



MN Judicial Branch

Jury Management Resource Team (JMRT) Recommendations:

Re-starting Jury Trials during COVID-19

Approved by Judicial Council on May 14, 2020

JMRT's recommendations are based on prioritizing the safety and health of all, reducing confusion for jurors and providing an efficient plan for staff that ensures a smooth transition to resuming trials. They also take into consideration vendors' and other resources' availability and capacity.

The MN Judicial Branch will continue to actively monitor recommendations from the MDH, CDC and NCSC, and update our practices accordingly. JMRT's Recommendations reference and follow the MJB COVID-19 Preparedness Plan.

1. How to Start

Considerations:

- The Other Side Workgroup recommended criminal jury trials to start with a Pilot in June, 2020. On May 14 the Judicial Council adopted the recommendation.
- Jurors need sufficient notice to notify employers, request postponements, find child care, etc.
- The branch needs to start slowly to maintain jurors' and the public's trust and confidence in the jury process.
- Vendors have limited supplies on hand to run our regular summoning processes and additional notices to restart trials.
- Each juror is authorized an automatic postponement when requested (even in non-pandemic times) and these are being issued. Two new postponement codes were created for COVID-19 in Jury Systems Incorporated (JSI). One tracks individuals whom report being symptomatic or who have likely been exposed to COVID-19. The other code is for hardships, used when the individual can't serve due to something related to COVID-19. This is most frequently being used for medical personnel, those who are high risk, and those who can't travel back from winter homes.
- By rule/law, individuals over 70 may serve, but are automatically excused upon request.

JMRT Recommendation:

- a) Pilot Jury Trials: A short list of counties should pilot jury trials in order to test and report on feasibility of social distancing and report back lessons learned to JMRT. Social distancing is paramount and means maintaining distance of at least 6 feet (360 degrees) from others at all times. Refer to the MJB Preparedness Plan for further instruction on social distancing.
- b) The first weeks that any county is reopened for jury trials, there should only be enough jurors in the building at any one time to hold one jury trial.

2. Pilot

Considerations:

- Judicial Council approved a pilot of criminal jury trials to start in June, 2020. The approved counties are: Dakota, Hennepin, Olmsted, Ramsey, Beltrami, Blue Earth, McLeod, Scott.

- Pilot counties were selected from those whose Chief Judges volunteered to the Chief Justice. These pilot counties are not required to hold a pilot during June 2020, but are the only ones allowed to do so.
- Judicial Council approved that the pilots can include Grand Juries.

JMRT Recommendation

- All pilots must fully adhere to the MJB COVID-19 Preparedness Plan and these JMRT recommendations, both of which may be updated as additional information becomes available. Pilots will also provide feedback to JMRT to update recommendations prior to state-wide rollout. This may be through a focus group, survey, or other means. This includes monitoring and evaluating such things as: ability to maintain social distancing; ability to maintain supplies; juror processes; and, other things we did not anticipate.
- To pilot a Jury Trial, approved counties must complete the Jury Trial Pilot Checklist, to be signed by the District Chief Judge and District Administrator. This includes a requirement that pilots engage local public health and criminal justice partners for local support in putting together a location specific plan. Pilot counties may use additional technical assistance and support from Statewide Jury Program, Central Jury Unit, and JMRT. Pilot counties will submit their completed checklist for each jury trial they plan to do, alongside their location specific plan, to Executive Council for approval.
- Strict physical distancing of at least 6 feet (360 degrees) from others must be assured at all times among panel members and court staff, at all points in the process.

Note: Jury Trial Pilot start dates must be determined well enough in advance to appropriately notice jurors.

3. Post-Pilot

Considerations:

- A small number of counties should be added in the weeks after completion of the Pilot.
- Counties should engage their local public health and criminal justice partners for coordination of social distancing implementation.
- Counties' start dates need to be chosen and set in advance to allow for coordination of local staff, CJU, and vendors to assure jurors will be on hand to start.

JMRT Recommendation:

- All counties must fully adhere to the MJB COVID-19 Preparedness Plan and these JMRT recommendations, both of which may be updated as additional information becomes available. Counties will also provide feedback to JMRT to update recommendations during and after state-wide rollout.
- Strict physical distancing of at least 6 feet (360 degrees) must be assured at all times among panel members, judicial officers, and court staff, at all points in the process.

4. Limiting Potential Jurors' Physical Appearances

JMRT Recommendation:

- Settlement Day/Roll Call:
 - A hearing with a deadline the week before for acceptance of any plea deal. After that week, only straight up pleas would be accepted. Avoid using "waiting jury" to put pressure on parties for settlement.
- Limited Numbers Called for Each Trial:
 - Standard Panel Sizes should be used. The state standard jury panel sizes by case type are:
 - Murder I cases* 50 jurors

- ii. *Crim. Sex cases* 30 jurors
 - iii. *Murder II* 28 jurors
 - iv. *Felony cases* 24 jurors
 - v. *M/GM cases* 16 jurors
 - vi. *Civil cases* 14 jurors (includes Conciliation Appeal)
- b. If additional jurors are needed after voir dire of the first panel, an additional panel may be brought in. This may lengthen the time to select a jury but will avoid exposing additional individuals.
 - c. Jurors should be brought in small groups with staggered arrival times (for example: no more than 10 arriving each 30 minutes). If current group numbering assignments in WebGEN+ are too large to accomplish this, than the Jury Reporting Information should instruct smaller groups.
- c) Use Supplemental Questionnaires to call in as few jurors as possible on a per trial basis.
 - a. Judges/counsel should consider using a [Supplemental Questionnaire*](#), so counsel and judge can eliminate any jurors prior to bringing them in. Judges/counsel could set up remote video conferencing to voir dire individual jurors on more sensitive issues which would normally be done without other jurors present. This would allow for their release prior to entering the courthouse. [*Supplemental Questionnaires may be completed and returned by email—but must be filed as part of the case record.]
 - d) Use technology to limit in-person interaction
 - a. Consider instructing jurors to watch the orientation video online prior to arrival if they are able to shorten the amount of time they spend in the orientation room.

5. Additional Trial Logistical Considerations

- a) Sequestration:
 - a. Judges should discuss with counsel options for sequestering witnesses in the courthouse in isolated rooms rather than having them sit in courtrooms—and for calling witnesses into the courthouse only immediately prior to their testimony—even if this may result in temporary delays if the witness preceding finishes early.
 - b. Judges may consider whether sequestration of jurors may be used in the event a seated jury is exposed to a person with a known or suspected COVID-19 case.
- b) Availability of lodging for potential sequestration of jurors should be determined in advance.
- c) Quarantine:
 - a. Plans and consideration need to be made for a potential quarantine of a jury if exposed.

6. How to Prepare for Juror Arrival

Considerations:

- Social distancing of at least 6 feet (360 degrees) must always be maintained.
- Jurors will be provided with paper face coverings and all jurors are strongly recommended to wear face coverings at all times. Face coverings are not a replacement for social distancing – they are to be used together. <https://www.health.state.mn.us/diseases/coronavirus/basics.html#mask>
- MDH recommends providing one paper bag to each juror to store their face covering in when they aren't wearing it, such as during meals. This allows resource conservation so that jurors may re-use their face covering.
- Physical barriers (example: Plexiglas walls or partitions) may also be installed.

JMRT Recommendation

- a) Facility Logistics: Coordinate with facilities management and security, including local public health officials.
 - a. Examine your spaces and rooms to determine if they can accommodate social distancing pre-trial, during the trial, during deliberations, etc. Consider whether you need to use different spaces. Consider your space for orientation and breaks to allow social distancing. Consider your space for media or public in the courtroom and social distancing.

- i. MN Statutes section 484.35, Temporary Courthouses: When the courthouse or place provided for holding court in any county is destroyed or becomes unsafe or unfit for the purpose, or if no courthouse can be provided, the judges may designate a convenient place at the county seat for temporary use as such.
 - b. Identify larger rooms or courtrooms (audio and recording turned off, security videos turned off, etc.) to use for deliberating jurors and/or assembly rooms. Remove clocks from deliberation areas if a concern.
 - c. Follow cleaning protocols from the MJB COVID-19 Preparedness Plan. Entrances, check-in windows, public hallways, private passage ways, elevators, jury boxes, jury assembly, and deliberation areas need to be cleaned and disinfected regularly. These areas should also be re-cleaned/disinfected after each smaller group of jurors moves through. <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>
 - d. Stock extra tape for floor marking (Xs) and other social distancing marking.
 - e. Add extra trash cans for disposing of tissue, gloves, and face coverings.
 - f. Eliminate extra chairs or mark with signs not to sit in chairs in between. Ensure there is at least at least 6 feet (360 degrees) on all sides around each individual.
 - g. May need temporary video screens so that evidence presentations via technology are available to all jurors.
- b) Juror Amenities:
- a. Coffee and beverage services should be eliminated, as well as vending machines (see MJB COVID-19 Preparedness Plan). Consider allowing jurors to bring their own full travel mugs and snacks.
 - b. Remove games, cards, puzzles and magazines and other activities from juror waiting areas.
 - c. If a courthouse has lockers available for jurors, find a method for labeling them so jurors can use the same locker throughout their stay and limit the number of jurors in locker rooms at any given time.
 - d. Consider food vendors that provide individual meals instead of shared pizzas or buffet style. It's important to avoid more than one person handling food.
 - e. Order extra note pads and pens. Do not recycle—each juror gets a new item. They can take their pens with them.
- c) COVID-19 Precautions:
- a. Stock paper face coverings, hand sanitizer, disinfectant wipes, and facial tissue for jurors.
 - b. Jurors will be provided paper face coverings and strongly encouraged to wear them at all times. Jurors should be provided a paper bag to store their face covering when not in use.
 - c. Jurors should be advised not to come in under any circumstances if they have any symptoms of illness. <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>
- d) Checking in preparation:
- a. Swap out porous hardboard clipboards and replace with plastic clipboards. Staff should clean the clipboards with disinfectant wipes before returning to jury office.
 - b. Eliminate reusable “juror” name tags. Order disposable sticker name tags if needed.
 - c. Consider whether juror orientation needs to be conducted in smaller groups because of the available room size.
 - d. Plan to send smaller numbers of jurors in elevators (staff/bailiff on both ends to control movement) and space out jurors in hallways (see MJB COVID-19 Preparedness Plan).
- e) Update information on websites regarding any items no longer allowed into the courthouse and items which now may be brought in (such as an individual beverage container or snacks).

7. Checking in Jurors

JMRT Recommendation:

- a) Jurors should be advised not to come in under any circumstances if they have any symptoms of illness. <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

- b) No kiosk use by jurors. May take tablets out of kiosks or have staff run kiosks to have more stations for checking in jurors with greater social distance—consider whether it would be difficult to keep distance between personnel and juror when entering bar code or scan.
- c) Prefer scanning bar code from Jury Mobile App versus passing paper summons with bar codes back and forth. Jury Mobile App is on JAD agenda for May 20th for approval. Otherwise, scan bar code on summons without touching or passing summons back and forth.
- d) Space out jurors waiting to be checked-in by staggered arrival times and check marks on the floor (see MJB COVID-19 Preparedness Plan).
- e) Do not require signing in, but have staff take roll call and check any address/mileage notations.

8. Juror Processes

JMRT Recommendations:

Strict physical distancing of at least 6 feet (360 degrees) must be assured at all times among panel members and court staff, at all points in the process. Face coverings are not a replacement for social distancing – they are to be used together.

- a) Follow predetermined plans for supplemental questionnaires and specialized voir dire, spacing out seating, meal vendors, moving jurors through hallways and elevators.
- b) When seating jurors in courtroom for voir dire—seated and lined up in reversed random order before entering courtroom so they don't have to cross each other when called and walking to the box.
- c) If someone is excused—may consider leaving them in place rather than having them leave the room and having them pass by the others in their row to get out.
- d) Consider not passing a microphone. Ask jurors to speak up instead.
- e) Counsel may not approach the jury.
- f) Do not have jurors back in chambers after trial.
- g) Use technology to publish exhibits rather than passing documents into and around jury box.
- h) May consider individual voir dire and keep waiting jurors in small, spaced-out groups elsewhere.
- i) Deliberation: Identify larger rooms or courtrooms (audio and recording turned off, security videos turned off, etc.) to use for deliberating jurors and/or assembly rooms. Remove clocks from deliberation areas if a concern.