

# Frequently Asked Questions about Restarting Jury Trials in New Hampshire

## Preparations

1. *What are the preparations the court has taken to restart jury trials and with whom have you consulted?*

The Court has developed [extensive guidelines](#) for resuming jury trials safely and these have been shared with all court staff, judges, prosecuting and defense attorneys, and trial attorneys in preparation. These procedures have been developed to conduct initial jury selection remotely so that fewer prospective jurors are required to come to the courthouse. A set of thorough cleaning and sanitation guidelines have also been created and will be put in place prior to jury selection.

The Court has worked with health experts, court clerks and staff, and facility managers to assure that appropriate sanitization and cleaning take place during the trial process. For details, see the guidelines referenced above.

In addition, traffic flow in each court facility has been analyzed and appropriate floor markings for social distancing have been properly placed and instructive signage is now visible throughout. The Chief Medical Officer has been consulted and involved throughout this process and the court is following CDC recommendations. The court is holding a walk through in late July to assess the social distancing plan put in place and to test how proceedings will occur in an actual trial, and a pilot trial is planned for August.

## Juries

2. *How are you handling jury summons?*

Jurors will be sent an introductory letter with the summons. The letter will explain the importance of jury service and safety protocols. It will include the requirement to wear a mask and ask them to notify the court if they cannot wear a mask or unwilling to wear a mask. It will also notify them that temperatures will be taken. Jurors will be instructed to complete the jury questionnaire. Any juror requesting to be excused or deferred for cause due to hardship, concern about safety, or other valid reason will be granted excusal/deferment.

**Prior to reporting for jury service, jurors will be asked COVID screening questions. Any juror answering “yes” to screening questions will be instructed not to report for service and the Court will recommend they seek medical advice.**

3. *How are you handling jury selection?*

On premise protective measures include an expedited entrance into the courthouse, check-in procedures that minimize physical contact with documents, and posted signage to remind visitors of hygiene and distancing practices.

Jurors will be summoned to the courthouse in three groups of 20. The groups will be staggered at one-hour intervals, and jurors will be instructed to wait in their car to be called into court by text message for voir dire questioning one at a time. While each courthouse will have its own procedure, generally, if a juror does not have a cell phone for text messaging, the jury can provide the bailiff the make and model of the juror’s car and the bailiff can notify the juror in person.

In addition to ordinary security screening, upon entering the courthouse each juror will be screened for COVID symptoms by a court security officer. The juror will then report to the courtroom for individual

questioning by the judge and attorneys. If the juror is qualified, the juror will be assigned a number (1 to 14). The juror will be told he or she will be notified before the end of the day by telephone if the juror is selected for service. The judge will instruct the juror not to discuss the case or do outside research about the case. If a juror is excused for cause, or if excused by preemptory challenge at the end of individual voir dire, she or he will be allowed to leave the courtroom and instructed to check out with the jury clerk.

4. *How are you handling jury seating?*

Jurors will be seated in the gallery in marked locations in order to maintain social distance. All areas of the courtroom will be cleaned prior to start of trial and at the end of the day. Hand sanitizer will be provided at the security screening, at the entrance to the courtroom, and outside the door of each bathroom room. Sanitizing wipes will be available in the courtroom for juror use. All trial participants, except the witness, will be required to wear a cloth mask while in court. Witnesses may wear a clear face shield that will be provided. Masks and face shields, hand sanitizer, and sanitizing wipes will be provided to all jurors and trial participants. Jurors will be instructed on the proper use of these supplies that must be followed whenever they are inside a court facility.

When necessary, jurors will examine exhibits one juror at a time to maintain social distancing. Once a juror has examined the exhibit he/she will leave the exhibit on a table for another juror to pick up. Jurors should use hand sanitizer before and after examining an exhibit.

The NHJB has coordinated with the Bureau of Court Facilities to provide courtroom and restroom cleaning daily and at more frequent intervals during trials.

5. *How are you handling jury deliberations?*

Jury deliberation will be conducted in the courtroom. Security cameras in the courtroom will be disabled during the deliberations. The Court will instruct jurors to maintain social distancing and to keep their masks on. The Court will instruct the foreperson to ensure jurors comply with social distancing and mask wearing, and will report to the judge if any juror refuses to comply with these instructions. Lunch will be provided to jurors so they don't need to leave the courthouse and proceed through security more than necessary.

6. *How are you handling witnesses?*

Witnesses who will testify live will wait outside the courthouse and be called or texted to come into the building when they are needed to testify, and leave the courthouse at the conclusion of their testimony. After each live witness testifies, the witness chair and table shall be wiped down with appropriate disinfectant.

Witnesses will wear clear face shields that cover the mouth and nose, and the witness box will be sanitized between each witness. Lawyers will be encouraged to use digital images to display evidence to witness and jury to avoid handling evidence and approaching witness. Lawyers will be able to provide copies of paper exhibits to witnesses before trial to avoid the need for the transfer of exhibits between witness and lawyer.

7. *How will the defendant and prosecutors be arranged in the court? And will the defendant be able to confer with their attorney?*

Defense and prosecution tables will face each other in the courtroom rather than have their backs to the jury, who will be seated in the gallery. The Defense and prosecution will wear masks except when conferring with their clients. They will question witnesses from their tables.

## **Pilot Trial**

### *8. How did you select this particular case?*

This case was chosen because it will be brief and jury may not need to return for subsequent days, but the scope will be sufficient to test the new procedures we have put in place. Additionally both the defendant and the state were willing to try the case in this new format.

## **General Information**

### *9. How many jury trials does the state conduct each year?*

In a typical year, prior to the COVID-19 pandemic, the state conducted more than 310 jury trials, averaging 270 criminal and 40 civil cases per year.

### *10. How many criminal cases are currently pending in court?*

As of June 29, more than 13,000 criminal cases and 6,000 civil cases were pending in court for motion hearings, plea hearings, settlement conferences or trials.

### *11. What will public/media access be to these proceedings?*

When possible, cases will be streamed live online so that parties to the case and the public will be able to view the proceedings remotely. Where livestreaming is not an option, public access to the courtroom will be restricted to a separate court room where the case can be viewed via WebEx. Each courtroom will, when possible, make accommodations for one pool-reporter to cover the proceedings in person during the trial.

In consultation with a public health professional and after determining space constraints in light of social distancing requirements and location of jurors, the court will determine whether any additional members of the public including the media can be present live in the court room during the trial. Preference will be provided to the victim, the defendant's family, and then additional spots will be allocated on a lottery basis to other interested observers.

The Court will provide a live-feed of the trial to a second courtroom using the large TV screen. Seating in the adjunct courtroom will be marked off with appropriate social distancing. The same order of preference as in-person attendance will be applied to observers of the live-stream.

### *12. When will jury trials commence in the rest of the state?*

If the pilot trial proves successful, the courts will begin trials in other counties with low local COVID infection rates. A schedule for restarting trials in each county will be developed as soon as it is feasible.

### *13. What is the possibility of moving trials from high-infection areas to low-infection counties?*

Changing venue, or moving the case to another county, would require an agreement between the parties. While there are currently no plans to relocate cases to rural counties, this possibility will be considered depending on the duration and severity of COVID infections in the coming months, and the willingness of the defendant to agree to a change of venue.