the pool – it might be assumed that some number, perhaps another 20%, will request and secure dismissal based on severe anxiety over the virus. The result would be a pool of about 32 jurors.*

*The COVID safety information should be communicated to prospective jurors as early as possible, and at every opportunity, including in communications from the Court and on the Court’s website.*

### **3. Voir Dire**

#### **a. Preparation for Voir Dire**

- In advance of the date on which voir dire is scheduled to commence:
  - Sanitizer stations will be placed in appropriate locations throughout the courthouse, including entrances to the building and individual courtrooms, and personal protective equipment – including facial masks and gloves – will be available for jurors during voir dire and trial.
  - A total of four electronic courtrooms and the jury assembly room will be utilized for jury voir dire. Initially, Courtroom 12A will be designated as the trial courtroom, and Courtroom 12B will be the jury room. Jurors will be directed to report to the jury assembly room, Courtroom 17A, and Courtroom 17B.
  - Markers will be affixed to the gallery in the courtrooms, indicating places where jurors should sit and allowing for at least six feet of separation. Markers will be affixed to three seats in each row of the jury box for witnesses.
  - Microphones will be placed or installed in the jury box and in the gallery at points equidistant from the seating markers. Additionally, a microphone will be set up in the well to be

utilized for voir dire.

- Counsel tables should be realigned against the wall and facing the jury box and offset to allow, to the extent possible, counsel for the parties to have an unobstructed view of the judicial bench, the jury box, and the gallery.
  - Video conferencing systems in the electronic courtrooms or a mobile system will be set up in “Courtroom 12A–Trial Courtroom” and “Courtroom 9A or 16A–Public Courtroom” and made available for broadcast or replay of the proceedings.
  - In Courtroom 17A, Courtroom 17B, and the jury assembly room, video conferencing will be utilized for the general voir dire.
  - A video screen visible to the gallery and jury box will be installed or placed in the courtrooms.
  - The rooms will be fully cleaned and disinfected.
- On the date voir dire is scheduled to commence, courthouse staff will be assigned to each courtroom and the jury assembly room, to assist and direct jurors.

*Note: Designation of the courtrooms and seating will allow the jurors to be grouped and seated more quickly and easily, while ensuring that safe distancing is maintained. The video conferencing system will allow the proceedings to be transmitted simultaneously to another room, so that the proceedings may be viewed by those who cannot be physically present.*

*The seating markers will ensure that jurors are assigned specific seats that are a safe distance from one another. The seating capacity of each of the voir dire courtrooms will be limited to 25 people or the current capacity approved by the City of Philadelphia and the Commonwealth of Pennsylvania for indoor gatherings. While the Court is not bound by those limits, many jurors may be aware of those limits.*

**b. Processing Jurors**

- The Clerk’s Office will utilize the Ajis Jury System to direct each summoned juror to report to the jury assembly room or one of the designated voir dire courtrooms.

- Courthouse staff will (i) ensure that jurors maintain safe distancing from others after entry into the courthouse from the 6<sup>th</sup> Street entrance, (ii) provide each juror upon arrival in either the jury assembly room or Courtrooms 17A or 17B with a clear protective facial mask and gloves, and (iii) instruct each juror upon arrival to wear a mask at all times within the courthouse except as directed by the Presiding Judge.
- Courthouse staff will ask jurors upon arrival if they performed the daily health assessment that day and also to state whether they are experiencing any symptoms of illness. If any jurors report that they are experiencing any type of medical symptoms of the virus, those jurors will be isolated until a determination is made by the Presiding Judge whether they will be instructed to leave. If any juror is instructed to leave, courthouse staff will advise the jury staff of the name and number of that juror.
- Courthouse staff on the appropriate floor will direct each juror to sit in one of the marked seats in the juror's designated courtroom.
- Courthouse staff on the appropriate floor will advise each juror that a mask must be worn at all times and that the juror should request permission to leave the courtroom if necessary (for instance, to use the restroom) prior to leaving his or her seat.

*Note: This process is intended to get the jurors in the courthouse and to their seats as quickly as possible, without compromising safety unnecessarily. Courthouse staff may also consider directing jurors to arrive at the courthouse at staggered times to avoid (so far as possible) large congregations outside the courthouse.*

**c. Conducting Voir Dire**

- Voir dire may proceed once all jurors in both voir dire courtrooms and the jury assembly room have been seated.
- Before questioning commences, any juror(s) not assigned a seat in one of the voir dire courtrooms or the jury assembly room will be dismissed and instructed to leave the courthouse at the discretion of the Presiding Judge.
- Questioning will commence via video conferencing. After initial questioning via video conferencing where prospective jurors may answer questions by raising their juror numbers, the Presiding Judge may have individual jurors escorted in small groups to

Courtroom 12A for individual voir dire.

- Questioning of jurors will be conducted by the Presiding Judge and, at the discretion of the Presiding Judge, by attorneys.
- Judges or counsel will start with general questions to the panel beginning with Courtroom 17A. Jurors who respond affirmatively will be asked to provide their juror number and then respond to follow up questions. Upon completion of voir dire with jurors from Courtroom 17A, the same process will be conducted with jurors from Courtroom 17B, and then with jurors from the jury assembly room.
- The judge, court reporter, courtroom deputy, counsel, and the defendant will remain in the trial courtroom, Courtroom 12A. Individual jurors may be brought in groups from Courtroom 17A, Courtroom 17B, and the jury assembly room to the public hallway outside of Courtroom 12A safely distanced apart, and then brought into Courtroom 12A one at a time for individual voir dire. Once in Courtroom 12A, jurors will stand at a microphone by the jury box where they will undergo individual voir dire. Those jurors who are selected will be escorted to Courtroom 12B where they will be provided instructions for further reporting and those not selected will be dismissed from service in Courtroom 12A.

*Note: The selection of jurors in this manner will decrease the number of touch points for jurors. It will also maintain social distancing requirements. It will, however, result in what is a “de facto” individual voir dire in almost every case. One benefit of this procedure is that jurors who are not involved in the individual voir dire questioning process can be given a break.*

- Attorneys and their staff, courtroom personnel, jurors, and parties must wear masks while entering and exiting the courtrooms, and in the courtroom except as directed by the Presiding Judge; no other persons may be admitted into the courtroom during the proceeding, except as permitted by the Presiding Judge.

*Note: Members of the public will not be allowed into the courtrooms, although the proceedings will be shown in another courtroom. There may be some seating available in the trial courtroom for members of the public identified by the government or the defense, and such determinations will be made at the discretion of the Presiding Judge.*

- Generalized concerns over exposure to or transmission of COVID-19 should not, without more, generally warrant dismissal of a juror for cause.
- If any juror responds to any question regarding ability to serve by reference to his or her experience with or concern over COVID-19, the judge should (i) remind jurors of the procedures and protocols adopted by the Court to protect against transmission of COVID-19, (ii) advise jurors that fear over transmission – while legitimate – may not be a ground for dismissal, and (iii) ask the juror(s) who responded to explain whether and how the experience or concerns constitute a physical or mental condition that would impact ability to serve, giving the juror(s) an opportunity to speak to the judge individually if necessary.

*Note: The “standard” questions concerning physical and mental conditions and ability to serve should invite any responses regarding concerns over COVID, and asking specifically about such concerns might encourage jurors to raise those fears as a basis for dismissal when they might not otherwise do so. Even then, it seems likely that a number of jurors will object to service on grounds of a generalized fear of transmission, a fear anyone could credibly claim to have. Having the judge address this subject in response to such a fear, and then ask any jurors who identify a concern of this type to explain why it rises to the level of a condition affecting ability to serve, will allow the Presiding Judge to evaluate whether a particular juror’s fear of contracting COVID would impede the juror’s ability to serve. This may provide some assurance that the jurors will not be unnecessarily dismissed. The Presiding Judge retains discretion to do otherwise, including allowing the attorneys to ask questions about COVID-19.*

**d. Concluding Voir Dire**

- Once all jurors in both 17<sup>th</sup> floor courtrooms and the jury assembly room have responded to the general voir dire, selection of jurors will be conducted in the manner prescribed by the Presiding Judge.
- Selection will continue until a total of 14 jurors have been selected, representing 12 principal jurors and 2 alternate jurors for the initial test period. Following the initial test period, the total number of jurors will be at the discretion of the Presiding Judge.

- The remaining jurors will be dismissed and directed out of the courtrooms *individually* by courthouse staff, to ensure safe social distancing from others.
- The selected jurors will be escorted to Courtroom 12B where they will be advised of their responsibilities by the Presiding Judge, and then directed out of the courtrooms *individually* by courthouse staff.

#### 4. Trial

##### a. Preparation for Trial

- In advance of the date on which trial is scheduled to commence:
  - In the two courtrooms selected for trial proceedings, each courtroom will be designated – with appropriate signage – as either “Trial Courtroom” or “Jurors’ Courtroom.” Initially, Courtroom 12A will be designated the trial courtroom and Courtroom 12B the jurors’ courtroom.
  - Markers will be affixed to seats in the “Trial Courtroom,” indicating places where jurors and others should sit, as follows:
    - In the gallery, to points allowing for at least six feet of separation for the jurors.
    - In the jury box, to points in the upper and lower level allowing for at least six feet of separation for the witnesses.

*Note: The trial courtroom will be set up so that the 12 principal jurors and two alternates sit in the gallery. Witnesses will testify initially from the back row of the jury box and the witness box. The witness should be visible to all jurors, as well as the Presiding Judge and court reporter, and the testimony will be picked up by the microphone.*

*The video conferencing connection should remain installed from voir dire and will remain connected to a screen in another courtroom. This will allow members of the public to view the proceedings without being present in the trial courtroom.*

- Projection equipment, connected to the video screen in the courtroom, will be installed.
- The courtrooms will be fully cleaned and disinfected.

- It is anticipated that by moving the location of witnesses around the courtroom any cleaning by GSA will only have to take place during the lunch hour.

*Note: By utilizing the upper and lower row of the jury box and rotating between the available seats in each row, the need for cleaning down time will be reduced. At the discretion of the Presiding Judge, witnesses may also be called to testify at a podium or stand-up microphone if it is anticipated that they will only be called for short durations.*

- In advance of the date on which trial is scheduled to commence, the defendant(s) will be tested by appropriate staff of the U.S. Marshals Service (or an appropriate designee) for symptoms of or exposure to COVID-19, and the results will be reported to the Presiding Judge.
- On the date trial is scheduled to commence, courthouse staff will be assigned to each courtroom, to assist and direct jurors.
- After court is adjourned at the end of the day's proceedings, the trial courtroom will be fully cleaned and disinfected.

**b. Processing Jurors and Other Individuals**

- Courthouse staff will ask any person seeking to attend the trial whether the person is a juror or otherwise.
- If the person is a juror, and the person's status is confirmed, courthouse staff will:
  - Provide each juror upon arrival with a clear protective facial mask and gloves and instruct each juror upon arrival to wear a mask at all times within the courthouse except as directed by the Presiding Judge.
  - Ask each juror upon arrival, on every day of trial, whether the juror performed the daily health assessment that day and whether he or she is experiencing any symptoms of illness. If any jurors report that they are experiencing any type of medical symptoms of the virus, those jurors will be isolated until a determination is made by the Presiding Judge whether they will be instructed to leave. If any juror is instructed to leave, courthouse staff will advise the clerk of the name of the juror.
  - Direct each principal juror and alternate to a marked seat in the gallery in the trial courtroom.

- If the person is a witness or other participant in the trial, and the person’s status is confirmed (including by an attorney for a party), courthouse staff will:
  - Provide the witness with a clear protective facial mask and gloves and instruct the person to wear a mask at all times within the courthouse except as directed by the Presiding Judge.
  - Direct the person to the trial courtroom where he or she will remain in either the witness room or attorney conference room and instruct the person to maintain safe distancing from others until directed to enter the courtroom.
  - Once in the courtroom, witnesses are to be seated in accordance with the directions of the Presiding Judge.
- If the person is neither a juror, a witness, nor another participant in the trial, courthouse staff will:
  - Instruct the person to wear a mask at all times within the courthouse.
  - Direct the person to the “Public Courtroom,” either Courtroom 16A or 9A, advise the person that the proceedings may be viewed as broadcast, and instruct the person to maintain safe distancing from others.

*Note: This process is intended to direct trial participants to the trial courtroom, while members of the public – if they wish to view the proceedings – may do so from a separate courtroom, in which the proceedings will be shown.*

**c. Conducting Trial**

- Trial may proceed once all jurors have been seated, at the discretion of the Presiding Judge.
- The Presiding Judge will instruct all persons in the courtroom to notify the clerk (or other designated judicial officer or courthouse employee) immediately if the person experiences symptoms consistent with COVID-19 or is exposed to an individual diagnosed with COVID-19, with assurance that the person’s identity will be kept confidential.
- Attorneys and their staff, courtroom personnel, jurors, parties, witnesses, and other trial participants must wear masks except as

directed by the Presiding Judge.

- Attorneys and their staff will remain at or near their assigned counsel table throughout trial, except as directed by the Presiding Judge.
- When a witness is called to testify:
  - The witness will approach the jury box, while wearing a clear mask, and sit in the marked seat, after which the witness may remove the mask at the direction of the Presiding Judge.
  - The witness will testify by speaking into the microphone installed in front of the seat.
  - Attorneys will make every effort to present exhibits to the witness through the use of projection equipment; otherwise, if the Presiding Judge permits the exhibit to be passed to the witness, both the witness and the attorney must wear a mask and gloves while handling the exhibit.
  - Upon conclusion of witness testimony, the disposable cover of the microphone will be replaced by courthouse staff, and the area disinfected.
- When a “sidebar” is called by the Presiding Judge:
  1. (Option 1) The Presiding Judge may direct that the sidebar be conducted in the courtroom through the use of technology which will permit the parties to communicate privately with the Court with white noise to mask the side bar. This technology allows for those individuals to communicate privately while “white noise” is projected throughout the courtroom.
  2. (Option 2) The Presiding Judge may also direct that the sidebar be conducted in the trial courtroom and excuse the jury to Courtroom 12B.
  3. (Option 3) The Presiding Judge and counsel may use the Jury Room or Jury Deliberation Room.
- When a recess is called:
  - Courthouse staff will direct jurors to leave their seats, beginning with those closest to the courtroom door, and to enter the jurors’ courtroom, the doors of which will remain open.
  - Courthouse staff will instruct jurors to stay in the jurors’

courtroom – Courtroom 12B – until recalled, to maintain safe distancing from others, and to signal courthouse staff if a need arises.

- Once the recess is concluded, and jurors are recalled by the Presiding Judge, courthouse staff will direct jurors to return to their seats in the trial courtroom, the first juror in line being the one seated farthest from the courtroom door.
- If at any time during trial a juror, other participant, staff member, or attendee has begun to experience symptoms consistent with COVID-19 or has been exposed to an individual diagnosed with COVID-19:
  - The Presiding Judge may decide, after consultation with counsel, whether the trial may be resumed safely, whether there will be a delay due to a quarantine period, or whether a mistrial may be declared. The Presiding Judge should immediately report any incident to the Clerk’s Office. If any such incident happens, the procedure is as follows: 1. Report the incident; 2. Investigate the incident; 3. Consult with the attorneys involved and court personnel; and 4. Decide how to proceed from there.
  - The clerk will contact each juror individually and instruct each juror to notify the clerk immediately if he or she experiences symptoms consistent with COVID-19 or is exposed to an individual diagnosed with COVID-19 during the quarantine period.
  - The Presiding Judge will decide, after consultation with counsel, whether trial may be resumed after the quarantine period or whether a mistrial should be declared.

**d. Deliberations**

- Once the parties have concluded their presentations, the jurors will be instructed to commence deliberations in the manner prescribed by the Presiding Judge.
- Courthouse staff will direct jurors to leave their seats, beginning with those closest to the courtroom door, and to enter the jurors’ courtroom, the doors of which will thereafter be closed.
- Courthouse staff will instruct jurors to stay in the jurors’ courtroom until recalled, to maintain safe distancing from others, and to signal courthouse staff if a need arises (including if the jury has a

question or reaches a verdict).

- Whenever jurors are recalled by the Presiding Judge, including for the purpose of returning a verdict, courthouse staff will direct jurors to return to their seats in the trial courtroom, beginning with those seated farthest from the courtroom door.

*Note: It seems unnecessary to determine or designate where the jurors should sit in the deliberating courtroom, although the courtroom should be inspected beforehand so any sensitive materials or equipment are removed or sealed.*

**e. Concluding Trial**

- Once trial has concluded, the jurors will be dismissed and directed out of the courtrooms individually by courthouse staff, ensuring to maintain safe distancing from others.