



The State Court Jury Trial Plan

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The State Court Jury Trial Plan

Resumption of Petit Jury Trials in the NH Superior Court

COVID-19 Operating Plan for the Resumption of Petit Jury Trials in

<Insert name> County Superior Court

This plan has been developed to ensure the health and safety of jurors, litigants, attorneys, visitors, court staff, judges, and other individuals participating in jury trials during the coronavirus (COVID-19) pandemic. It was prepared by <insert name here> and completed on <insert date here>. It was reviewed and approved by <insert name> on <insert date>.

Trial Details

This information is intended for use in planning the first several jury trials scheduled in your court when trials resume. This document will guide you step by step through planning and organization until the new policies and procedures that protect the health and safety of all participants have been well established and run smoothly. The document may also be used to train staff and others involved in jury trials.

Timeframe to Commence Jury Trials:	<insert target date of first planned jury trial>
Lead Case¹:	<case name and number>
First Backup Case:	<case name and number>
Second Backup Case:	<case name and number>
Third Backup Case:	<case name and number>
Number of Jury Summonses Required:	<insert number here>

Stakeholders: (e.g., presiding superior court judge, clerk of court, jury clerk, a public health professional, prosecutor, defense lawyer, bailiff, corrections official, potential witnesses, remote access viewers, and media)

Stakeholder Name	Role
	Presiding Judge
	Clerk of Court
	Jury Clerk
	Prosecutor
	Defense Lawyer
	Bailiff
	Corrections Official
	Potential Witness
	Potential Witness
	Potential Witness
	Remote Access Viewer (Victim)
	Remote Access Viewer (for Defendant)
	Media Representative

¹ See Appendix A for guidance on selecting the initial jury trial and three back-up cases for your court.



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Timeline/Deadlines

Event	Scheduled Date
Trial Date	
Establish Clear Deadlines for Prospective Jurors in JMS (provide dates to the system)	
Send Introductory Jury Letter (Appendix B) and Jury Summons	
Establish Trial Deadlines	
Set Target Date: Jury Venire Complete (60 qualified venire members)	
Verify Courthouse Prep Complete (Appendix F)	
Send "Next Steps" Instructions to Potential Jurors (watch the video, certify, complete supplemental questionnaire). Send w/ supplemental questionnaire via JMS	
Send Supplemental Jury Questionnaire (Appendix C)	
Prepare/Train COVID Screener(s) and Bailiffs on All Health and Safety Protocols (Appendix D)	
Schedule Supplemental Jury Questionnaire Review via WebEx (judge and attorneys)	
Schedule Potential Juror WebEx Hearing (if parties disagree)	
Send Letter to 60 Jurors Who Will Attend Court for Individual Voir Dire (Appendix E)	
Send email to remind jurors to take their temperature before entering the courthouse	
Conduct Voir Dire Proceedings	

Summonses for Prospective Jurors

Target goal: 30 – 60 jurors for individually conducted voir dire from the venire

- Determine the number of summonses based on the ordinary rate of no-returns in the county, excusals, and deferment, and the specifics of the case and then increase the number of summons to account for anticipated excusals based on COVID concerns.
- Send Introductory Letter (see Appendix B) to prospective jurors with the summons (including the instructions to complete the questionnaire).
- The initial letter to prospective jurors 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.
- Judge Nadeau will conduct reviews of all requests to be excused or deferred for cause due to hardship, concern about safety, or other valid reasons. Requests will be granted in a consistent manner.

Jury Selection

- Potential jurors (those remaining after an initial review by Judge Nadeau) view online General Instruction Video and complete Survey Monkey acknowledgment.



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If a juror is unable to view the General Instruction Video remotely, email clear instructions to the juror to schedule an appointment to view the video at the courthouse kiosk. To prepare for this:

- Set up the computer in advance
- Allow only one juror at a time to view the video
- Instruct court staff should not interact with the juror
- Wipe down the kiosk and surrounding area between appointments with an alcohol-based or other cleansing solution that kills the virus that causes COVID-19

Potential jurors respond to the Supplemental Jury Questionnaire (see Appendix C)

- Jurors will receive the jury voir dire letter (Appendix E) in the same email as the Supplemental Jury Questionnaire (Appendix C)
- Jurors will be asked about **willingness** to wear masks and comply with COVID-19 health screening questions listed in Appendix D
- Supplemental questionnaire includes the “Yes/No” standard, general voir dire questions.
- Other information to be included:
 - Description of the of both primary and backup cases: including the name of defendant, charge(s), name of prosecutor and defense lawyer, and list of potential witnesses
 - Other case-specific questions that will help identify cause challenges
 - Trial dates and length

NOTE: Judge will establish a deadline for submission of case-specific questions in consultation with counsel. This must be completed before the Supplemental Jury Questionnaire is sent out.

Both parties agree that juror should be excused for cause:

The court will excuse the juror and clerk will notify the juror.

Both parties agree that the juror is satisfactory on paper:

The clerk will notify the juror that they are required to report for jury selection.

The parties disagree about whether the juror should be excused for cause:

The court and counsel will conduct a WebEx hearing with the juror to question the juror further. Defendant will appear by WebEx as well. The judge will then determine whether to excuse juror or require juror to appear.



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- Prosecution and defense review answers to supplemental questionnaires during a WebEx hearing with the judge. Advise counsel to review responses with the client before the WebEx session with the judge. See Appendix I: Script for WebEx Juror For-Cause Hearing.
- Perform COVID Screening Questions for Jurors before reporting to the courthouse for jury service. Utilize email addresses in JMS to send COVID screening questions (see Appendix D). Provide a single-use thermometer to any juror who is unable to certify that they measured their temperature was less than 100.4 degrees before arriving at court. Require such jurors to take their temperature and verify the results before entering the building.

Thirty to Sixty Potential Jurors Summoned to the Courthouse for Voir Dire

- Send Jury Voir Dire Letter (see Appendix E).
- Summon jurors in multiple groups of 10. Schedule groups at one-hour intervals beginning at 8:30 AM.
- Instruct jurors to wait in their car to be called into court by text messaging. Jurors without cellphones or those who do not provide a cell phone number will be instructed to wait outside the courthouse entrance with appropriate physical distancing. (This procedure may be adjusted depending on courthouse location.)
- Before entering the courthouse, the court security officers, or other personnel will perform the COVID-19 screening questions. Jurors must also certify that their current measured temperature is less than 100.4 degrees. Provide a single-use thermometer for any juror who needs one. If potential jurors are cleared for admittance, court security officers will complete the ordinary security screening.

Judicial and Clerk Instructions for Individually Conducted Juror Voir Dire

- Confirm that the juror watched the video jury instructions.
- Ask juror whether juror accurately answered the Supplemental Jury Questionnaire.
- Ask juror whether juror has any additional information to report or any reason the juror does not believe he or she cannot be fair and impartial if seated on the jury.
- Counsel may question the juror for a few minutes if the juror has been qualified by the judge.
- Instruct the juror not to discuss the case or conduct outside research about the case.
- If juror is excused for cause, juror will be allowed to leave the courtroom and instructed to check out with the jury clerk.
- Peremptory challenges will be exercised if necessary. Lawyers will conduct individual voir dire of jurors in the courtroom. They will exercise their peremptory challenges after the full panel of 22 jurors has been qualified. The clerk will call individuals to inform them if they have been excused or if they should report. Challenges for cause will be handled while the juror is at the courthouse.
- Clerk will assign the juror a number (1 through 14) if he/she has been selected.
- If juror is selected, the clerk will remind juror of the date, time, and length of trial.



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- ☐ Court staff will guide the juror directly to the appropriate courtroom. At the entrance, the jury clerk will check in the juror, and the judge will conduct the swearing-in for individual voir dire. Provide each juror with their own pen to complete their own name tag. Court staff who are scanning-in jurors must wear a face mask and goggles or a face shield.

Trial Protocols

- Interaction between Defendant and Lawyer(s) during trial:
 - Attorney and client function as one unit; face masks use may be determined by attorney's and client's preferences when in private rooms; the court strongly recommends attorneys and clients to wear face masks when at least six feet physical distancing is not maintained. For the protection of all persons present, face masks are required when the attorney and client are in the courtroom to prevent the aerosolization of respiratory droplets within the courtroom. Face masks may be removed very briefly for communication between an attorney and their client if necessary.
 - Paper notes may be used to allow communication between attorney and client.
 - Defense counsel may provide their client with a laptop to use for online chatting.
 - A recess may be necessary to allow attorney and client to communicate in a private room without the use of face masks where physical distancing can be maintained and without further aerosolization of respiratory droplets within the courtroom.
 - Attorneys and clients who require strict compliance with physical distancing when communicating without face masks for their health and safety may use a conference room specified for this purpose².
- Openings and Closings
 - Lawyers must maintain physical distancing but may move about the courtroom at the discretion of the trial judge. Attorneys must remain ten feet away from jurors.
 - Based on the specific courthouse, the judge and clerk will determine the protocol for entering and leaving courtrooms to maintain at least six feet of physical distancing for all persons.
- Questioning Witnesses
 - Counsel must examine witnesses from the counsel table, not use a podium, and must not approach the witness without leave of the court.
 - Witnesses shall wait outside the courthouse and be called or texted to come into the building when they are needed to testify. Witnesses may also wait in a designated interior

² Conference rooms that will be made available for witnesses, attorneys and defendants, and the prosecutor must be evaluated for proper air quality and for the maximum room capacity before jury trials commence.



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area (e.g., conference room) as determined by the clerk. While in the courthouse, they must wear a court-provided face mask and a face shield or a court-provided clear mask.

- The witness must remove the cloth mask only while testifying, and they must replace the cloth mask before leaving the witness stand. The witness may not remove the face shield.
- In the event supplies are available, a witness may alternatively testify using a clear mask provided by the court. Court staff may demonstrate how to put on and wear a clear mask before the witness is sworn in for testimony.
- Witnesses will leave the courthouse immediately after testifying.
- The witness chair will not have armrests to reduce the need for cleaning between each witness. Witnesses will use hand sanitizer before sitting in the witness chair, and they will sanitize their hands again after completing their testimony. Witnesses will be seated in a chair in the well of the courtroom without a table. The courthouse will have hand sanitizer and sanitizing wipes effective against the virus that causes COVID-19 available at the witness stand for use by the witness before and after handling exhibits.
- Exhibits
 - Instruct attorneys in advance of the trial to provide one copy of every exhibit for every juror so that single copies are not passed around among jurors.
 - Counsel, or self-represented parties, shall pre-mark all exhibits and provide an identical set for the judge, the witnesses, and each jury member.
 - In the event it becomes necessary to pass around an exhibit, each person touching the exhibit will sanitize their hands before and after touching the exhibit. Gloves will not be used in this process, per the recommendation of the State's Chief Medical Officer, as gloves introduce an additional need to train in the proper donning, removal, and disposal of the gloves to prevent the further spread of disease.
- Objections
 - Encourage lawyers to state objections and responses to avoid unnecessary bench conferences. For example, the lawyer objecting shall provide succinct basis (e.g., "hearsay," "leading," or "Rule 403," etc.) Responses to the objection shall also be brief, if possible (e.g., "excited utterance" or "present sense impression" in response to a hearsay objection).
 - Before the trial, the clerk and the judge should determine the designated area for bench conferences. The location must include the ability to maintain a record of the conference.
 - Unless the court deems it necessary to call a recess, the jurors and the defendant shall remain in the courtroom for the bench conference.
 - If necessary, a court monitor will accompany the judge and the lawyers with a hand-held recorder to keep a record of the objection.
- Jury Instructions
 - Judges will give the COVID-19 Specific Jury Instructions (see Appendix G) at the beginning of trial before opening statements, and at the court's discretion at the end of the case after the submission of closing arguments (or before closing arguments at the end of evidence).
- Jury Deliberation



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- 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 physical distancing and to keep masks on.
- The court will instruct the foreperson to ensure jurors comply with physical distancing and mask covering requirements and to report to the bailiff if any juror refuses to comply with these instructions.
- Breaks
 - Lunch will be provided to jurors every day of the trial. Lunch orders should be taken and then delivered in individually labeled bags/boxes for each juror.
 - Jurors will be instructed to use an alcohol-based hand sanitizer before and after eating lunch.
 - Jurors may leave the courtroom and go directly outside the courthouse following these protocols:
 - When the judge advises that a break of 30 minutes or longer will be taken (for lunch, between witnesses, etc.).
 - The court facility provides sufficient outside space for such breaks.
 - Jurors must exit the courthouse directly and remain on the grounds during the entire break period. Jurors may not linger or roam around inside the building.
 - Jurors may eat their court-provided lunch outside on court grounds only.
 - Jurors must practice social distancing and minimize talking while taking their break
 - Jurors are permitted to remove their mask outside as long as they are not speaking and remain at least six feet apart from any other person.
 - Bathroom Breaks:
 - Jurors will access the bathroom one at a time, using hand sanitizer when entering and exiting.
 - Bathrooms will be sanitized every two hours by the contracted professional cleaning resource.
 - If a juror needs a bathroom break during deliberations, they will knock on the door to alert the bailiff, and the bailiff will escort the juror to and from the restroom, adhering to six feet physical distancing requirements.
 - Jurors will be advised that they cannot deliberate unless all individuals are present.
 - Each court may modify this requirement, depending on the layout of its courthouse.
- Health or Safety Breach

The following list describes possible health and safety concerns that could arise during the course of a trial. The response associated with each event aligns with current NHJB protocols followed by Human Resources related to employee COVID-19 screenings.

 - Any juror who answers “Yes” to any screening question at home must not come to the courthouse. Rather, they should notify the court clerk who will notify the judge.
 - Any juror who answers “Yes” to the screening questions after arriving at the courthouse but before entering will not be admitted. The screener shall notify the clerk who will notify the judge.



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- The judge will immediately excuse and advise any juror who becomes symptomatic while at the courthouse to seek medical attention.
- The areas used by the symptomatic juror must be promptly disinfected by the court's contracted cleaning resource.
- The clerk will notify Human Resources of a potential COVID-19 exposure; Human Resources will provide further guidance in terms of contact tracing and other next steps.
- Once notified of a possible COVID-19 exposure, the judge will take appropriate action including, but not limited to, a review of the legal options for the trial with the attorneys and conduct individual voir dire with each juror to determine their ability to fairly and impartially continue with the trial.

Courtroom Setup

- The courtroom setup can be finalized in a mandatory 90-minute walk-through with the appropriate participants, which will always include Judge Nadeau.
- The courtroom used for the trial and all ancillary rooms to be used during the trial³ must be evaluated for air quality. Contact Sarah Lineberry from the Department of Administrative Services for an HVAC evaluation of these rooms. Air handling systems should be adjusted if possible, to meet the following standards:
 - System cycles air starting two hours before the building opens and continues cycling for two hours after the building is closed each day
 - Six to eight air exchanges per hour
 - Uses MERV 8 pre-filters and MERV 13 air filters
 - Gaps that cause air to bypass filters must be closed
 - Ideal internal humidity should be maintained at forty to sixty percent
- Courtroom layouts will be adjusted to meet the following minimum criteria:
 - Jurors will be seated six feet apart; the gallery may be used to seat jurors if necessary.
 - Witnesses will sit in a chair that is six to ten feet away from the judge, monitor, jury, and counsel tables. The chair will not have armrests, and a table may not be used.
 - Podiums will not be used.
 - Bar gates will be removed (if feasible); if they cannot be removed, they will be fastened in the open position so that it need not be touched when entering and exiting the courtroom.
 - Counsel tables will be positioned as far away from the jury box as possible and at least six feet from the courtroom monitor, the judge, witness, and anyone seated in the gallery.
 - Applicable doors should remain open to minimize high-touch surfaces (check with Sarah Lineberry that this will not impact the filtration system).
 - See Appendix H for a sample courtroom layout.

³ Evaluate all rooms separately. These include: courtroom, jury assembly room; restrooms to be used by jurors, and conference rooms to be used by attorneys, witnesses, and victim advocates.



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- Six weeks prior to the trial, submit a Support Desk request for the live stream set up in the courtroom and to confirm that all other systems (For the Record, microphones, Public Wi-Fi settings, etc. are properly placed for the revised courtroom layout.

Protective Measures Taken for Jury Trials

Every NH Superior Court will confirm that the following measures have been taken to protect all petit jury trial participants from possible exposure to the coronavirus:

1. Dr. Jonathan Ballard, Chief Medical Officer of the NH Department of Health and Human Services, consulted with the NH Superior Court's Return to Operations Committee in late May 2020. His health and safety protocols necessary to protect court staff and jurors from coronavirus is reflected throughout this jury trial plan.
2. The NH Superior Court contracted consulting services from Dr. Erin Bromage to evaluate several NH Superior Court facilities and to provide recommendations on how to reduce the spread of coronavirus during jury trials. His area of expertise on preventing coronavirus infections from airflow and air handling systems in the courthouse provided another level of science-based information essential for planning jury trials.
3. The clerk and judge have prepared for new jury trial processes and procedures outlined in this document. Preparations included verification that all considerations have been made for the safety and well-being of jurors. Each court's Jury Trial Plan has been reviewed and approved by the Superior Court Administrator and/or the Chief Justice of the NH Superior Court.
4. Procedures have been developed to conduct initial jury selection remotely so that fewer prospective jurors are required to come to the courthouse.
5. Masks, 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.
6. Single-use thermometers will be provided to any juror who is unable to certify that their current measured temperature is under 100.4 degrees.
7. The NHJB has coordinated with the Bureau of Court Facilities to provide courtroom and restroom cleaning daily and at more frequent intervals during trials.
8. In the initial stages of the resumption of jury trials, Chief Justice Nadeau will be reviewing all deferral and excusal requests for consistency. Excusal and deferral requests will be reviewed liberally. Once the court has experience with the types of requests received, we will develop a more specific deferral and excusal policy. On-premises protective measures include:
 - a. Expedited entrance into the courthouse
 - b. Check-in procedures that minimize physical contact with documents
 - c. Posted signage to remind visitors of hygiene and distancing practices



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9. An analysis of the traffic flow in the court facility has been completed, and appropriate floor markings for social distancing have been properly placed, and instructive signage is visible throughout.
10. Prospective jurors and jurors are screened for possible COVID-positive conditions prior to entering the court building. Screening protocols in Appendix D match CDC guidelines. All jurors must certify that they have taken their temperature before coming to court and that it is less than 100.4 degrees.
11. Physical distancing of jurors will be enforced by limiting the capacity in the courtroom. Markings for seating and courtroom movement that support the minimum six-foot physical distancing have been placed in every courtroom where jury trials will occur. A “safe zone” no closer than ten feet from the jury will be marked on the floor to guide attorney movement during the trial.
12. Court staff will perform a mock trial to confirm physical distancing movement in and around the courthouse is possible and appropriately marked. For example, experiment with a bench conference to determine if this can be done in the courtroom with the jurors in the gallery and lawyers approaching the bench but remaining at least six feet apart.
13. To provide public access during a public trial:
 - a. The court will provide safe physical distancing access to the victim, having a statutory right to be present during trial. They will have priority seating over all other members of the public.
 - b. Safe physical distancing access will be provided to at least one pool-reporter to cover the proceedings in person during the trial.
 - c. In consultation with a public health professional and after determining space constraints in light of physical distancing requirements and location of jurors, the court will determine whether any additional members of the public, including the defendant’s family, can be present live in the courtroom during the trial. Any additional spots will be allocated on a lottery basis to all other interested observers or limited by the judge.
 - d. For the pilot trial, 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 physical distancing. The same order of preference as in-person attendance will be applied to observers of the live-stream. This process will be reviewed after the pilot trial is complete.
 - e. The court clerk will work with IT to set up the courtroom for live streaming jury trials. A link to the live stream will be posted on the NHJB website.
 - f. If there is no additional space for public observers (or only extremely limited space for the public) to observe the trial live in the ancillary courtroom with live-stream video access, Judge Nadeau will issue an administrative order with specific findings of fact and rulings of law regarding the need for limitations and reasonable efforts to accommodate public access to the trial proceedings.



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14. Develop training for court security officers and bailiffs designated to enforce health/safety protocols. Include a plan in consultation with bailiff for bathroom breaks if jurors are deliberating in the courtroom. Jurors would need to be escorted to the bathrooms.
15. Determine public relations content that may be appropriate for your county, if any. Examples include:
 - a. Media alerts, general press releases, and interviews
 - b. Social media: Twitter
 - c. Court website
 - d. Local Bar
16. Contact Kevin Davis at the Administrative Office of the Courts to confirm cleaning contract details for your court.



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Appendix A: Selecting Cases for Jury Trials

- Identify one lead case and three backup cases that are ready for trial in case the lead case resolves without a need for a trial.
- Preference should be made for a case involving an incarcerated defendant whose speedy trial right is implicated by further delay.
- The trial should not exceed two or three days.
- Case must:
 - Be highly likely to go to trial and not result in a last-minute plea
 - Have few trial exhibits
 - Not have a view



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Appendix B: Sample Introductory Jury Letter

COVID-19 PRECAUTIONS FOR JURY DUTY

In the coming weeks you will receive a summons for jury duty. Please review the outline below explaining the measures adopted by the New Hampshire Judicial Branch to maintain the health and safety of jurors, staff, and the public.

Jury trials are essential to our system of justice. Jury duty stands as a cornerstone of democracy in New Hampshire and the United States. The right to trial by jury provides citizens with the chance to govern themselves, participate in the judicial process, and safeguard our constitutional freedoms. The system that protects all of our liberty does not work without your participation. The strength of the jury lies in the common sense and experience of a broad cross-section of society. That is why we are all called upon to serve as jurors: students, judges, construction workers, mechanics, office workers, doctors, lawyers, police officers, retirees, and others. The COVID-19 virus has affected all of us. For many New Hampshire citizens the virus has drastically changed how we live and work. It has forced us to adopt a state of constant vigilance to protect ourselves and our loved ones.

Since March 2020, for the health and safety of the public and its staff, the Judicial Branch has suspended jury proceedings. During this time, the court has closely monitored the guidance provided by the New Hampshire Department of Health and Human Services and the Centers for Disease Control and Prevention. Consistent with the continued guidance from health officials and the current COVID-19 data, the court will resume jury operations in August 2020. In accordance with Federal guidelines, the court will phase in jury trials, beginning in counties with the lowest number of COVID-19 cases.

To maintain the safety of jurors the court will implement the following protective measures:

PRIOR TO REPORTING FOR JURY DUTY:

- Pre-screening of jurors, litigants, and staff for health concerns
- Pre-screening of jurors for conflicts of interest, hardship, and ability to serve
- Increased remote contact with jurors by the court to pre-determine juror eligibility as well as provide instructions on jury process and selection

AT COURT:

- On-site health screening of all jurors
- All jurors must certify that they have taken their temperature before coming to court and that it is less than 100.4 degrees. Single-use thermometers will be provided to jurors if needed
- Enforced mandatory physical distancing, including increased signage, markers, and barriers
- Professional cleaning throughout the day of commonly touched surfaces and public areas
- Court-provided Personal Protective Equipment (PPE) including masks, hand sanitizer and wipes for all trial participants



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- Restricted access to staff and the public of areas used by jurors
- Mandatory face coverings are required in all public areas. Testifying witnesses will wear a face mask and face shield before testifying and while approaching the witness stand. Upon taking the stand, the witness will remove the face mask only. Testimony will be given wearing the face shield alone. After testifying, the witness will don the face mask (without removing the face shield) before leaving the witness stand. In the event supplies are available, a witness may alternatively testify using a clear mask provided by the court. Using face masks and face shields are mandatory to avoid unintended contact with other participants. Proper six-foot physical distancing is required at all times.
- Calling in of fewer jurors (only the essential amount needed for each case)
- Staggering of juror reporting times
- Extra space designated for jurors

If you are selected to sit on a jury trial, you will only be asked to hear a maximum of one case.

Every day you report as a juror, please consider the following questions prior to entering the court. If your answer is “yes” to any of the questions, please call the court prior to leaving home:

- Do you currently have an active case of confirmed or suspected COVID-19?
- Have you been in close contact with a confirmed or suspected case of COVID-19 within the past fourteen days?
- Have you traveled outside of New England (VT, ME, CT, RI, and MA) in the past fourteen days?
- Have you had a fever or felt feverish in the last 72 hours?
- Are you experiencing any respiratory symptoms, including a runny nose, sore throat, cough, or shortness of breath?
- Are you experiencing any new muscle aches or chills?
- Have you recently experienced any changes in your sense of taste or smell?

You will also be asked to certify that your measured temperature was less than 100.4 degrees before coming to court. If you are unable to measure your temperature at home, a single-use thermometer will be provided to you at the courthouse. You are required to measure your temperature if you have not done so previously before entering the building.

If you have any questions or concerns regarding your jury service, you may contact the Superior Court Jury Center at 1-855-212-1234, Monday thru Friday, from 8:00 AM to 4:00 PM.



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Appendix C: Supplemental Jury Questionnaire

THE STATE OF NEW HAMPSHIRE

<insert name> COUNTY SUPERIOR COURT

JURY SELECTION

1. Do you disagree with, or have any mental reservations concerning, the following principle of law:
The charging document is merely a charge. It is the formal manner in which this controversy comes to trial. It is not evidence of guilt and no unfavorable inference may be drawn against the defendant merely because the defendant is charged with a crime.
Yes _____ No _____
2. Do you disagree with, or have any mental reservations concerning, the following principle of law:
This defendant, as well as all defendants in all criminal cases, is presumed to be innocent until proven guilty. This presumption of innocence continues throughout the trial and entitles the defendant to be acquitted, that is, found not guilty, unless and until after deliberation you, the jury, find that the evidence has established the defendant's guilt beyond a reasonable doubt.
Yes _____ No _____
3. Do you disagree with, or have any mental reservations concerning, the following principle of law:
The burden of overcoming this presumption of innocence rests entirely with the State. Therefore, before this defendant can be found guilty as to any crime charged, all twelve members of the jury must be convinced from the evidence that the State has established each and every element of the crime charged beyond a reasonable doubt.
Yes _____ No _____
4. Do you disagree with, or have any mental reservations concerning, the following principle of law:
The defendant is under no obligation to present any evidence whatsoever. The defendant does not have to prove that they are innocent. Defendants have the right to choose not to testify in their own defense. Should they exercise that choice, no unfavorable inference therefrom may be drawn by you. In other words, their silence or lack of testimony cannot be used in any manner as evidence of their guilt.
Yes _____ No _____
5. Do you believe that because certain witnesses are police officers, their testimony is more likely or less likely to be true than the testimony of any other person? In other words, do you believe that the testimony of a police officer is entitled to more weight, or less weight, than the testimony of any other witness because he or she is a police officer?
Yes _____ No _____
6. Are you related by blood or marriage to the defendant, the attorneys, or any of the witnesses or other people involved in this case?
Yes _____ No _____



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7. Do you expect to gain or lose anything as a result of what your verdict might be in this case?

Yes _____ No _____

8. Have you employed or do you employ, or to your knowledge has any member of your family employed, any of the attorneys who are engaged in this trial or any of their partners or associates in any matter?

Yes _____ No _____

9. Have you, or to your knowledge, have any members of your family ever had, any dealings with the attorneys in this case, the defendant, or any of the witnesses or other people involved in this case?

Yes _____ No _____

10. Do you employ or are you employed by the State, the defendant, any of the attorneys, or any of the witnesses or other people involved in this case?

Yes _____ No _____

11. Have you or has a close member of your family or a close friend ever been a victim of a crime?

Yes _____ No _____

If you answered yes, please provide a brief description of the incident: _____

12. Have any of the attorneys in this case ever represented anyone in any matter in which you were involved as a party, a witness, or otherwise?

Yes _____ No _____

13. Are you under any obligation, financially or otherwise, to the defendant, the attorneys, the witnesses in this case, or other people involved in the case?

Yes _____ No _____

14. Do you know the defendant, or any of the witnesses, the attorneys, or other people involved in the case?

Yes _____ No _____

15. Have you advised or assisted either the State or the defendant in any way relating to this case or in the preparation of this case?

Yes _____ No _____

16. Are you now, or have you ever been, a police officer, or a police commissioner or engaged in any law enforcement activity? Has any close member of your family ever been engaged in any such law enforcement activity?

Yes _____ No _____

17. Do you know anything about the facts of this case, or have you read or heard anything about this case?

Yes _____ No _____

18. Have you directly or indirectly given or formed any opinion about this case, the defendant, the witnesses, the attorneys, other people involved in this case, or this type of case?

Yes _____ No _____



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19. Have you heard anyone express any opinion about this defendant, the witnesses, this case, or this type of case?

Yes _____ No _____

20. Do you belong to, or have you contributed to, any organization which involves itself in taking public positions relative to matters that might be involved in this case?

Yes _____ No _____

21. Do you have any prejudice for or against the defendant, the State, the attorneys, or the witnesses in this case, or any prejudice whatsoever either because of the people who are involved, the type of case that is involved, or for any other reason whatsoever?

Yes _____ No _____

22. Do you have any moral, religious, or personal convictions relative to the type of offenses charged which might influence what your verdict might be in this case?

Yes _____ No _____

23. Do you have any health problems or physical conditions which would impair your service on the jury in this case?

Yes _____ No _____

24. Have you or has anyone in your household received a positive test for COVID-19?

Yes _____ No _____

If so when and whom? _____

25. Are you willing to abide by all rules the court instructs you to abide by regarding physical distancing and wearing a face mask while inside the courtroom during the trial if you are selected as a juror?

Yes _____ No _____

26. Are you willing to notify the court immediately if, during trial, you feel ill or are in close proximity to anyone feeling ill or anyone with COVID-19?

Yes _____ No _____

27. Are you or someone in your household immunocompromised or diagnosed with a medical condition that makes you vulnerable to COVID-19? (including but not limited to any of the following conditions: asthma, cancer, chronic kidney disease, chronic lung disease, diabetes, sickle cell disease, a serious heart condition, obesity, 64 years of age or older, or known to be immunocompromised)

Yes _____ No _____

Despite having a risk factor, are you willing to serve as a juror?

Yes _____ No _____



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28. Are you or someone in your household a medical professional working in a medical setting seeing and/or treating COVID-19 patients?

Yes _____

No _____

If yes, please provide details. _____

29. Have you traveled outside of New England (VT, ME, MA, CT, and RI) in the past two weeks?

Yes _____

No _____

30. Are you at least 18 years of age, a United States citizen, and presently a resident of <placeholder> County?

Yes _____

No _____

31. Have you or a close family member ever been arrested, charged, or convicted of a crime that has not been annulled?

Yes _____

No _____

If you answered yes, please provide a brief description of the incident: _____

32. Do you know of any reason whatsoever why you cannot sit and hear the evidence in this case and render a true and honest verdict under your oath according to the facts as you find them to be and in accordance with the law as the court will give it to you?

Yes _____

No _____



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Appendix D: COVID Screening Questions for Jurors

No person will be permitted to enter a courthouse unless they are screened as follows by a court security officer or other personnel:

“We’re conducting active screening for everyone’s health and well-being, please answer these questions.”

1. *Do you have an active case of confirmed or suspected COVID-19, or have you been in close contact with a confirmed or suspected case of COVID-19?*
2. *Have you had a fever or felt feverish in the past 72 hours?*
(All jurors must certify that they have taken their temperature before coming to court and that it is less than 100.4 degrees. Provide a single-use thermometer to any juror who is unable to certify. Ask them to use the thermometer before entering the building.)
3. *Are you experiencing respiratory symptoms: runny nose, sore throat, cough, or shortness of breath?*
4. *Are you experiencing any new muscle aches or chills?*
5. *Have you experienced any new change in your sense of taste or smell?”*
6. *Have you traveled outside of New England (VT, ME, MA, CT, and RI) in the last two weeks?*

- “No” to all questions, they may enter the courthouse if wearing a face covering. *“You’re cleared to enter.”*
- “Yes” to any question/refusal to answer questions/refuses to wear a mask: Deny entry to the individual and notify the clerk that the juror/potential juror was denied entry and the reason why.

When to screen for a possible COVID-positive juror:

- All prospective jurors must be screened before entering the courthouse and prior to the standard security screening. Options include: Outside near the courthouse entrance but away from the entrance doors; In the lobby or vestibule area before going through security; at the juror’s car or nearby in the courthouse parking lot.
- Any juror who leaves the facility during the trial (e.g., during the lunch break) must be re-screened prior to re-entering the building.
- At any time the juror self-reports COVID-19 symptoms or another individual (court staff, judge, bailiff, attorneys, and so forth) have cause for concern, they may request a screening. Note: respond to this request in a respectful and private manner.

Jurors should also be instructed to self-screen before arriving at the courthouse and to call the court clerk to report COVID symptoms or possible COVID exposure. Self-screening includes taking one's temperature to confirm it is less than 100.4 degrees. (See Health or Safety Breach on page 8 for protocols when responding to a COVID-positive screening report.)



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Appendix E: Jury Voir Dire Letter

Dear Prospective Juror:

You have been selected to serve as a potential juror in the case of State v. Dana Goodnow 213-2019-CR-382. These are unprecedented times, and your willingness to serve as a juror ensures that our system of justice and democracy will sustain during the pandemic. A Judicial Branch working group has spent the past several months consulting with the State's Chief Medical Officer to ensure that the process we designed for your service protects you, your families, and the people involved in the case. This letter will help you understand what to expect when you come to court for jury selection and, if selected, jury service. The guidelines contained in this letter are consistent with CDC recommendations and guidance from the Department of Health and Human Services at the time of drafting this letter.

Primary Case Information: <Example; Update for each pilot jury tr

State v. <Name> <Case Number>

Counsel for Defense

Counsel for State:

Witness list:

Charges:

Secondary Case Information:

State v. <name> <Case Number>

Counsel for Defense:

Counsel for the State:

Witness list:

Charges:

Jury Selection: <Date>

Trial Start Date: <Date>

You are to appear on August 19 in Cheshire County Superior Court at <time> for individual questioning by the judge and attorneys involved in the case. The questioning is designed to provide the attorneys with additional information about you so they can decide whether you should be seated on the jury. When you arrive at court, you should remain in your car until texted or contacted by Court Security. A court security officer will ask you health screening questions approved by the State's Chief Medical Officer. You will be asked to certify that you have taken your temperature that day and that it is less than 100.4 degrees. If you are unable to take your temperature at home, a single-use thermometer will be provided to you at the courthouse so that you can measure and certify your temperature is below 100.4 degrees before entering the building. If there is a question about the results of the screening, you



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will be sent home with a recommendation to contact your primary care doctor. If you pass the screening, the court security officer will escort you to the courthouse and direct you to the jury clerk for check-in and further instructions. You will be required to wear a facial covering that covers your mouth and nose at all times during the selection process and jury service. Physical distancing of at least 6 feet between persons will be maintained when possible. The questioning process should take approximately 10 minutes, and you will be excused for the day after your questioning is complete.

After all the jurors have been individually questioned, the clerk's office will contact you to let you know whether you have been selected to serve on the jury. The clerk will also provide you with the date and time you will be required to appear for your service.

During the jury trial, the following accommodations will be made to protect the jurors, attorneys, witnesses, the defendant, and court staff:

- Jurors will be seated in the courtroom to allow for proper physical distancing of six to ten feet. Markings will be placed in the seating area to direct you to your seat.
- Hand sanitizer and sanitizing wipes will be readily available throughout the courthouse for your use.
- Lawyers, court staff, and jurors will be required to wear facial coverings at all times while in the courthouse.
- All persons within the courtroom will be required to wear a facial covering. All persons within the courtroom will be at an appropriate physical distance from all jurors.
- Witnesses will wear a court-provided face covering that will protect you and allow you to observe demeanor.
- Gloves will not be provided as the Chief Medical Officer has indicated the use of gloves can often create a false sense of security and are often removed and disposed of incorrectly, causing further spread of disease. He advises jurors, witnesses, attorneys, the defendant, and court staff to use hand sanitizer and sanitizing wipes when necessary.
- Lunch will be provided. You are not permitted to bring your own lunch.
- Hand sanitizer and sanitizing wipes will be provided at the entrance of and inside the bathrooms. Jurors are instructed to utilize the products upon entering and exiting the bathroom.
- Jurors will utilize bathrooms one juror at a time.
- Bathrooms will be professionally sanitized every two hours.
- The courtroom will be professionally sanitized every afternoon after the court session concludes.
- All jurors, attorneys, witnesses, the defendant, court staff and any other person attending the court session will be screened for health concerns every morning before entering the courthouse.
- The jurors will remain in the courtroom for deliberations and the jury foreperson shall be responsible for ensuring that jurors continue to wear facial coverings and observe proper physical distancing throughout the deliberation process. The foreperson should report any irregularities to the court security officer assigned to the jury.



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- Any juror wishing to leave the courtroom or courthouse for any reason must first obtain permission from the judge.
- If applicable, jurors should examine exhibits one juror at a time to maintain physical distancing. Once a juror has examined the exhibit, they shall leave the exhibit on a table for another juror to pick up. Jurors should use hand sanitizer before and after examining an exhibit.
- All jurors must strictly adhere to the following protocols pertaining to break periods during trial:
 - [Note: Use either Placeholder 1 or Placeholder 2 depending on the court location/trial circumstances.]
 - <Placeholder 1> Jurors will remain inside the courtroom during the entire trial unless given explicit permission by the judge.
 - <Placeholder 2> Jurors will be permitted to exit the courthouse during break periods as follows:
 - When the judge advises that a break of 30 minutes or longer will be taken (for lunch, between witnesses, etc.).
 - Jurors must exit the courthouse directly and remain on the grounds during the entire break period. Jurors may not linger in or roam around inside the building.
 - Jurors may eat their court-provided lunch outside on court grounds only.
 - Jurors must practice social distancing and minimize talking while taking their break.
 - Jurors are permitted to remove their mask outside as long as they are not speaking and remain at least six feet apart from any other person

Until your service as a juror is concluded, you also are not allowed to read any newspaper articles, listen to any radio or television reports, or review any materials on the internet that may concern this case. Should anyone attempt to speak with you about the case, tell that person that you are under court order not to do so; and should the person persist, please inform the presiding judge or one of the court officers immediately.

The Judicial Branch has an obligation to ensure that defendants receive a prompt and fair trial while at the same time balancing the need to support the health and well-being of jurors and their families during this significant public health crisis. You are requested to give your full attention to the trial and to assess the evidence according to the law that will be provided to you despite these difficult and different times. If at any time you have concerns about your ability to pay careful attention to the opening statements, testimony, and closing arguments, do not hesitate to inform the court security officer. You will be provided the opportunity to address these concerns in private with the presiding judge. You will receive further instructions from the presiding judge throughout the jury selection and service process.

Thank you sincerely for your participation in this essential function of our system of democracy.

Tina L. Nadeau
Chief Justice



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Appendix F: Courthouse Preparations Checklist

- The courtroom and adjacent areas to be used by trial participants (e.g., jury deliberation room, restrooms, and conference rooms) have been rigorously evaluated for optimizing air quality. Adjustments to HVAC systems have been completed in accordance with the information contained in this jury trial plan.
- Cleaning services scheduled to be performed in the courtroom daily and restroom cleaning scheduled every two hours during and after jury trials (including the witness box between witnesses).
- No other hearings will be held in the same courtroom where the trial will be held during the time of the trial.
- The court facility (including jury trial courtroom) is marked for seating and movement for proper six-foot physical distancing at all times before, during, and after the trial.
- COVID-19 safety-related signage is properly posted throughout the facility.
- Additional masks for witnesses, jurors, and others who require one are on hand.
- Hand sanitizer and sanitizing wipes effective against the virus that causes COVID-19 are available throughout the courtroom and near restrooms.
- Single-use thermometers and an appropriate disposal receptacle are available at the security station.
- At least 30 pens and name tags are available for and provided to jurors.
- Jury seating in the gallery is appropriately marked to maintain social distancing.
- Public and media access facilities are available, technologically ready, and appropriately marked for social distancing.
- Staff, bailiffs, and so forth are fully trained in their respective roles during jury trials. Protocols and procedures are fully understood.



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Appendix G: COVID-19 Specific Jury Instructions

COVID-19 SPECIFIC JURY INSTRUCTIONS

These instructions should be given at the beginning of trial before opening statements, and at the court's discretion at the end of the case after the submission of closing arguments (or before closing arguments at the end of evidence).

As you know from jury selection, specific procedures have been put in place to ensure the safety of all the participants in the trial process and to address health-related concerns resulting from COVID-19. The court's intent in implementing these safety procedures is to ensure that the defendant receives a fair trial and to ensure that you and other participants in the trial are protected from the spread of COVID-19. All safety measures in place are consistent with recommendations from the Centers for Disease Control and the New Hampshire Department of Health and Human Services.

As you will see during the trial, all jurors, court staff, and attorneys will be required to wear facial coverings and will be required to maintain six feet of physical distancing from any other participants in the trial. This means that I will be wearing a facial covering, the clerk of court, bailiffs, and the lawyers will wear facial coverings. If you have any difficulty hearing or understanding me, the clerk, the bailiffs, or the lawyers during the trial as a result of these precautions, please let me know right away so I can address the issue. It is essential that you be able to clearly see and hear everything that happens during the trial.

The defendant and his/her attorney are permitted to sit close to each other and to briefly remove their masks from time to time to allow for proper communication, which is guaranteed by the Sixth Amendment to the Constitution. You must not consider the fact that the defendant and defense attorney remove their masks, or that they are permitted to sit together, as any evidence in this trial. As I will remind you throughout the trial, the only evidence you may consider is the testimony presented during the trial and the exhibits introduced into evidence.

The witnesses who testify will be required to wear a court-provided clear face covering during their testimony so that you may observe their demeanor in a protected manner. All witness



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testimony procedures have been approved by health experts consulting with the Judicial Branch. At all times during the witness testimony, the witness will remain at the required social distance from all jurors.

You may note that we are not providing gloves to you but instead have made available hand sanitizer and wipes throughout the courtroom and at the entrance of and inside the bathrooms. The Chief Medical Officer has indicated that the use of gloves does not enhance safety and, in fact may cause more spread of disease. In addition, special training is required to properly remove and dispose of gloves.

When you use the restrooms, you will be required to use hand sanitizer before entering and after you use the restroom. The restrooms will be professionally cleaned every two hours. In addition, the courtroom will be professionally cleaned at the end of every day and will not be used for any other proceedings except this trial.

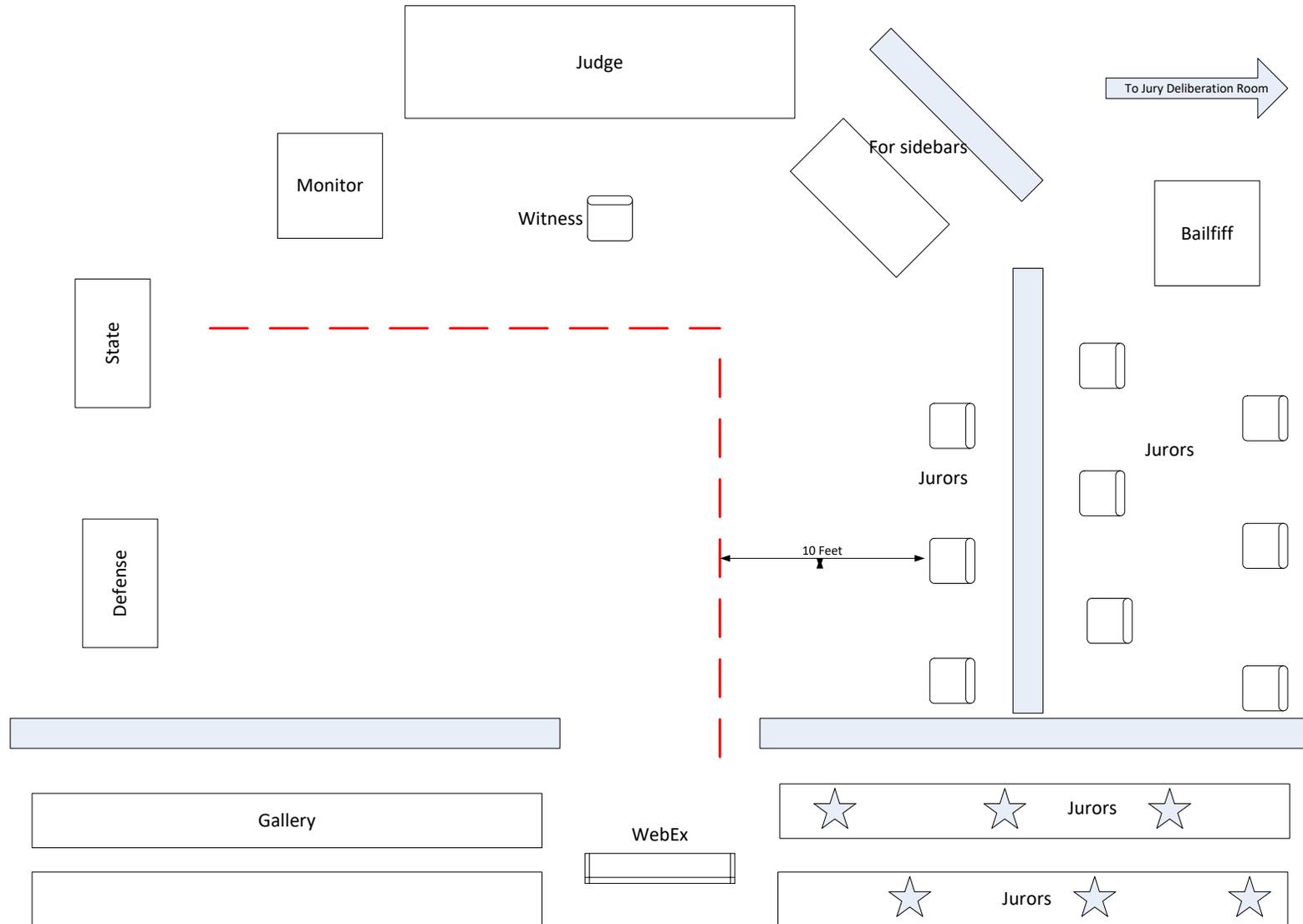
You will also be asked health-related screening questions every day, as will the court staff, the attorneys, and all other participants during the trial. You will be asked to certify that you have taken your temperature that day and that it is less than 100.4 degrees. If you are unable to take your temperature at home, you will be provided a single-use thermometer, which you must use before entering the building. If there are any issues that arise as a result of the health screening, you will receive further instructions.

You are instructed to give your full attention to the testimony and to assess the evidence according to the law that I will provide to you throughout the trial despite the fact that we have taken these measures to address COVID-19. If at any time you have concerns about your ability to pay careful attention to the opening statements, testimony, and closing arguments, do not hesitate to inform the bailiff. You will be provided the opportunity to address these concerns in private with me.



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Appendix H: Sample Courtroom Layout





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Appendix I: Script for WebEx Juror For-Cause Hearing

Good morning

My name is Judge _____ and I am in Courtroom _ in the _____ County Superior Court.
We are on the record.

Can you see and hear me okay?

The other folks you see here are Attorney _____ representing the defendant, Mr. _____ and Attorney _____ representing the State in this matter

As you know, you have been selected as one of the potential jurors in this jury trial. When you received the summons in this case, you submitted a questionnaire answering basic questions about yourself, then you submitted a second questionnaire after we sent you some more specific questions concerning issues in this case. You recall those questionnaires, Right?

Counsel went through these questions and your answers and have some questions about some of your responses. In normal times, I would have required all the jurors to assemble in this courtroom. That means there would have been about 70-80 people all collected in this room for a few hours. We would not have been able to follow State and Federal CDC guidelines if that happened. So, we are doing this virtually. Normally, we would be asking these questions of you up here at the bench so that we could talk privately about your answers. To keep our conversation private, no one else is on this WebEx call, and no members of the public are in the courtroom.

In asking these additional questions, we are not trying to embarrass you, make you feel uncomfortable or pry into your personal affairs at all. We just want to make sure you are the right juror for this case. Not every potential juror is right for every case. There are no right or wrong answers to these questions. So, it is very important that you be completely honest with us because that ensures the jury picked in this case is fair and impartial. Do you understand?

Ask questions of juror that are case-specific.

Thank you for appearing today by video and answering our questions, The Clerk will be in touch with you this afternoon about whether or not you need to appear in court tomorrow. If told you need to come back tomorrow, the Clerk will give you more specific instructions about parking, when to come to the courtroom, and what COVID screen procedures we have in place. So please keep your phone handy and check your emails regularly for the afternoon.

Thank you.