



Resuming Operations of the Trial Courts

COVID-19 GUIDELINES FOR INDIANA'S JUDICIARY

May 13, 2020

Indiana Supreme Court

Office of Judicial Administration

TABLE OF CONTENTS

Introduction.....	3
Phase One: Preparation to Reopen—First Steps.....	6
Phase Two: Resuming Non-Emergency Hearings & Operations.....	11
Phase Three: Resumption of Jury Trials.....	13
Phase Four: When the Pandemic is Over.....	15
Appendix A: Online Resources.....	17
Appendix B: Planning Considerations Checklist for Expanding Court Operations.....	18
Appendix C: Personal Protection Equipment Vendors.....	22
Appendix D: Juror Questionnaire.....	25
Appendix E: Team Report on Remote Jury Selection.....	27

INTRODUCTION

COVID-19 caused a crisis in Indiana like none it has ever had to meet. Since March 13th, the courts have had to operate on an emergency basis only to enable all to comply with Governor Holcomb's orders to "hunker down" at home. Our courts have responded rapidly and well to the crisis, working diligently to protect the public while meeting emergency needs. In a matter of days only, most courts transitioned from operating normally to operating remotely to meet essential needs. This was only possible with the dedication of countless public servants in the judiciary.

Indiana is not a unified court system and each county has its own challenges, but we have more in common as we resume operations. This guide gives each court the basics of what needs to be considered and what actions to take before resuming full operations. It is set forth in phases just as the Indiana State Department of Health has established phases to open the community safely.

After weeks of closure and with COVID-19 continuing to be a concern, the Indiana Supreme Court appointed a group of trial court judges as the Resuming Operations Task Force to lead the way in outlining a way back to full court operations. This guide is only possible through the work of those fine judicial officers.

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Clark Circuit Court #4

Richard R. Stalbrink, Jr.
LaPorte Superior Court #2

Dana J. Kenworthy
Grant Superior Court #2

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Warren Circuit Court

The Resuming Operations Task Force received input from other judicial officers throughout the state and particularly thank Paul A. Felix, Hamilton Circuit Court, and David N. Riggins, Shelby Superior Court #2.

The Resuming Operations Task Force met formally via Zoom meetings but the work was a daily effort. They reached out to community leaders and thank the following representatives for their input, both formally and informally:

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President, Indiana State Bar Association

Patrick Harrington
Tippecanoe Prosecuting Attorney

David Temple
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We particularly thank Indiana State Health Commissioner Dr. Kristina Box, who in her crush of duties, reviewed this plan for us. Other valuable advice and counsel was received from Indiana State Department of Health Chief Medical Officer Dr. Lindsay Weaver; Robert Carter, Commissioner of the Department of Corrections, Joseph Heerens, General Counsel to the Governor; Douglas Carter, Indiana State Police Superintendent; David Botoroff, Executive Director of the Indiana Counties Association and many more.

The Resuming Operations Task Force was assisted ably by staff of the Court's Office of Judicial Administration.

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Appreciation is also given to the Michigan State Court Administrative Office; we have borrowed significantly from its "COVID-19 Guidelines for Michigan's Judiciary," as well as other state courts' guidelines.

Phased Approach

This guidelines in this plan were reviewed by and approved by Dr. Kristina Box, Indiana State Health Commissioner; it is crucial that we continue to rely on our health experts. COVID-19 has caused the safety and health of our communities to vary widely in short amounts of time. The phasing in of normal operations allows the courts to test what works and what needs to be corrected to mitigate the resurgence of the pandemic. We urge you to work closely with your local health officials to determine when it is appropriate to advance to another phase or to retreat back a phase depending on the local conditions in your county. General timelines are given with each phase but these dates will change if there is a resurgence.

The Indiana Supreme Court and Office of Judicial Administration are following closely the information and advice from Governor Holcomb and the Indiana State Department of Health, while partnering with Indiana's Department of Corrections, Department of Homeland Security, Department of Education and the Indiana State Police. These agencies in turn have called on local justice and law enforcement agencies across the state to give us input and guidance. If information from these sources indicates a need, this guideline will be changed as needed.

Guidelines for All Phases

Establish or participate in a working group of community stakeholders, including the health department, emergency management services, the Prosecuting Attorney, the local public defenders or defense Bar, local law enforcement, the school corporations, and child services. None of us can identify all of the issues and collaboration with these stakeholders is essential to determining what must be done for health and safety and how to do it.

Keep track of your community's COVID-19 statistics, including the availability of testing and the sufficiency of resources for treatment. This information may require changes as to when you enter or retreat from phases. Information can be obtained from the Indiana State Department of Health at the *Indiana COVID-19 Dashboard* at www.coronavirus.in.gov and viewed by county.

PHASE ONE: PREPARATION TO REOPEN—FIRST STEPS

Care of Your Employees

All the steps in this section apply not only to court staff, but to probation employees. It also applies to court-operated CASA programs and juvenile detention center employees where the center is under the supervision of the judge.

Identify who can work remotely and who has to be at the facility to perform the job functions. Anyone who can work remotely should continue to do so as long as feasible and ideally into Phase 2 with priority given to those most vulnerable employees.

Identify which of your employees are at increased risk. Per CDC and ISDH guidance, a person is at risk if over the age of 65, or anyone who has any of the following underlying medical conditions:

- chronic lung diseases or moderate to severe asthma
- serious heart conditions
- immunocompromised from any disease such as cancer, AIDS, or medications that compromise immunity.
- severe obesity (BMI of 40 or higher)
- chronic kidney disease requiring dialysis

You cannot ask employees to identify what medical condition they have that makes them particularly vulnerable. You can, however, give them the explanation of who is at risk and ask them to identify if they are at risk or not. This information must be kept separate from other personnel files.

Employees who are increased risk should work remotely indefinitely if at all possible. When working remotely is not possible due to necessary job duties, consider other reasonable accommodations including locating the worker away from the public, medical grade PPE, and increased social distancing. If you have concerns due to an employee's higher risk as to what you may require, consult Heather Falks, the Court's ADA Coordinator. [heather.falks@courts.in.gov; 317-234-2620]

Determine if any employee has had recent contact with someone who has COVID-19. If so, that employee should not be allowed to return to a shared workspace until the employee has been self-quarantined and symptom free for fourteen days. Because COVID-19 may be asymptomatic, it is reasonable and appropriate to require the employee to be tested before entering a shared workspace.

Diminish risk to your employees by minimizing their interaction with each other. Facilities will be addressed below but you can also use creative steps such as rotating employees in and out of the workspace or using shifts so all are not present at the same time.

Draft and publish policies to address the safety of your employees. Require employees to report if they are experiencing any symptoms of COVID-19 in the preceding three days, including:

- Fever of 100.4 that day or in the preceding 3 days.
- Chills
- Muscle and body aches
- Headache
- Sore throat
- Cough, chest tightness, or shortness of breath
- New loss of taste or smell

The policy must require the employee to not enter the workplace if they have experienced any of these symptoms. Review the ISDH website for updated symptoms, as information develops on COVID-19. There should be a disciplinary consequence if an employee disregards the policy and comes to the workplace ill. The policy also needs to provide that if an employee has any of the symptoms during the workday, the employee is to report it and go home.

The court also needs a written policy that employees shall report if someone they live with or have been with in the last fourteen days tests positive for COVID-19. The employee shall be sent home on leave or to work remotely for as long as the health department advises.

An additional policy is that no employee should travel, whether for personal or business, and then return to work without a period of quarantine from the worksite after travel. The length of quarantine required should be guided by the county health department.

Safety Provisions for the Employees

The working space needs to be measured to provide 6 feet of distance between workstations that are open. If this is not possible, examine ways to minimize contact between staff such as

- Having one-way hallway patterns
- Installing plexiglass
- Rotation of staff so people in adjacent work areas are not working on the same day or at the same time

There should be written policies and signs posted that employees are to use good hygiene in the workplace, including:

- Washing hands with soap and water or with alcohol-based sanitizer
- Avoid touching the face
- Sneeze or cough into a tissue or the arm
- Frequent disinfection of used items and surfaces
- Maintain 6-foot social distance

The court should move from desktop computers to laptops so that when employees need to work from home, they can do so.

Employees should be directed to not share computers or other office equipment. Equipment that must be shared, such as copiers, shall either be assigned to one person or shall be sanitized with each use.

Shared breakrooms should be closed. Any common snack areas should be evaluated for changes to minimize contact between users.

All court employees are at will employees. Each court must decide whether to require employees to wear a face covering and if so, when it is also the right of the employer to decide if employees must be tested for COVID-19 before returning to the workplace after working remotely or after reporting symptoms of COVID-19.

ADA Requirements for Employees

If an employee reveals that they have COVID-19, the court has the responsibility to inform all persons who had contact with the employee. However, the employee's name may not be revealed. If the notification necessarily causes other persons to realize who the employee is that has tested positive, this is not a violation of the ADA. The public health emergency requires that persons be warned who have been in contact with anyone with COVID-19. EEOC and DOL guidance state that because of the pandemic, employers should inform all those who have had contact even though the caution may allow others to discern who has the illness. The only restriction is to not state or confirm the name of the employee without the specific permission of the employee. This notification will permit the health department to conduct "contact tracing" which is an important tool in fighting the COVID-19 virus and stopping its spread.

Families First Coronavirus Response Act

The Families First Coronavirus Response Act (FFCRA) applies to the court and its employees. It provides for up to two weeks of paid sick leave if the employee is quarantined by a government agency or a health care provider or has COVID-19 symptoms and is seeking a medical diagnosis. It also provides for two weeks of paid sick leave at two-thirds the employee's regular rate of pay if the employee is unable to work because the school or childcare provider for the employee's child is closed due to COVID-19. Employees may also be eligible for up to an additional ten weeks of partially paid expanded family and medical leave for necessary childcare when a school or childcare provider is unavailable for COVID-19 reasons. There are income limits and specific benefits are also affected by the particular benefit plan of the county. If a judge has a question about the applicability of this law, contact Heather Falks for advice at heather.falks@courts.in.gov or 317-234-2620.

Preparation of the Physical Facilities

Ensure deep cleaning of the courtroom and court offices before resuming non-emergency operations. Consult with county emergency management and health department on changes that can be made to building to minimize transmission of disease (one-way traffic, new non-touch door handles, etc.) Ensure that the cleaning policy of the county will be adequate when the courtroom and offices are reopened.

Determine how to safely handle mail, especially mail from prisons. One method is to place mail in a box and allow it to sit for thirty-six hours before handling the mail. Another option is to have only one person in each office handle the mail and provide gloves and require a face covering during the task.

Measure the courtroom to determine how many people may safely be in each area. Determine if additional safety measures, such as a plexiglass barrier around the court reporter or jury box should be installed. Consider taping or painting areas to mark six-foot distances, particularly if people will be congregating or need to wait in a line.

If the courtroom is too small to safely impanel a jury, search for alternative sites in the county, including but not limited to schools, conference centers, closed stores and fairgrounds.

Enlist the key personnel who will be in the courtroom, such as the prosecuting attorney, defense counsel, child services to determine what changes need to be made to ensure social distancing.

Meet with the Sheriff to make a plan for screening the public when the court facilities reopen while protecting the security personnel.

Arrange for either the security personnel at the doors to the building or courtroom staff if necessary, to have a checklist to ask visitors if they have had specific symptoms of COVID-19, and have masks available if a person appears without a mask. Consider utilizing a sign-in sheet at the courthouse security check points, including the name and office visited, to be shared weekly with your local health department, who may cross reference names with known positive COVID-19 individuals for contact tracing within the county offices.

File Your Required A.R.17 Petition

Prepare an AR 17 petition to reopen the Court operations, addressing the requests made in your initial AR 17 petition. A plan should be referenced and attach your plan for resuming operations as an exhibit. The petition should have the same cause number as the Court's current petition.

PHASE TWO: RESUMING NON-EMERGENCY HEARINGS & OPERATIONS

This should begin after May 30th or adjust based on local health data

Employees

All vulnerable employees should work with supervisors to continue remote work. Employees who live with or provide care for vulnerable individuals should do the same to the greatest extent possible to reduce chances that they could carry the virus to these vulnerable individuals.

Discuss reasonable accommodation options with supervisors who have special concerns.

To reduce risk, prior to coming into the office, all employees should conduct a health self-assessment, to include taking their temperature. If an employee's temperature is greater than 100.4 degrees or if an employee is exhibiting other signs of COVID-19 infection per updated CDC guidance, the individual should self-report to supervisors, stay home, and call their physician. Use the CDC Self-Checker to assist.

When in the office, all individuals should maximize physical distance from others. Six-foot distancing should be observed in all areas. Tape or other visible markers should continue to be used to mark 6-foot distances where practical.

Probation: While remote visitation should continue as possible, begin off-site visits to probationers and clients as needed. Face coverings should be required for all face-to-face meetings where social distancing cannot be maintained.

GAL/CASA visits may resume while maintaining social distancing. Masks should be provided for GAL/CASA staff. Identify volunteer GAL/CASA who fall into vulnerable class and assign alternate volunteers to perform home visits.

Essential business travel may resume.

Personal travel can resume. However, employees should continue to take benefit time at home or work remotely for fourteen days when returning from out of state travel.

Handling the Public

As much as possible, continue to hold hearings remotely. The courts may begin to expand hearing types to include family and civil hearings.

Anyone entering the building should ideally be screened by security personnel at the building entrances. The screener should ask the questions for screening of COVID-19 (see appendix). Temperature may be taken by a touchless forehead thermometer. Masks should be provided and required if the person is not wearing a mask. If security personnel at the entrances do not do this procedure, courtroom staff should do so.

Each court should determine the priority of hearings, giving high priority to hearings that may be held remotely.

Design the hearing schedule to minimize contacts between persons. Consider evening and weekend hearings to allow more time between hearings for the purpose of minimizing persons present at one time. When in person hearings must be held, encourage attorneys and litigants to arrive timely for hearings and depart promptly upon conclusion, limiting attendance to only essential persons.

For high volume courts, stagger the docket to allow no more than ten hearings per hour in order to minimize contact and provide for social distancing. Cattle call hearings do not comply with social distancing requirements and will need to be modified by setting specific hearing times . (ie. 9:00 am ten cases, 10:00 am for the next ten cases and so on.)

Consider recommending mediation prior to the setting of any hearing to reduce the number of hearings the Court must conduct.

The only persons who should be physically present for hearings should be parties and attorneys. Where possible, have witnesses testify remotely. A waiting room should be established that allows for social distancing for persons waiting to enter the courtroom. Post signs that only the attorneys and parties whose case is currently being heard are to enter the courtroom. Google Voice is a free web-based application that allows the Court to call or text participants when they should enter the Courtroom. It allows segregation as they wait outside the building in lieu of employees' personal cell phones.

Sanitizer and masks should be available for anyone entering the courtroom or court offices. Court should consider wearing a mask as an example.

Arrange for hearings to be held remotely by senior judges where possible to reduce the backlog of cases. For Zoom, the best practice is for the Senior Judge to be added into the meeting as an Alternate Host (not cohost) to a hearing. This allows both judges to access and work on the hearing while still holding concurrent hearings. The senior judge's email associated with the senior judge Zoom license should be used. Only licensed Zoom users can be entered in the Alternate Host field.

Arrange with the DOC and the Sheriff for remote hearings of offenders and jail inmates.

Each court should review the Remote Hearings Resource in the Benchbooks section of INcite.

Determine how you will make the remote hearings public: YouTube, CiscoWebEx, Court Call or other method. Ensure that you have taken reasonable steps to keep the hearing from being broadcast publicly. A Cheat Sheet is available in the Benchbooks to setup your court's YouTube Channel and stream from Zoom.

PHASE THREE: RESUMPTION OF JURY TRIALS

This should not begin until July 1st , pursuant to the May 13th Indiana Supreme Court order; and after your local health department has approved the plan and your local stakeholders are in agreement

Employees

Vulnerable individuals may return to work but remote work should still continue where it does not hinder the work of the court.

Monitoring of health may discontinue if the local health department concurs. Otherwise, it should continue indefinitely.

The restrictions on entering the workplace should continue for employee with symptoms of coronavirus.

All other practices to protect employees should continue.

Facility and Jury

Anyone entering any public area should continue to be screened for COVID-19 and required to wear a mask.

The Court needs to consult with counsel for both parties on how to handle the wearing of masks by witnesses while testifying and the jurors during voir dire.

Send an additional COVID-19 questionnaire to the jurors: see appendix.

Decide in advance on criteria for automatic deferrals considering factors such as:

- Essential workers, including those working in long term care facilities
- Jurors with vulnerable health conditions or living with those who are vulnerable
- COVID-19 exposure
- People just returning to work after furloughed
- Provide for last minute deferrals due to COVID-19 symptoms occurring while or after jury is impaneled

The Court will need to determine how best to secure social distancing for gathering of a jury pool.

Consider doing jury selection remotely. Information from the Remote Jury Selection Task Force is attached in the Appendix. More information will be published as the task force continues its work.

If jury selection is not done remotely, stagger jury pools to minimize persons present. However, consider that you may need to call more people than usual for *voir dire* due to COVID-19 problems.

Provide a link to jury panel for the Supreme Court's Jury Duty video:

<https://www.in.gov/judiciary/2610.htm>

You could prepare a PSA video for the jurors showing them the courtroom facilities including the following:

- Walk-through of jury selection procedure from front door to jury room
- Explanation of steps taken to keep them safe
- Masks required (if they don't have their own, court will provide)
- Show health precautions (Hand sanitizer everywhere, cleaning of courtroom)

Remember the video could be reproduced so it must reassure and comply with health guidelines.

Plan how to handle the social distancing requirements for the jury when impaneled. Although a highly produced video may be ideal, an informal YouTube or Facebook type video from the Court or Jury Administrator may be equally effective.

- Set times for bench decisions that will reduce the time jurors are together
- Establish where sidebars will occur
- Determine safest method to handle food for jurors
- Consult with counsel on how to handle exhibits that minimizes contacts and allows sufficient examination of the exhibits. Provide gloves to jurors to handle exhibits.

PHASE FOUR: WHEN THE PANDEMIC IS OVER

Employees

Vulnerable individuals resume all daily work/life activities with no need for additional precautionary measures.

Normal social activities and gatherings can resume.

Hygiene practices such as proper handwashing and use of hand sanitizer should continue.

Unrestricted staffing of worksites.

On-site public facing activities and site visits can be fully resumed with probationers and clients. GAL.CASAs may resume normal visits with families Resume full, unrestricted operations and activities.

Facilities

All access and operations can operate without restrictions. Security operations return to full, pre-COVID-19 functionality.

Debriefing and Pandemic Planning

At this stage, the court's leadership team, including the chief judge(s), court administrator(s) should debrief with local court stakeholders to evaluate pandemic response. Court stakeholders include, but are not limited to representatives from the following: health department, emergency management services, local law enforcement, attorney's office, public defenders' office and representation from the local bar. Debriefing should be conducted with the following objectives in mind:

- Identify COVID-19 responses that worked well;
- Identify opportunities for improved local pandemic responses in the future; and,
- Begin planning process to incorporate "lessons learned" into existing continuity of operations plans (COOP), or separate pandemic specific COOP plans.

Consider contacting the Office of Judicial Administration to help facilitate debrief sessions and assist the courts in developing robust response plans.

APPENDIX A: ONLINE RESOURCES

[CDC guidelines](#)

[ISDH on coronavirus](#)

[Remote hearings resource](#)

Webinar with Court of Appeals Judge May

- ["CourtZoom™: Adapting to Online Court Proceedings"](#)

Video links on wearing PPE

- <https://www.youtube.com/watch?v=0whUgkCgP0U>
- <https://www.youtube.com/watch?v=A4qwCWwC-Oo>
- <https://www.youtube.com/watch?v=JwPWdkbyizw>

APPENDIX B:

PLANNING CONSIDERATIONS CHECKLIST FOR EXPANDING COURT OPERATIONS

This is intended to be a non-exclusive checklist of planning considerations for your use in preparation of your transitions plan. A separate “template” will be prepared by the Office of Judicial Administration to help format your plans and ensure all essential information is addressed.

Phase I

1. Planning

- Convene group of local stakeholders including, but not limited to, county clerk, health department, emergency management, sheriff, prosecutor, defense counsel, and child services to identify and address issues and help create your plan.

2. Employment procedures

- Identify who can work remotely and who cannot.
- Consider whether employees will rotate shifts of working remotely and at court, or other adjustment of schedules to minimize interactions.
- Identify protective steps you may need to take to keep employees safe, such as:
 - Work space separation;
 - Requiring and providing masks or other PPE;
 - Requiring frequent handwashing;
 - Creating barriers between staff and others if possible; and
 - Establishing policies to require non-sharing of equipment when possible and establish a sanitation schedule.
- Determine what steps court staff must take to sanitize and have clear direction as to who bears responsibility.
- Develop plan to sanitize the courtroom after each hearing
- Establish written policies as to reporting illness and staying home when having COVID-19 symptoms that are HIPAA-compliant.

- Establish written policies as to reporting exposure to COVID-19 that are HIPAA-compliant.
- Review advice received from the county health department and determine whether you have complied with its recommendations.
- Consider transition from any desktop computers to laptops to allow more remote work and identify resource needs to do so.

3. Courthouse facility plan

- Ensure deep cleaning of the court facilities and offices before returning.
- Identify the county's cleaning policy, if any, for after the courtroom and offices are reopened and determine if it needs to be supplemented or revised.
- Determine how will mail, especially mail from prisons, be treated to ensure no contamination.
- Measure courtrooms to identify how many people may be safely in each area given social distancing guidelines.
- Identify potential alternate venues for larger events like jury selection or mass call dockets.
- Consult with county partners like emergency management, facilities, and health department and identify changes that can be made to court facilities and offices to minimize risk of exposure and transmission such as:
 - Converting hallways to one-way traffic;
 - Propping open doors, where security is not a concern, to minimize touch points;
 - Installing non-touch door handles; and
 - Reducing common areas by, for example, closing staff breakrooms and limiting restroom capacity.

4. Screening procedures for the public

- Determine and set forth which members of the public (e.g., attorneys, parties, witnesses, interested persons, spectators, media) will be allowed into courtrooms and facilities for each type of hearing, when, and in what numbers. Locate waiting areas to keep members of the public socially distant.
- Determine and set forth what health and safety requirements will be imposed for members of the public entering courtrooms and facilities, such as
 - Masks or other PPE, and whether they will be provided or available;

- Temperature checks, including who will administer them; and
- Self-reporting requirements for exposure, symptoms, or high-risk factors.

5. Resuming Non-Emergency Hearings

- Identify the manner and means by which use of remote/virtual proceedings will be maximized.
 - Consider permitting witnesses to testify remotely.
 - Coordinate with DOC and county sheriff to hold remote proceedings for defendants and inmates.
 - Determine what proceedings and matters may be handled remotely by senior judges and identify potential senior judges to employ.
- Using a phased-in approach, identify how in-person proceedings will be expanded to include family/civil/etc.:
 - Determine priority of hearings;
 - Consider evening and weekend hearings;
 - Consider scheduling to minimize contacts between persons;
 - Determine and set forth whether telephonic pretrial conferences will be required before hearings;
 - Determine and set forth whether local rules permit mandatory mediation before hearings are set.

Phase II

Jury trials

- Consider developing an additional COVID-19 questionnaire to be sent to potential jurors and state who will receive automatic deferrals. For example:
 - Essential workers
 - Individuals who have been exposed to COVID-19
 - Individuals in a higher risk category for COVID-19
 - Individuals just returning to work after furlough
- Determine whether resources, including technology and available facilities, permit remote selection of jurors.

- ❑ Determine whether jury panels can be staggered to minimize large groups.
- ❑ Determine whether automatic deferrals will require additional jurors to be called.
- ❑ Identify means of messaging jury summons. Consider including:
 - Video PSA with link to jury summons;
 - Explanation of steps taken to keep jurors safe, including locations of hand sanitizer, courtroom cleaning procedures, etc.;
 - Whether masks or other PPE are required and, if so, whether the court or facility will provide them;
 - Special social distancing requirements
- ❑ Plan for and rehearse, with court staff, attorneys, and county facility personnel (i.e., security and screening personnel), jury selection procedure from front door to jury room.
- ❑ Plan for and rehearse, with court staff, attorneys, and county facility personnel (i.e., security and screening personnel), handling of the jury during trial including items such as:
 - Setting times for decisions that will reduce time jurors are together;
 - Special social distancing requirements;
 - How and where sidebars will occur;
 - Whether jurors relocated in the courtroom from the jury box will be able to hear the proceedings;
 - How food will be handled and delivered to jurors;
 - How exhibits will be handled between attorneys and court staff, and by jurors;
 - Where the jury will deliberate.
- ❑ Determine when CASAs and GALs may resume home visits and whether PPE or pre-screening of residents will be required.
- ❑ Determine when probation and community corrections may resume in-person office visits or home visits and whether PPE or pre-screening of probationers and residents will be required.

APPENDIX C: PERSONAL PROTECTION EQUIPMENT VENDORS

Grainger

- *Limited supply, have to continually check*

HiTouch Business Services

Indiana Correctional Industries

- *Sales contact: larnold@idoc.in.gov*

ICC Business Products

Lionshead Tire and Wheel

- *Call: 574-533-6169*
- *They have new stock of 900,000. Calls are better than email.*

Staples

- *Sales contact: annie.lewis@staples.com*

Uline

- *Limited supply – have to continually check*

Weldon, Williams & Lick, Inc.

- *Sales contact: bandrews@wwlinc.com*



1110 South Vestal Drive • Plainfield, IN 46168
 toll free: (800) 736.2550 • main: (317) 955.6800
www.IndianaCorrectionalIndustries.com
 Product Sales & Info: iciwebsales@idoc.in.gov

@IDOCICI @IndianaCI



Personal Protective Equipment

Stock Code	Description	Size / Quantity Per Case	Price
HAND SANITIZERS			
S-2019-CV	Viroclean Hand Sanitizer - Contains 72.9% Alcohol	12 fl. oz. bottles / 12 bottles	\$72.00
S-1029-VCP	Viroclean Hand Sanitizer - Contains 72.9% Alcohol	4 fl. oz. bottles / 20 bottles	\$40.00
FACIAL PROTECTION			
VP-0500-FS	Clear Plastic Face Shield	25 pieces per case	\$125.00
VP-0111-WP	2 Elastic Straps White Face Mask	50 pieces per case	\$75.00
BODY PROTECTION			
VP-0100-BG	PVC Coated Nylon Blue Protective Gown	12 pieces per case	\$120.00
VP-0100-KG	Poplin Material Khaki Protective Gown	12 pieces per case	\$120.00
VP-0100-WP	Poly Material White Protective Gown *COMING SOON*	12 pieces per case	\$120.00

For more information, please contact one of our Customer Service at (800) 736.2550 toll free or email at: www.iciwebsales@idoc.in.gov

Personal Protective Equipment

- www.IndianaCorrectionalIndustries.com
- 1110 South Vestal Drive, Plainfield, IN 46168
- toll free: (800) 736.2550 | main: (317) 955.6800
- Product Sales & Info: iciwebsales@idoc.in.gov
- Facebook: @IDOCICI | Twitter: @IndianaCI
- For more information, please contact one of our Customer Service at (800) 736.2550 toll free or email at: [www.iciwebsales@idoc.in.gov](mailto:iciwebsales@idoc.in.gov)

Stock Code Description Size / Quantity Per Case Price

HAND SANITIZERS

S-2019-CV Viroclean Hand Sanitizer - Contains 72.9% Alcohol

- 12 fl. oz. bottles / 12 bottles
- \$72.00

S-1029-VCP Viroclean Hand Sanitizer - Contains 72.9% Alcohol

- 4 fl. oz. bottles / 20 bottles
- \$40.00

FACIAL PROTECTION

VP-0500-FS Clear Plastic Face Shield

- 25 pieces per case
- \$125.00

VP-0111-WP 2 Elastic Straps White Face Mask

- 50 pieces per case
- \$75.00

BODY PROTECTION

VP-0100-BG PVC Coated Nylon Blue Protective Gown

- 12 pieces per case
- \$120.00

VP-0100-KG Poplin Material Khaki Protective Gown

- 12 pieces per case
- \$120.00

VP-0100-WP Poly Material White Protective Gown *COMING SOON*

- 12 pieces per case
- \$120.00

APPENDIX D: JUROR QUESTIONNAIRE

Juror Name: _____ Juror #: _____

ADDITIONAL JUROR QUESTIONNAIRE REGARDING COVID-19 3rd Quarter – July through September 2020

1. Are you an essential healthcare worker?

_____ YES

_____ NO

2. If yes, where are you employed and in what capacity?

3. Have you been exposed to COVID-19?

_____ YES

_____ NO

4. If yes, approximate date of exposure: _____

5. Have you tested positive for COVID-19?

_____ YES

_____ NO

6. If yes, approximate date of positive test: _____

7. Are you currently experiencing any symptoms of COVID-19 and been told to quarantine?

_____ YES

_____ NO

8. If yes, on what date were you told to quarantine? _____

9. Are you an employee who has been laid off due to COVID-19 and have recently been returned to work?

_____ YES

_____ NO

10. If yes, where are you employed, how long were you laid off, and when did you return to work?

11. Are you considered an individual in a vulnerable population due to age or health conditions?

_____ YES

_____ NO

12. Any other concerns related to COVID-19 you have regarding your jury service?

I SWEAR OR AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE ABOVE STATEMENTS, REPRESENTATIONS, AND ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE OF JUROR

APPENDIX E: TEAM REPORT ON REMOTE JURY SELECTION

Tiger Team¹ Task:

Answer the following restated questions:

Q: Do we need alternative methods to select jurors as we emerge from the Covid-19 Pandemic and if so, what are they?

A: Yes. Social distancing with personal protective equipment (PPE) makes traditional jury selection in our courthouses almost impossible. Alternative methods may include smaller panels throughout the day, more spacious venues, and in select circumstances, remote video jury selection.

Q: Are some alternatives better suited for criminal or civil trials?

A: Yes. Smaller panels and possibly remote jury selection by agreement seem most appropriate for simple 6-person civil jury trials. Non-complex criminal trials could use smaller panels as well. Complex civil trials and notorious criminal cases would likely benefit from a more spacious venue.

Q: What are pros and cons of each alternative?

A: In-person jury selection is the gold standard. No alternative is equal to it. Each alternative presents unique problems as set forth below.

Q: To what extent should there be guidance for each alternative?

A: Rules should make it clear that the parties should be free to explore consensual alternatives without fear of reversal or error. Parties expecting a completely traditional jury selection may be disappointed and are encouraged to be flexible to ensure the earliest trial dates.

¹ *Participants: Judge David Riggins, Judge Hunter Reece, Judge Heather Welch, Judge Matthew Kincaid, John Trimble, Tony Patterson, Dan Murrie, Michael Moore, Bob Rath. Staff: Michelle Goodman

Executive Summary for Alternatives to Traditional Jury Selection

Smaller panels, aka “Barney Fife” method. (“All right- break it up, break it up!”) Smaller panels with multiple sessions coupled with generous deferment.

PROS:

Use existing resources. Jurors are used to attending at courthouse. Staff already present. Better control over sanitation and security. Closest to gold standard, as attorneys and litigants get to observe jurors closely.

CONS:

Consumes significantly more court resources. Contamination of Court resources requiring significant sanitation between panels. Generous deferment dilutes jury by peers. Attending jurors with PPE may interfere with traditional observation. May require a larger draw of prospective jurors. Greater risk of exposure to COVID-19, due to increased traffic into the court facilities. Constitutional objections may be made to jurors being allowed to wear masks during voir dire.

Spacious remote venues, aka “The Go Big or Go Home” method. Find a bigger place.

PROS:

Reduces time for jury selection. May increase attendance rate and greater peace of mind for prospective jurors by increased social distancing. Reduces courthouse exposure to contamination. Satisfies “open & public”.

CONS:

Might be difficult to record proceedings. Acoustic challenges between jurors, attorneys, and court, common to large venue where parties are spread out; may require audio amplification system. Unfamiliar surroundings to employees, litigants, and jurors. Cost to rent and/or clean remote venue. Security and accessibility may not be equal to courthouse security. May require a larger draw of prospective jurors. Difficult in rural communities securing suitable venues. Great risk of exposure to COVID-19, due to increased traffic into a central location. Similar constitutional objections as small panel method, if jurors wear masks.

Remote Video Selection, aka “The Hollywood Squares” method. Select some, one, or all jurors via a video platform.

Civil Cases

PROS

Best chance of acceptance would be by agreement in civil juries consisting of 6 individuals, especially in cases where the law and facts are not overly complicated. Less Constitutional concerns in civil cases. Best for a test case. Satisfies “open & public”. Least risk of exposure, as it reduced people entering the court facilities. Avoids the need for masking, allowing for better assessment of juror responses.

CONS

Technology is still deficient in quantity and quality for some jurors. Even in best cases, some frozen and dropped calls are likely. Absent some test cases and significant guidance from the Supreme Court, likely to encounter significant resistance from the bar, when compulsory. More difficult to control juror’s environment, when not in person, and increases risk of distractions to that juror and panel members.

Criminal

PROS

Best as an agreed tool to supplement, not replace in person Voir Dire. Best use would be to provide an opportunity to inform and reassure prospective at-risk jurors that might not otherwise respond to summons that their service would not present an undue risk.

CONS

- Technological concerns regarding availability and quality of connection
- Significant Constitutional issues are in play and are somewhat at odds. If a person demands a trial during a pandemic, significant segments of the population may either refuse or be unable to perform jury service, thereby eroding the protections envisioned by trial of peers. There are also concerns about the abilities of counsel to adequately prepare during a quarantine and how members of the public would view selection.
- Likely to encounter significant resistance based upon tradition alone.
- There is insufficient legal precedence to predict whether Video Voir Dire satisfies the Constitutional right to be present at every meaningful stage.

- Constitutional concerns abate significantly if the parties agree to Video Voir Dire. However, agreement may be uncommon. A criminal defendant may have to choose between delay or using alternative methods to traditional jury selection.

Details

Our Process

Invited both civil and criminal bench and bar members to meet (virtually-of course) and discuss how we can get back to selecting juries. We accomplished this by:

- Held two virtual meetings discussing issues and concerns with remote jury selection.
- Held a virtual mock jury selection with 6 citizens to test and learn from the process to enhance content of this report.² Held third meeting after mock jury selection to staff observations.
- Held fourth virtual meeting to complete discussion and finalize report.

On these things we all agreed:

- The need of alternative methods to help the system move back to more normal processes, with the long-term goal of returning as much as possible to traditional in-person selection process.
- A strong preference for in-person selection if it can be done safely. Do not want to move away from attorney participation in selection process, like the Federal system, but this might present opportunity for some tests on civil cases using remote video jury selection.
- That safety of all involved (parties, attorneys, judges, court staff, witnesses, and jurors) is paramount to an effective and fair jury trial.

² Some jurors from a May 11, 2020 Shelby County Trial that was cancelled agreed to participate in a mock jury. Their participation was greatly appreciated. Any names used in the mock trial were fictitious and not related in any fashion to any person, either living or dead. In addition to participating, the jurors graciously consented to the mock trial being recorded and all agreed to it to be distributed so that others may learn from the experience. The resiliency and helpfulness of our citizenry is inspiring in these troubling times.

- That information on expectations of conduct, dress, and PPE, and on steps being taken by the Court to help reduce a juror’s exposure to pathogens during the selection process should be sent to jurors well in advance of the trial.
- Written questionnaires regarding a juror’s health concerns should be delivered to jurors and returned to the Court in advance of the selection process.
- Choosing between alternatives of smaller panels or more spacious venues should be within the Court’s discretion, but consensus of the parties is also desirable.
- That deferrals should be viewed more favorably considering a juror’s age, occupation and/or health or compromised family members and powers of contempt should be used most judiciously.
- Increased volume of deferred jurors will require corresponding increase in summoned jurors.
- Remote video for jury selection
 - should only be permitted upon agreement of the parties involved in the proceeding. Agreements allowing remote video selection are more likely in civil cases. Agreements in criminal cases are less likely.
 - The type of case and complexity of the issues are factors to consider in using remote jury selection. The more complex or higher stakes, the less likely remote methods will be viewed as viable option. However, remote video jury selection may also help in prioritizing cases for trial. For example, in civil cases where a litigant may be ill and not able/willing to wait for trial they could avail themselves of this option for proceeding.
- That each method could contribute to a viable trial date setting which would help facilitate resolution of cases via settlement or plea agreement.
- That without a firm viable trial date cases are likely to linger on dockets.

I. Considerations of breaking up into smaller panels – “Barney Fife”:

- Social distancing requires appropriate spacing and seating of jurors. Space may not be adequate even for smaller panels and storage of idle furniture may become an issue. Emergency exits in reconfiguring courtroom shall be considered.
- Courtrooms may need health related modifications, sneeze guards etc.
- Sanitation before and after each panel. Who cleans and with what?
- Personal Protective Equipment (PPE). Who wears it? How do they get it? Consequences for not wearing PPE if required.
- Increase in deferral requests likely triggered by in-person summons. Generous granting of deferrals likely to reduce diversity of jury panel.

- Smaller panels increase time necessary to select jury and consume significant amounts of judicial resources. In high volume jury trial courts, this would result in less court time for other juries and hearings. Repetitious questioning becomes the norm.
- Ability of counsel to assess group dynamics, body language, and to follow up on reactions from others in the jury box may be significantly impaired by spacing and jurors wearing PPE.

II. Considerations Regarding More Spacious Venues

- What is available? Schools, movie theaters, auditoriums, fair grounds?
- What is the cost?
- Security?
- Sanitation, who cleans, what gets cleaned?
- Accessibility, how can they get there, where do they park, can they get into the building, where do they sit once inside?
- Preservation of the record, how does it get recorded? Are there enough mics? Background noises?

III. Considerations Regarding Remote Video Jury Selection

- It may lessen the ability of counsel to assess group dynamics, body language, and to follow up on reactions from others in the jury box.
- Have an Odyssey event code to specify remote method of jury selection.
- To the extent that civil parties agree to move their cases forward using remote jury selection, it may trigger a public reaction if criminal trials do not equally progress. (i.e. Why are the courts doing slip and fall cases when my loved one is still in custody?)
- It may present new opportunities to gain knowledge about jurors by seeing them in an environment of their choosing.
- It provides a health benefit by reducing the risk of exposure to pathogens involved with an in-person jury selection.
- The court and attorneys will need to monitor a juror's attention and engagement while they are at home and be prepared to redirect the juror if necessary.
- Number of jurors on a panel should be few enough to allow sufficiently large video display for court, attorneys, and parties to see and observe the proceedings and to allow better management of the session by the host.
- Could be useful as a screening tool if limited to questions related to for cause disqualification and ability to serve with others to report for in-person selection,
- May not save much time given the size of the panel and complexity of managing it.

- Impact on appearance rate unclear. More may participate because of no need to travel. Less may participate because of connection or technological issues.
- Would save on paying jurors mileage however remote locations might cause readjustment of mileage paid.
- Will need to communicate more information to a video panel:
 - set expectations for participation, backgrounds, ambient noise, how to report technical issues, Code of Conduct 2.17 admonishment, jury orientation process, etc.
 - explain how juror can communicate sensitive or confidential matters using breakout rooms.
- To what extent does the use of remote methods impact juror assessment of a case, especially in criminal cases?
- The presumption in criminal trials is that all parties and counsel will be in the courtroom. However, a benefit is that remote video selection may better mask a defendant's custodial status.
- To what extent will jurors use their electronic device to seek information or communicate about the case with others? If selection is livestreamed for public access to what extent should juror safety be considered?
- While we agree consent is necessary at this time, could there be situations in which courts could require or mandate use of remote selection, especially in criminal cases considering:
 - with in-custody and impact on jail populations/caps if cases are not able to be resolved
 - with AR 17 tolling provision and impact on speedy trial requests in criminal cases

Practical Lessons learned from mock remote selection exercise:

- Had 6 jurors participate in mock selection for both a civil and criminal case
- Of the jurors participating:
 - generally rated experience in mock participation via remote method for jury selection as 7 or higher on scale of 1-10, even with the technical issues experienced. Everyone (judges, attorneys, jurors) thought the mock jury exceeded expectations but it was no substitute for in-person jury selection. It did seem very promising for an agreed selection with the right facts.
 - if given the choice, more supportive of in person selection vs. remote; one person thought okay in times like this; one person was on the fence
 - when asked if in the role of a litigant would they be comfortable with this remote process, all said yes for jury selection

- when asked if summoned would they have concerns in appearing, five reported no concerns as long as masks and social distancing guidelines are adhered to; one person was in a high- risk category who would probably have been deferred upon request
- Issues experienced:
 - Lagging internet connections, background noise, phone not charged, family distractions, some could only connect audio by phone instead of computer audio, other audio issues-cutting in and out. Missed questions and misunderstood questions. One juror actually answered opposite of her intended answer because she misunderstood the question due to interference.
 - Attorneys need experience with technology and tracking jurors on screen since boxes move around as juror responds to questions to not “lose” track of someone, practice looking at camera and not video image, etc.
- Tips to improve process:
 - Need instructions for jurors to use the technology well and avoid issues (connections, plugging in devices to maintain battery life, selection space that is quiet, not roaming around, muting/unmuting, etc.)
 - Need uniform method for registering into the remote system so easily id participants and can call on them (i.e. by Juror number, Juror Sally M. or Juror J. Smith) – keep in mind what is visible when giving public access options
 - Need uniform backgrounds for attorneys
 - Set up test opportunities for attorneys and jurors to address tech issues in advance, if possible
 - Need intro dialogue for guiding attorneys and jurors through the technology steps at the beginning of the process
 - Need to understand the view of those participating – if by phone only or browser versions individuals do not see all the others on video at the same time – may be hard to answer questions if individual recognize others in the session
 - Best to keep number of jurors to manageable level (i.e. 5-6), more than that might be hard to track and keep engaged in the process. Also, as number of attendees increase the video tiles size decreases impacting ability to observe participants
 - Recommend additional staff people be given host roll to allow them to mute and unmute jurors as questions are asked.

- Recommend turning off videos for court staff during process to reduce tracking challenges and aid focusing on primary participants
- It is not a substitute for traditional in-person procedures long term.

Additional Feedback from a Juror in the Mock Selection:

- The attorneys must pause to allow the jurors to think of answers, remember tech lags might exist.
- Being able to see other jurors faces and their reactions to questions might influence the response of others. In a normal jury box, it is more difficult to observe other jurors' reactions.
- Many jurors would appreciate the convenience of using this method – if not selected, it is a time saver. (no driving to courthouse and back to work/home) They would have more of their day available if released from service.
- What about the ability to start with one method and “move” to another? i.e. - if started trial remote then have the ability to meet in person at courthouse when able to do so.
- A mock trial would be interesting.
- Could perceive a difference in eye contact with those sitting (better eye contact) vs. those standing or in a more relaxed sitting position.
- Be sure to dress the part and background should be similar – things in background draw attention away
- Viable option, tech was great (except background noise).
- Thinks courtroom is best for trial but wonder what it would be like to do full trial remotely. Think more people are embracing technology.

IV. Other points beyond jury selection:

- Need to address issues involved with right to confrontation for criminal cases – ability to face accuser when setting up trial procedures. (i.e. can witnesses face be seen fully?)
- Courtroom decorum and procedures should be reviewed to instruct parties, witnesses, etc. on rules on mask usage.
- This time may be an opportunity for piloting options beyond remote selection, specifically in civil cases. For example, trying a minor fender bender from selection to verdict by remote means may be viable to test expanding the use of technology within jury trials generally.
- Civil cases also have other alternatives to address cases – mini trials, summary trials, private judges/senior judges to hear cases. There may be some increases in mediation or settlement due to the current situation as well, especially if parties do not want to wait for a jury trial.

- Impact on proceeding without proper safety consideration – effect of judicial immunity?
Employee claims – wrongful death/emotional distress? Torts Claims Act – 34-13-3-3?

V. Guidance:

- Guidance would be needed to address adjusting in person process – handling exhibits, when masks will or will not be worn (concerned with assessing witness credibility if cannot see facial expressions), etc.
- Guidance should be general in nature and provide safe harbor for agreed innovation in the trial process.
- Guidance should address key issues where there are definite requirements (i.e. addressing public access to jury trials, including jury selection; maintaining social distancing while in person; screening upon courthouse entry; use of masks, jury orientation, etc.)
- Guidance on public access during jury selection should account for impact on jurors and juror yield. Consider streaming audio only for jury selection or not having jurors shown in video feed. Consider how jurors sign into remote platform as well.
- Allow for options and allow parties to agree to procedures for their individual case. Range of options could include one or more of the following:
 - Pre-screening jury panel with written questionnaire for challenges for cause and only schedule the remaining panelist to appear for jury selection either remotely or in person.
 - Use remote method with potential jurors who have and are comfortable with technology. The number of jurors per session or time slot can be agreed to by parties and court. Court and parties should define scope of questioning for remote method (i.e. will the questions focus on topics related to cause challenges and ability to serve only and then be called for in-person selection, or will full scope of selection questions will be considered)
 - Call in smaller groups of potential jurors to the courthouse for in-person selection. Can be used for those who do not have or are not comfortable with technology. Could be used for more in-depth questioning if remote is limited to cause/ability to serve. The number of jurors per session or time slot will be set by court consistent with social distancing recommendations.
 - If available, look for alternative sites that can allow for larger groups and still maintain social distancing while considering any fiscal impacts involved (cost of space, staffing, etc.)