



## PLAN FOR RESUMPTION OF JURY TRIALS IN DNM

### PRE-TRIAL COMMUNICATION WITH PROSPECTIVE JURORS

1. Chief Judge Will Send Letter with Each Summons.
  - a. The CJ letter will let jurors know to call the Jury Line right away if they have concerns about COVID-19 or if they are showing symptoms.
  - b. The CJ letter advises jurors to immediately contact the Jury Department if they answer "Yes" to any of the following:
    - i. Do you have COVID-19 symptoms (fever, cough, shortness of breath, chills, repeated shaking with chills, muscle pain, headache, sore throat and/or loss of taste or smell)?
    - ii. Have you been diagnosed by a licensed physician as having COVID-19 any time within the past 30 days?
    - iii. Are you actively caring for a family member or loved one who has tested positive for COVID-19?
    - iv. Are you now in self-quarantine status or subject to a stay-at-home order, and will that status continue past your reporting date?
    - v. Have you traveled outside the United States in the last 30 days, or to another state within the last 14 days?
    - vi. Are you a healthcare worker caring for COVID-19 patients?
  - c. If a case-specific Special Jury Questionnaire (SJQ) is desired by counsel, a court-approved SJQ will need to be mailed out by the Jury Department 6-8 weeks ahead of jury selection.
2. Jury Summons
  - a. Summonses will be sent out 15-17 days before jury selection and in anticipation of an increased number of phone calls and excuse requests. Pre-COVID 19, summons were sent out 10 days prior to trial.
  - b. COVID-19 excuse requests will be ruled on by the presiding judge.
3. Notification of Two-Month Term of Service
  - a. Added 200-250 jurors to the normal pool for both Northern and Southern divisions.
  - b. Added COVID-Safe Practices (CSP) language to the Notification, including requirement to wear face masks.

## JURY SELECTION AND VOIR DIRE

### 1. Jury Assembly

- a. CSOs ask the CSP questions of jurors (see PRE-TRIAL COMMUNICATION 1.b.)
- b. Morning and afternoon panels of 22 venirepersons is recommended for criminal trials and possibly civil, since only 20-25 can be seated safely in the JAR and the designated courtrooms.
  - Recommended start times are 9:00 a.m. and 1:30 p.m. for two waves.
  - If a third panel of 22 is desired, it is strongly recommended that this third panel appear on the following morning.
  - If three waves in one day are desired, we recommend start times of 9:00 and 11:00 a.m., and 2:00 p.m.

### 2. Juror Placement for Voir Dire

- a. The capacity of a courtroom with jurors 6' apart in all directions is between 22 and 25.
  - Rio Grande (ABQ)                      22 with jury box; 18 without jury box  
*Pews have been removed and replaced with chairs.*
  - Pecos (ABQ)                              8-14 seated jurors  
*For trial only if needed; not for jury selection.*
  - Sierra Blanca (LC)                      22 with jury box; 18 without jury box  
*Pews have been removed and replaced with chairs.*

### 3. Voir Dire in the Courtroom

- a. Only one courtroom to be used for jury selection in each city (Rio Grande in ABQ and Sierra Blanca in LC.)
- b. The same courtroom to be used for the entire trial. This minimizes elevator use and isolates trafficked area in the event of a COVID-19 exposure incident.
- c. Venire members will be socially distanced in the courtroom.
- d. Face shields to be used for venire members rather than, or in addition to, masks, at the discretion of the court.
- e. It is recommended that bench conferences during voir dire be held until the end of voir dire. The prospective jurors can be called back individually.
- f. For voir dire, extra microphones will be used to assist the court and counsel in hearing answers and comments of the venire panel members.

## DURING TRIAL AND DELIBERATION

1. Juror Placement
  - a. See recommendations under JURY SELECTION AND VOIR DIRE
  - b. Seated jury will be placed appropriately in the gallery area of both courtrooms. The jury box will be used for witnesses.
2. Evidence
  - a. Evidence is to be digitized and loaded into the court's JERS electronic evidence system to the greatest extent possible.
  - b. Handling of evidence or paper exhibits which may not be submitted or presented electronically should be kept to a minimum. Such items must be sanitized after each use.
  - c. Either video or hard-copy depositions read into record for as many witnesses as possible.
3. Witnesses can wait in corridor outside main courtroom double doors.
4. Bench Conference Options
  - a. There is sufficient room in the corner by the bench in both courtrooms to hold bench conferences while observing social distancing.
  - b. Hearing assist "walkie-talkie" style headsets will also be made available to facilitate social distancing.
5. Attorney/Client Conferences
  - a. Use of Attorney/Client rooms is limited to one at a time with client.
  - b. No attorney/client conference rooms are available in Las Cruces. Another courtroom or the jury deliberation room may serve this purpose.
6. Interpretation
  - a. When in-person interpreting is not possible due to the number of persons scheduled to be in the courtroom, interpreting service may be provided using Zoom (or comparable secure video conferencing technology).
    - In such cases, an iPad and headphones should be set up for the defendant.
    - The Government should coordinate with if a witness will be testifying in person and in a language other than English.
  - b. At the court's discretion, interpreters may appear remotely for trial for non-English-speaking defendants.

7. Deliberation Rooms and Recesses

- a. During brief trial recesses, jurors can retire to the Jury Assembly Room on the second floor.
- b. Jury Assembly Rooms in both cities have been designated as the jury deliberation room (they are big enough and have galleys and restrooms).

8. General Public and Media Access

- a. Members of the general public and media will not be allowed into the courthouse during trial.
- b. They can attend the trial through the Court's audio and video streaming services from the Court's website (<https://www.nmd.uscourts.gov/district-court-streaming-services>).

## COVID EXPOSURE MITIGATION & PROCEDURES

- 1. The Operations department has developed courtroom hygiene protocols to mitigate risk during in-person hearings. Any questions or concerns may be addressed with the Courtroom Deputy prior to jury selection.
- 2. Federal grand or petit jurors are covered under FECA (i.e., Worker's Compensation for federal employees) when they are in performance of duty as a juror. In the event of a COVID-19 exposure incident, the same protocols established for Court employees will apply to all trial participants.
  - a. Upon being notified of a potential exposure, the Human Resources team will contact the affected individuals (including jurors) and begin contact tracing procedures to assess the scope of the incident.
  - b. The affected persons will be advised to quarantine or self-isolate and get tested, depending on the level of exposure. If further medical issues arise as a result of a positive diagnosis, HR will provide further instruction for any Worker's Compensation claims.
  - c. The Court will remind jurors to notify the Jury Department if they develop symptoms or test positive within 14 days of their jury service.