

DISTRICT COURT, LARIMER COUNTY, COLORADO 201 Laporte Avenue, Suite 100 Fort Collins, CO 80521 Telephone: (970) 494-3500	COURT USE ONLY
ADMINISTRATIVE ORDER CONCERNING 8TH JUDICIAL DISTRICT JURY TRIAL PROCEDURES RELATED TO COVID-19 PANDEMIC	
AMENDED ADMINISTRATIVE ORDER 2020-9	

The history and necessity of this Order is detailed in 2020-9. Since Administrative Order 2020-9 went into effect, jury trials in the 8th Judicial District were suspended from November 20, 2020 through February 15, 2021.

The following procedures are adopted for conducting jury trials in the 8th Judicial District to address the COVID-19 pandemic:

Overview

Jury trials in the 8th Judicial District have previously been held in the Larimer County Justice Center, the Loveland Police and Courts building and the Jackson County Courthouse in Walden. In Jackson County there is no space in the courthouse sufficient to conduct jury selection for any jury trial with adequate distancing so an outside location will need to be found. Jackson County also lacks the electronic capabilities compared with the electronic capabilities at the Larimer County Justice Center. Therefore, whether and how to conduct jury trials in Jackson County will have to be determined on a case-by-case basis.

The Jury Assembly Room (JAR) in the Larimer County Justice Center will accommodate up to 50 prospective jurors with distancing approved by LCDHE. The largest courtrooms in the Justice Center are 3A, 4A and 5A. Courtroom 3A will accommodate up to 40 prospective jurors with distancing approved by LCDHE. Courtroom 4A will accommodate up to 31 prospective jurors with distancing approved by LCDHE. Courtroom 5A will accommodate up to 34

prospective jurors with distancing approved by LCDHE. Courtroom 5B will accommodate up to 24 prospective jurors with distancing approved by LCDHE. Courtroom 4C will accommodate up to 26 prospective jurors with distancing approved by LCDHE. Courtroom L1 will accommodate up to 25 prospective jurors with distancing approved by LCDHE. An audio-visual connection is available between the JAR and Courtrooms 3A, 4A and 5A which would allow people in the JAR to view the proceedings in the courtroom in front of the bar (but not the gallery). Jury selection for all district court criminal jury trials will generally occur in courtrooms 3A, 4A or 5A or in the JAR or a combination of the two. Courtrooms 5B, 4C, and L1 are equipped to safely handle a 6-person jury trial with adequate safety requirements in place. Most felony jury pools will require using both a courtroom and the JAR. Courtroom 3A will be used, if available, because of its large capacity and to avoid having jurors “in the box” sitting behind counsel table. The chief judge, in consultation with the presiding trial judge, shall determine based on the specific circumstances surrounding the trial, including courtroom and jury room availability, whether the trial will be conducted in the courtroom used for jury selection or be moved after jury selection to the courtroom assigned to the presiding judge. Jury selection for county court trials will be held in Courtrooms 3A, 4A, 5A, 5B, 4C, and L1 which are the only courtrooms large enough to accommodate the number of prospective jurors needed for a county court trial, or in the jury assembly room, if available. The county court courtrooms are generally not large enough to conduct jury trials with the required safety distancing.

The number of jury trials held in a week will be limited for a number of reasons including, having limited courtrooms with adequate size for jury selection with appropriate distancing, jury trials will have to be coordinated with other continuing commitments in each courtroom, uncertainty about the length of trials, having only three elevators and no public stairs to access the courtrooms on the third, fourth and fifth floors and public health considerations mandate limiting the number of people in, and moving through, the courthouse. Also, it will be necessary to use both jury rooms on one floor for a single felony trial because the jury rooms are not large enough to seat a 12-person jury with distancing. The Chief Judge, after consulting with the judges assigned to preside over scheduled trials, will determine which cases should have priority to proceed to jury trial and how many jury trials can be conducted. The judge assigned to those cases which are unable to proceed to trial shall declare a mistrial and set a new trial date pursuant to Crim. P. 24(c)(4) and C.R.S. § 18-1-405.

Juror Summonses and Information

Summonses for jury duty will contain language notifying recipients that if they have COVID-19 symptoms, they should not come to the courthouse and should instead call to defer their jury service. Summonses will also include language that if the recipient is in the population vulnerable to COVID-19 and wishes to reschedule jury duty, he or she may do so by contacting the Larimer County Jury Commissioner to request a postponement.

The summons will also refer prospective jurors to the 8th Judicial District web page. https://www.courts.state.co.us/Courts/District/Jury.cfm?District_ID=8

The juror information section of the web page will contain a written notice explaining the actions that have been taken for protection of public health and will have a video showing, as well as explaining, those actions. There will also be language notifying citizens that they will be required to wear masks in the courthouse, urging them to bring their own masks and telling them that masks will be provided if they are unable to bring their own. Those who report for jury duty without a mask will be provided one by court staff for the duration of their jury duty.

The message on the juror information phone line will reference the website information and will invite prospective jurors to ask specific questions related to COVID-19. The various messages will assure the public that the jury trial plan has been approved by both the Larimer County Department of Health and Environment and by the Chief Justice of the Colorado Supreme Court.

Juror Check-In and Orientation

The jurors waiting to get into the courthouse will be appropriately spaced. Weather permitting, staff will set up outside the courthouse depending on the number of jurors who have been called. Otherwise, staff will set up health screening inside the courthouse, just outside the jury check-in area. Staff will take jurors temperatures and will have jurors fill out a health assessment asking about the recent or current presence of COVID-19 symptoms. The health assessment will be available on the website so jurors will have the option to fill out in advance. Any prospective juror with positive symptoms will have their jury service deferred. If any prospective juror has not filled out their jury summons, they will do so at the counter in front of the jury check-in area at locations marked to assure safe spacing. The health assessments will also offer jurors the option to defer

their jury service, if they are at increased risk of serious illness from COVID-19. Staff will also identify anyone who is living with or caring for any individuals who are vulnerable to COVID-19 and offer them the opportunity to reschedule their jury service.

The Jury Commissioner will also ensure that every summoned citizen has a mask. She will provide masks for those without one. Any prospective juror who refuses to wear a mask or says he or she has health reasons for not doing so will have jury service deferred to a later date.

As jurors enter the Jury Assembly Room, the chairs will be spaced and there will be markers on the floor to assure six-foot distancing. Jurors will formally check in and then walk to one of the empty chairs in the jury assembly room, always maintaining six-foot distancing from all other people in the jury assembly room. There will be signs near the jury assembly room kitchen area and restrooms reminding prospective jurors to maintain spacing while using those facilities. As part of jury orientation, the prospective jurors will see the video explaining and showing the actions that have been taken to protect the public health.

Jury selection for multiple trials may occur the same day so long as the chief judge is satisfied that can be accomplished consistent with public health requirements. If both a felony trial and a county court jury trial begin the same day, prospective jurors for the county court trial will have jury orientation in the courtroom where the trial is being conducted. Trials involving a large jury pool will have a staggered jury call or may be moved to a larger venue to assure there are never too many jurors to maintain proper spacing.

The randomly generated numerical list of jurors will be used to determine which jurors are initially selected to be in the box. This will minimize the number of people sitting in a particular location. If it is necessary to change who is sitting in a particular location, the location should be wiped down before the new person is seated. When both the courtroom and the JAR are being used for jury orientation for the same trial, the jurors with the lower numbers will be directed to the courtroom while the jurors with the higher numbers will remain in the JAR. Division staff/law clerks will bring jurors to the courtroom with a maximum of 4 people at a time in an elevator. Although there are no public stairs, if use of the emergency stairs is approved by security, prospective jurors will be encouraged to walk to the courtroom using the emergency stairs to maximize distancing. Prospective jurors will be permitted to bring their own small bottles of hand sanitizer, wipes, gloves, and writing implements.

Jury Selection

Prospective jurors will be spaced in the jury box, in the area in front of the jury box and, also in the gallery for felony trials to ensure six-foot social distancing. The seats to be occupied in the usual jury box, in front of the usual jury box and, for felony trials, in the gallery shall be marked with numbers to indicate the jurors who are deemed to have been called to the box. The extended box for felony trials shall, to the extent possible, be seated in the half of the gallery on the side of the courtroom where the usual jury box is located to avoid sitting behind counsel table. The numbered seats will be filled in numerical order by the lowest numbered jurors from the randomly generated numbered juror list. The remaining jurors in the courtroom will occupy the remaining marked seats to assure distancing and will be called to the box in numerical order to replace any jurors excused for cause. There will be an audio-visual cart placed against the side of the courtroom and against the bar in a position to capture the courtroom proceedings in front of the bar. The cart should not be moved. The Webex application will be used to broadcast the proceedings to any prospective jurors in the JAR and to make the proceedings available to remote spectators as deemed appropriate by the trial judge to assure public access.

Prospective jurors will always be required to wear a mask, except that the trial judge will have discretion to allow speaking without a mask if there is difficulty hearing and understanding the juror while wearing a mask. The masks and the extended box for felony trials may make it a challenge to hear some jurors. Prospective jurors will be asked to stand, state their name and seat number to answer questions and to speak loudly so they can more easily be heard. The judge should encourage anyone who cannot hear a juror's responses, to raise their hand. Hand sanitizer will be available at multiple locations in the area of the courtroom where prospective jurors are seated. Attorneys will conduct voir dire and witness examination from counsel table. Particularly in felony trials some of the prospective jurors will be a substantial distance from counsel so it is important that counsel speak into the microphone so their voice will be broadcast through the ceiling speakers. Webex will be used to make the proceedings available to any prospective jurors

who remain in the jury assembly room due to space limitations and to members of the public who will not have available seating due to the need to maintain spacing for the prospective jurors.

Until the jury is selected, prospective jurors will use the public restrooms. Jurors should be reminded to maintain social distancing in the hallways and restrooms.

Peremptory challenges will be made in the courtroom without approaching the bench. The judge will need to turn on the white noise machine in the courtroom and press mute on the microphone to assure people in the audience do not hear the challenges. The attorneys will speak into the microphones at counsel table. The attorneys, judge, clerk and court reporter will wear headsets to hear each other and make a record without being heard by the jury. Written instructions for use of the headsets will be placed at counsel tables.

Trial

Once the jury is selected, all jurors will be seated in front of the bar with appropriate spacing. The trial judge should explain on the record all health procedures to be followed during the trial. Hand sanitizer will continue to be provided. Each day of trial all jurors and all trial participants (attorneys, parties and witnesses) will undergo the same health screening described above as part of juror check in. There will be room in the gallery for the public to attend the trial, with seating to be in the locations marked with blue tape or a number to assure appropriate spacing. The trial judge will have discretion to make the trial available remotely through Webex but should recognize that it may be necessary to lock the proceedings from the public to allow Webex to be used for sidebars and authentication of exhibits and to eliminate disruptions by outside users during trial. If Webex is used, the trial judge should inform all observers that they cannot record the virtual trial.

Each person in the courtroom shall maintain six-foot distancing from others and shall always wear a mask with the following exceptions:

1. The witness in criminal trials will not wear a face covering while testifying from the witness stand unless the Court permits the witness to wear a face covering. Witnesses in other types of jury trials may be required to wear a face covering at the discretion of the trial judge. The witness stand will be more than six feet from anybody else in the courtroom. The witness stand will have a plexiglass "sneeze-guard" in place. The witness shall enter the courtroom and exit the courtroom wearing a face covering.

2. Individuals who are interpreting for participants in court proceedings, where the ability to see the mouth and hear the interpretation is essential to communication are exempted from this order, so long as such language interpreters wear a face covering when not providing interpretation services.
3. Individuals may be asked to temporarily remove their face coverings for purposes of identification.
4. Individuals may be asked to temporarily remove their face coverings, as deemed necessary by a judicial officer to protect constitutional or statutory rights, or to ensure that an accurate record of the proceedings is made.
5. The trial judge should wear a face covering unless the judge determines that it is necessary to remove the face covering to ensure that an accurate record is made or to protect constitutional or statutory rights of anyone involved in the proceeding.
6. Trial judges shall determine whether attorneys may remove face coverings during opening statements and closing arguments.

Questioning of witnesses will occur from counsel table using the microphone provided. The lectern that is ordinarily used will be removed, in the discretion of the Judge. During opening and closing statements counsel may request to stand in front of counsel table provided they remain substantially more than six feet from anybody else. The trial judge shall have discretion to grant or deny any such request.

As needed, there will be a laptop on the witness stand so the court reporter can see the witness via Webex to be able to better report proceedings and to allow the attorneys to screen share to authenticate documents prior to publishing the documents to the Jurors. The laptop will be placed outside of the plexiglass so the witness will have no direct contact with it which will eliminate the need to sanitize the laptop between witnesses.

Before each witness testifies, the witness stand shall be sanitized by court staff. Questioning of the witness shall occur from counsel table.

To the greatest extent possible exhibits should be uploaded prior to trial to avoid the need to handle the exhibits during trial, unless modified by the trial judge. Attorneys will use Webex to authenticate documents. Until an exhibit is admitted, the audio-visual screen that is used to show jurors exhibits will be turned off, so the exhibit is not published to the jury. With the large audio-

visual screen off, the attorneys can screenshare with the witness using Webex to authenticate the document. If the exhibit is admitted, the large screen can be turned on for publication purposes. The trial judge will have discretion to modify these requirements as deemed necessary for the safe and orderly conduct of the trial.

Attorneys should be encouraged to communicate with their clients or advisory witnesses by written notes. If requested the judge may turn on the white noise machine to assist counsel with having private conversations. Attorneys may request to use headsets to communicate with clients, but the use of headsets will be subject to availability and the discretion of the trial judge. It is counsel's responsibility, not that of the court, to assure there is a private channel of communication available during trial between attorney and client.

The trial judge will have discretion to allow for juror questions of witnesses. Trial logistics should be discussed with counsel prior to trial to assure everybody understands the mechanics of conducting the trial during a public health crisis and to try to expedite the proceedings through stipulations and to minimize interactions in the courtroom.

For sidebars, each counsel table will be equipped with an attorney headset. Additional headsets may be requested from judicial administration prior to trial, subject to availability. Side bars will be conducted from counsel table using the headsets and speaking into the microphones. The judge will need to turn on the white noise machine in the courtroom and press mute on the microphone to assure people in the audience do not hear the sidebar. The judge and attorneys will be able to hear each other and the court reporter or FTR will make a record of the sidebar. Written instructions for use of the headsets will be placed at counsel tables.

The courtroom and jury rooms will be thoroughly cleaned every evening. Courtroom staff will be responsible for coordinating with judicial administration to assure proper cleaning by the cleaning service contracted by the county. Judicial staff will be responsible to assure thorough cleaning and sanitizing if the county service does not do so.


Jury Deliberations

Following closing arguments, jurors will be escorted to a vacant courtroom or remain in the courtroom where the trial was conducted. If it is necessary for the jury to deliberate in the trial courtroom, the judge, the parties, and the attorneys will leave the courtroom through the back doorway usually used by court staff, even if the defendant is in custody. Deliberations shall occur

in a courtroom because the courtrooms are large enough to assure social distancing. The bailiff will escort jurors to the restroom as needed to maintain distancing. The division court judicial assistant will ensure no one enters the courtroom while the jury is deliberating. Signs will also be placed on the courtroom door and hallway doors to the courtroom indicating the jury is deliberating. Jurors for misdemeanor or civil trials will be escorted to a jury room as usual because the jury rooms are large enough to accommodate a jury of six with six-foot social distancing or may also be allowed to deliberate in the courtroom if the trial judge sees fit.

The jurors will be admonished they must always maintain six-foot social distancing during deliberation and must wear masks when not speaking. The trial judge shall have discretion to modify the procedure for exhibits in the interest of justice with consideration for public health best practices.

Dated this 12th of February, 2021.



Susan Blanco
Chief Judge, Eighth Judicial District