

# **BEST PRACTICES FOR THE CONDUCT OF JURY TRIALS AMID THE COVID-19 PANDEMIC**

## **United States District Court for the Eastern District of Oklahoma**

**August 2020**

### **Pre-Jury Selection Procedures:**

- Court Clerk (CC) will request each judge's jury trial needs (*i.e.*, type of trial, date of trial, number of prospective jurors needed) as soon as practicable before jury selection and report to the Jury Administrator (JA).
- Summons, along with letter and information sheet outlining COVID-19 concerns, juror excusals, and general procedures is sent to the prospective jurors.
- For criminal trials, Courtroom Deputy (CRD) will coordinate with the United States Marshals Services (USMS) regarding COVID-19 testing and possible isolation of in-custody defendant.
- Excusal process:
  - » The Chief Judge has authorized the JA to excuse jurors for certain criteria, including COVID-19 situations.
  - » If in doubt, the JA will send the excusal request to the CC, who will direct any issues to the Chief Judge.
- The Friday before they are to report, both an automated email and a call will go out to jurors reminding them to screen their health and report any issues to the JA.
- IT will arrange the sound system in the courtroom designated for jury selection.
  - » If microphones are needed, the jurors will be asked to wear gloves while handling the microphone. Additional precautions are outlined herein.
- CRD will ensure that extra masks are in courtroom. All parties, counsel, jurors, and court personnel must wear masks.
- CRD will also have disinfecting wipes, alcohol wipes, and disposable microphone covers in the courtroom. (Microphone necks and handles should only be cleaned with alcohol wipes.)

### **Courthouse Arrival/Attendance:**

- When jurors arrive at the courthouse:
  - » Spacing requirements/markings on floor as they go through security.
  - » Normal screening by Court Security Officer (CSO), with CSO to provide jurors with masks if they did not bring their own.
  - » Check-in area will be on the third floor in the jury assembly room. Jurors will be asked to enter the jury assembly room and take a seat. Seats will be spaced out. JA will then take roll.
  - » Anyone accompanying a prospective juror may be asked to leave due to spacing requirements.

### **Petit Jury Orientation:**

- Orientation video will be shown in the jury assembly room.
- CC and JA will go over procedures.
- CC's office will generate random selection list.

### **Petit Jury Selection and Qualification:**

- Jurors will be escorted to the trial courtroom. Juror qualification and selection will be conducted in courtroom 1 or 2 for maximum spacing.
- In the courtroom, the seats in the jury box, witness stand, and gallery will be labeled so that jurors can be appropriately distanced.
- Magistrate Judge will explain the health and safety rules for jury selection and trial (distancing and masks) and why those rules may differ for people seated at counsel tables.
- A wireless microphone may be used during jury selection to enable counsel and the court reporter to hear answers to voir dire questions. If a microphone is used, jurors must be provided with and must wear disposable gloves. If for any reason gloves are not worn by a juror, the microphone handle will be sanitized with alcohol wipes before being passed to the next juror.
- CRD or other court personnel who is handing the microphone to the prospective juror will wear gloves and will ensure that the juror is wearing gloves. If for any reason gloves are not worn by a juror, the microphone handle will be sanitized with alcohol wipes before being passed to the next juror.

- Judge may ask jurors to remove their masks if needed to make a proper record.
- If a bench conference with a prospective juror is needed:
  - » Attorneys (1 per side) and juror to wear masks to approach the bench and conference positions.
  - » Masks may only be removed if the court reporter cannot hear the conference and make a record.
- When a juror is dismissed, the presiding judge will advise them to report back to the JA.
- During jury selection, breaks will need to be longer than usual to accommodate the two-person-per-elevator rule.
- Hands-free sanitizer stands will be placed outside each courtroom for use by individuals involved in jury selection.

**Trial:**

- Jurors are to report each morning to second floor intake for check-in.
- Jurors are to wear masks at all times during trial.
- Hand sanitizer and disinfecting wipes will be available in the jury room.
- Pre-packaged snacks, bottled water, and canned soft drinks will be available in the jury room.
- If more than one trial is taking place at the same time, the judges will need to coordinate and stagger their start times and breaks, including lunch breaks.
- Breaks will need to be longer than usual to accommodate the two-person-per-elevator rule.
- Portions of the gallery may be reserved for the jury during criminal trials. The CRD will ensure that no spectators are seated in those designated areas of the gallery. If gallery seating becomes an issue, CRD will advise CC.
- Bench Conferences:
  - » Attorneys (1 per side) to wear masks to approach the bench and conference positions.
  - » Bench conferences will be on the side of the courtroom furthest from the jury.
  - » Masks may only be removed if the court reporter cannot hear the conference and make a record.
- All persons at counsel tables will remain masked, except counsel that is speaking. The presiding judge may modify this requirement.

- Counsel will use their own judgment regarding spacing at counsel tables. However, the court will recommend no more than 4 persons at each counsel table.
- Cleaning between witnesses:
  - » Disinfecting wipes will be placed at the witness stand.
  - » CRDs will wipe down the witness stand between witnesses and replace the disposable microphone cover. (The microphone neck will be cleaned with alcohol wipes.)
- Cleaning will also take place at lunch and each evening after recess.

**Jury Deliberations:**

- Deliberations will be held in the largest space available. If a courtroom is used, it will be locked, and the sound system disabled to ensure juror privacy. The CRD will ensure that the USMS disables any security cameras.
- Jurors must wear masks in the jury deliberation room.
- Presiding judge may order meals for jurors during deliberations. CRD must give the JA notice so that the procurement specialist will have enough time to order the meal.
- Post-verdict: JA will distribute the questionnaire. An email will also go out to all jurors should they not complete the questionnaire in person.
- Jurors will be asked to contact the JA if they experience any symptoms of COVID-19 or test positive for COVID-19 within 14 days after their jury service.

**What to do if a juror exhibits symptoms of being ill:**

- JA or CC to be notified immediately if a juror exhibits symptoms of being ill.
- Attempt to isolate the juror.
- Presiding judge to decide whether to excuse juror.
- JA will ask juror to report back and notify JA if juror tests (positive or negative) for COVID-19.