



GUIDE FOR RESUMING JURY TRIALS

INTRODUCTION

This submission represents the effort of the Local Committees on Resuming Jury Trials of the Alcovy Judicial Circuit which includes Newton and Walton Counties. A committee was established in each county and was represented by the Superior Court Judges, the Probate and Magistrate Judges of each county, the District Attorney and Public Defender, experienced criminal and civil attorneys, representatives of the local bar association, attorneys experienced with jury trials, the Sheriff and designees, each Clerk of Court, local Information Technology staff, local Health Department officials, Emergency Management officials, and interested parties who volunteered to serve for the purpose of establishing a safe, healthy, and orderly plan for resumption of jury trials in the Alcovy Judicial Circuit. The Local Committee's Plan was tailored to meet the individual demands, unique characteristics, and available facilities and services of each county within the circuit.

The Newton and Walton Superior Courts have continued to provide essential functions throughout the judicial emergency utilizing video-conferencing platforms and in-person civil and criminal court with appropriate social distancing and in accordance with CDC guidelines. Jury trials, however, remained on hold.

In the Fifth Order Extending Declaration of Statewide Judicial Emergency, entered on August 11, 2020, the Chief Justice recognized that the "broad prohibition [on all jury proceedings] cannot last too much longer, even if the pandemic continues, because the judicial system, and the criminal justice system in particular, must have some capacity to resolve cases by indictment and trial."

On September 10, 2020, the Chief Justice directed "each county to establish a local committee of judicial system participants to develop detailed guidelines for the resumption of jury trials in the county utilizing the safe jury trial guidelines being developed by the [Judicial COVID-19] Task Force." On October 10, 2020, the Chief Justice authorized "the Chief Judge of each trial court, in his or her discretion, to resume the jury trial process if local conditions allow and the Chief Judge, in collaboration with the local committee, has developed and issued a final jury trial plan."

Pursuant to the Chief Justice's directive, on September 14, 2020, the committees have met on multiple occasions in order to develop this detailed and locally tailored plan to resume jury trials in Newton and Walton counties. The committees strived to be consistent with the Chief Justice's Order Declaring Statewide Judicial Emergency, as extended, and the Judicial COVID-19 Task Force's Guidelines. The

mission of the committees was to seek to ensure the health, safety, and constitutional protections of all participants in the judicial system, including jurors and potential jurors, litigants, witnesses, lawyers, judges, court personnel, and the public.

SUMMONING THE JURORS

- Jurors shall be summoned by the clerk's office at least four weeks in advance of service.
- When jurors are initially summoned, they will receive a letter from the Court, signed by all the Judges, that expresses how much they are appreciated and appeals to their sense of civic duty to report for jury duty. The letter will assure the jurors that the Court understands their concerns for safety. The letter will contain the Alcovy Judicial Circuit website address for jurors to review this plan as well as a Public Service Announcement video.
- Jurors will be instructed to return a questionnaire along with an envelope with pre-paid postage. Should the parties agree to a more detailed and case-specific questionnaire, they may seek the Judge's approval to have those sent to the jurors.
- Jurors who have not returned their questionnaires will receive a second notice by the Clerk's office reminding them of their duty.
- Jurors will be instructed that they are to call into the Clerk's office the morning of reporting if they are experiencing any Covid symptoms. It will be made clear that this does not excuse them from jury service altogether; their service will be deferred to a later date. The Clerk's office will keep a record of the deferred jurors, and those individuals will be referred to the assigned Judge should the Clerk's Office receive the same response to the COVID-related responses when they are re-summoned.

JUROR CHECK-IN

THE MORNING OF SERVICE – SAFETY PRECAUTIONS JURORS WILL ENCOUNTER

- Expanded Reporting Window - Jurors will be given staggered reporting times on their summons so they don't all arrive at the same time. They will be screened through a daily thermal scanning process to check their temperatures and will be asked the same screening questions for the COVID-19 before entering the building as all entering the building are asked.
- Temperature Screening - Any potential juror who reports with a 100.4 degree temperature or higher must give his/her name and contact information to the deputy overseeing the thermal scanning. The Clerk's Office will receive the potential juror's information, and contact the juror to be rescheduled. As with all visitors to the courthouse, any person with a reading above the threshold will be given a fifteen-minute cool-down period and will be re-tested, before being excused.
- Masks – All visitors are required to wear masks to enter the courthouse, and the mask must remain in proper position over nose and mouth, unless instructed by their assigned Judge to remove it. All courthouse deputies will remain vigilant and politely ask anybody in the courthouse seen without a mask to put it back on. Any jurors that arrive without a mask will be provided one as they enter the line for the checkpoint outside the courthouse.
- Social Distancing – The Jury Assembly Room (JAR) has been set up with a reduced capacity of approximately 50 jurors. Chairs have been placed 6 feet apart. Chairs may not be rearranged by the jurors. Social distancing signage with CDC recommendations will be prominently displayed.

- Physical Barriers – Glass shield barriers are installed at the check-in desks in the JAR.
- Disposable Badges – At check-in, each juror will receive a disposable badge. This badge should be handed to the juror at the JAR entrance.
- Hand Sanitization Stations – There are several hand sanitization stations strategically placed between the entry points to the courthouse and to the JAR.
- Courthouse HVAC Modifications and HEPA Filtration –A needlepoint bipolar ionization (NPBI) air-purification system has been installed in the courthouse HVAC system as well as HEPA Filtration systems that are operating to purify the air.
- Daily Deep Cleaning of Jury Assembly Room and Jury Deliberation Rooms – Building Maintenance will sanitize the JAR, the Courtroom, and any deliberation room that was used each evening utilizing, among other cleaners, a fogging mist containing peroxide to disinfect and reduce pathogens. All staff have been properly trained on the proper use of these cleaners and disinfectants to maximize the effectiveness of the product.
- Health and Safety Video – These safety precautions will be highlighted in the letter received by jurors with their summons. This letter will provide a QR code link to the Alcovy Judicial Circuit website which will have a PSA video concerning these safety procedures. Lastly, this video will be played again on the morning of their service.

THE IMPANELING PROCESS

- Jurors will be seated in order drawn and will be instructed to raise their hand if they need to use the restroom so that social distancing can be enforced in the JAR and in the hallways and restrooms.
- The objective is to have 50 jurors in the JAR. Any extra jurors beyond 50 will be kept in the Grand Jury room where they will also be socially distanced.
- The Judge will come down to the JAR and address the jurors as is customarily done.
- Once they are present, qualified, and finished with orientation, the Clerk's Office will notify the courtroom clerk that the jurors are ready, and have been divided into panels of 12.

VOIR DIRE - EACH PANEL REPORTS SEPARATELY TO COURTROOM

- Panel "1" reports to the courtroom, and the Judge will provide reporting instructions to the Clerk's Office for Panels "2," "3," and "4."
- The Judge will qualify the jurors when they arrive to the courtroom, in the presence of the defendant and on the record.
- Jurors will be placed in seats inside the courtroom in the gallery area for social distancing purposes.
- The attorneys will need to face the gallery for *voir dire* and will be expected to limit general and specific *voir dire* questions to ones that have not already been answered by the juror questionnaires.

- Jurors will be required to wear masks inside of the courtroom during general voir dire and if counsel for either party has an objection to the mask covering the juror's face, clear masks may be available to better enable the parties to see the juror's facial expressions. After general *voir dire*, individual *voir dire* shall be conducted and the juror shall be allowed to stand and lower their mask if necessary for the parties and the court reporter to be able to hear so long as proper social distancing is practiced.
- Strikes for cause should be taken up panel-by-panel, before that panel is released. Jurors will return to the jury empaneling room except for those jurors subject to further questioning.
- At least two alternate jurors are recommended for each case and long trials may necessitate more.
- Any panels still physically present in the building would not be brought back into the courtroom while the lawyers exercise their strikes. See *Martin v State*, 205 Ga. App. 591 (1992).
- Once a sufficient number of jurors are qualified for the jury and alternate jurors, the jurors shall be assembled in the JAR with the clerk so that the clerk may call each name. For trials where a defendant is in custody, the parties shall be present in another courtroom and shall be able to watch the jurors as their names being called so that strikes may be made outside the presence of the jury while securing the defendant in a courtroom with deputies. In all other cases, which do not involve a defendant in custody, the parties may set up in the JAR room and strike the jurors using the "silent strike" or "stand and strike" method.

COURTROOM TRIAL PROCEDURES

GENERAL CONSIDERATIONS

- Judges should require mandatory pretrial conferences with all lawyers participating in the cases called for trial. At a minimum, said conferences should take place the week before trial to make sure both sides are clear on all of the changes that COVID-19 has necessitated. At the conference, the Judge should try to handle as many pretrial issues as possible, so that they do not delay the jurors reporting to the courtroom on the morning of trial. During the pretrial conferences, the lawyers and the Judge will discuss the number of witnesses and timing for their appearance in the courthouse, as well as where each party's witnesses will wait until called to testify. To the extent possible, the lawyers should stagger witness report times, but should only do so after a consultation with the Judge and the other side to ensure that jurors are not left waiting around for witnesses to arrive. It is also important to make sure both sides are familiar with the technology, especially the digital presentation of evidence.
- Judges, court staff, bailiffs, lawyers, parties, defendants, and jurors will all wear masks during the trial when not speaking.
- Defendants reporting from the jail will have temperature screenings each day.
- Judges may remove, and permit counsel and jurors to remove their masks while speaking.
- Witnesses may testify without a mask. Upon request of either side, a witness shall testify without a mask.
- The Court will have clear masks or face shields on standby to accommodate unmasked speaking.

- Due to difficulties guiding the jurors throughout the courthouse, it is anticipated that trials will necessitate the use of three bailiffs.
- Bailiffs will meet the jurors, at the designated time, at the thermal check station and escort the jurors to the jury room after they pass the thermal scanner and answer the COVID-related questions. Due to elevator capacity of two people, it will take two to three bailiffs to escort the jurors to the 2nd floor jury rooms. One bailiff will be on the 2nd floor with the jurors getting off the elevator, and one on the ground floor with the jurors waiting to board.
- Any returning juror who does not pass the temperature check or COVID screening questions will be brought to the trial Judge's attention immediately. Meanwhile, a bailiff will wait with the juror until instructions are received from the trial Judge.

COURTROOM LAYOUT

- For *voir dire* and for seating during the trial, the jurors will be placed in the gallery seats at the marked seats. All of these seats will have clear sightlines to the witness stand, the Judge's bench, and the courtroom monitors.
- Once jurors receive a seat assignment, they will remain in their assigned seat for the duration of the trial unless they need to be moved due to a hearing or vision issue.
- Care should be taken to accommodate those jurors with hearing or vision impairments, and place them in the jury box for the closest proximity to the witness stand.
- Courtroom audio-visual technology will be employed so that the witnesses may be seen and heard from all areas of the courtroom. Jurors will be instructed to let the Judge know if they are having any difficulty hearing or seeing.
- Anyone wishing to view the proceedings will be directed to another area of the courthouse designated for public viewing. In each county this will likely be in another courtroom.
- A deputy will be positioned between the jurors seated in the gallery and the public area to ensure safety and courtroom decorum.
- If a Rule 22 request is received and approved by the Court, the Judge should discuss camera angles and the unusual seating arrangement of the jurors with the covering news agency to ensure that no jurors are shown in the coverage.

PRESENTATION OF EVIDENCE

- Courtroom evidence should be displayed to the jurors in a digital manner where possible. There will be certain items that cannot be displayed in a digital format and the attorneys are directed to seek guidance from their Judge, and be prepared to disseminate gloves before passing around any tangible evidence in the courtroom. There are also likely going to be pieces of evidence that are not easily viewable in the evidence platform described above. Some videos that require proprietary software and codecs to play the file. Lawyers are directed to be prepared to play those from their device and to submit the evidence (and their required files/codecs to be played) on a new or re-formatted USB drive to the courtroom clerk after it is admitted.
- The microphones at the witness stand and the lectern will be wiped down by a bailiff after each use. Individual clip-on microphones may be provided to counsel. In the alternative, removable and

disposable microphone covers will be provided to the attorneys to cover the microphone while they are speaking.

- The witness stand and chair will also be wiped down by a bailiff after each witness finishes his/her testimony and before the next witness is called.
- Attorneys will present their case from the lectern. Attorneys will seek permission from the Court before moving freely about the courtroom. Otherwise, they will remain at counsel table and the lectern. Attorneys will be provided wipes and will be responsible for wiping down the lectern, and anything else they touched before returning to their table.

BENCH CONFERENCES

- It will be difficult to usher the jury in and out of the courtroom for routine arguments that normally happen outside of their presence.
- Bench conferences between the Judge and lawyers are encouraged.
- Pursuant to *Zamora v State*, 291 Ga 512 (2012), a defendant has a right to be present at a bench conference. However, that right is waivable. A pre-trial discussion will be held on the record, before the start of trial, to see if the defendant will waive his/her right to be present at bench conferences.
- In the event that a bench conference is needed, the jurors will be escorted to their jury room and the parties, Judge, court reporter, and Clerk shall remain in the courtroom.

RECESSES, BREAKS, MEALS, AND DELIBERATIONS – JURY ROOMS

- Regular jury rooms will not be utilized for deliberations due to the space restrictions. Instead, the bailiffs will take the jurors to a larger jury room designated on the 2nd floor.
- The tables and chairs in the jury room will be positioned in a large square layout. Chairs will be placed six feet apart.
- Jurors will be provided with single-use notebooks and writing instructions, and bailiffs will have extras available if needed.
- Jurors will receive a tray at their designated chair in the jury room. They will keep their water bottles, notepads, pens, pencils, dry erase marker etc. in the trays. The jurors' seat assignments will remain unchanged until the conclusion of the trial.
- There will be no community refrigerator or microwave available for jurors. Jurors with dietary restrictions, or who prefer to bring their own food, may do so in a personal size soft-sided cooler bag which will remain in the jury room.
- Jurors may bring any non-alcoholic drink they choose in a clearly marked thermos with their name on it.
- The bailiff will have a supply table on the back hallway behind the jury room. This table will provide extra disposable masks, hand sanitizer, paper towels, gloves, juror pads and pencils, bottled water, individually wrapped disposable cutlery, disinfecting spray.
- Each Juror will be given his/her own dry erase marker for use on the whiteboards that have been installed. Disposable cloths/towels will be used to erase the board.

- Bailiffs will be stationed outside of each door to the jury room and shall keep the area secure. Bailiffs will escort jurors to the closest restrooms on the 4th floor.
- Each jury room will have a hand sanitization station.
- Jury rooms will be cleaned nightly. Jury restrooms will be cleaned at lunch and nightly. Cleaning wipes and sprays will also be available in the restrooms for juror use to clean before and after use.
- The 2nd floor will be sectioned off by barriers and signage that separates the jury empaneling room and in Newton County, the grand jury room from the rest of the 2nd floor. The signage will read “Trial Jurors Only. No Public Access Beyond This Point”. A bailiff or deputy will be located outside the jury room any time it is occupied by jurors and it will remain locked and secured when the jury room is unoccupied.
- For brief morning and afternoon restroom breaks during the trial, the restrooms behind in the hallway nearest to the jury room will be utilized in conjunction with the restrooms in the jury empaneling room.
- At the discretion of the Judge, jurors may be provided breaks during the proceedings in a designated space outside of the courthouse for jurors to remove their masks for fresh air while remaining properly distanced from others.
- If jurors are provided jury instructions during deliberations, each jury shall be provided his/her copy to minimize document sharing.

MOCK TRIAL

- After this plan has been finalized, and before the first actual trial, a mock trial will be conducted with volunteers and lawyers to test out the procedures spelled out herein.

The “Local Committee on Resuming Jury Trials” may recommend modifications to this plan and this document may continue to be updated.