



**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS**

Tuesday, March 1, 2022

NOTICE TO THE BAR

TRIAL DIVISION – CRIMINAL

**PROTOCOLS AND GUIDELINES FOR CONDUCTING IN-PERSON CRIMINAL JURY TRIALS IN
THE STOUT CENTER FOR CRIMINAL JUSTICE DURING THE COVID-19 PANDEMIC**

RESUMPTION OF PROCEEDINGS FOR BAIL JURY TRIALS

In response to changed COVID-19 circumstances, the Criminal Trial Division will double the number of jury trials selected from four to eight per week, effective Monday, March 14, 2022. Please see the attached “Protocols and Guidelines for Conducting In-Person Criminal Jury Trials in the Stout Center for Criminal Justice During the Covid-19 Pandemic” for additional details.

In addition, please be advised that bail jury trials in the Criminal Trial Division will resume effective Monday, March 14, 2022. All parties should be prepared to proceed with all scheduled jury trials as of that date.

Honorable Lisette Shirdan-Harris
Administrative Judge, Trial Division

Honorable Lucretia C. Clemons
Supervising Judge, Trial Division-Criminal

**First Judicial District of Pennsylvania
Court of Common Pleas of Philadelphia
Trial Division - Criminal**

**Protocols and Guidelines for Conducting
In-Person Criminal Jury Trials in the
Stout Center for Criminal Justice During
the COVID-19 Pandemic**



Preamble

The United States and Pennsylvania Constitutions guarantee all persons the right to a trial by jury. Jury trials are essential to our system of justice and are one of the cornerstones of our democracy. The right to trial by jury also provides citizens with the opportunity to participate in the judicial process.

Jury Trials During the COVID-19 Pandemic

The First Judicial District's criminal jury trial process has undergone many changes since the beginning of the COVID-19 pandemic. On March 17, 2020, the First Judicial District suspended criminal jury trials for the health and safety of the public. On September 8, 2020, the Court resumed in-person criminal jury trials. Due to the spread of COVID-19, criminal trials stopped again on November 16, 2020. On March 4, 2021, the Court resumed in-person criminal jury trials, conducting four jury trials per week. In response to changed COVID-19 circumstances and the growing needs of the court, jury trials will double from four to eight per week, effective March 14, 2022.

COVID-19 Jury Trial Guidelines

With continued guidance from public health officials and current COVID-19 statistical data, the Court will adhere to the following jury trial guidelines:

- All persons shall wear a CDC-compliant face mask that covers the nose and mouth when inside the Stout Center. Participants may wear a face mask that has a clear window, provided that the face mask is CDC compliant and properly fitted over the nose and mouth. Face shields may only be used in combination with a face mask, not alone.
- All persons shall maintain a proper social distance of at least three feet from every other person when inside jury selection rooms and courtrooms in the Stout Center.
- Courtroom seating shall be reconfigured to ensure a proper social distance of three feet between each seat.
- Courtrooms and jury selection rooms shall undergo enhanced cleaning and disinfecting protocols and hand-sanitizing stations are located throughout the Stout Center.
- Court and Judicial staff shall ensure compliance with each courtroom's occupancy limit, which has been established in accordance with public safety guidelines.
- Jury staff will ask all trial participants three COVID-19 screening questions on the first day of service.¹ Thereafter, Court staff will ask all trial participants the

¹ (1) Are you currently experiencing symptoms of COVID-19 (e.g., cough, fever, chills, shortness of breath, loss of taste or smell?); (2) Have you tested positive for COVID-19 in the past 14 days?; and (3) Have you come into contact with anyone who has tested positive for COVID-19 in the past 14 days?

screening questions each day of trial. If any participant answers “yes” to any of the screening questions, Court staff will dismiss that participant immediately.

Recognizing that the pandemic is not a static event, these protocols and guidelines are subject to change. For the most recent versions of these guidelines and protocols, please visit:

<http://www.courts.phila.gov/covid-19/>

Jury Selection and Voir Dire

Prospective Jurors

Prospective jurors will enter the Stout Center and follow signage for the employee entrance line, and report to the jury assembly room (Room 101). Before entering Room 101, each prospective juror will be asked three COVID-19 screening questions by jury staff. Anyone who answers “Yes” to any question will immediately be excused from jury duty.

Jurors who pass their COVID-19 screening will be assigned a specific seat in the jury assembly room, which will solely be for that juror’s use. Once seated, jury staff will provide each prospective juror with a *voir dire* questionnaire to fill out using a sanitized pen. The juror will keep and use that pen throughout the jury selection process.

Voir Dire

Counsel shall report to Courtroom 905 by 9:00 a.m. to get his/her courtroom assignment. General *voir dire* will occur with the parties in the courtroom and prospective jurors in Room 101 virtually via Zoom to maintain proper social distancing. Individual *voir dire* will occur in the courtroom.

Excusing Jurors

Regardless of where individual *voir dire* is conducted, if all counsel agree to excuse a juror, that juror will be excused by Court staff and directed to leave the Stout Center immediately. If a juror is chosen to serve on the jury, he/she will be dismissed after individual *voir dire* and directed to return the next day for trial. In the instance that the trial is expected to begin the same day, jury members will be asked to return to their assigned seats in the assigned deliberation room following individual *voir dire* until the entire panel has been questioned.

Courtroom Layout, Seating, and Sanitation

To comply with social distancing requirements, jurors will be seated in designated areas throughout the courtroom instead of being limited to the jury box. No juror chairs shall be moved or relocated at any point during the proceedings. The configuration of juror seats is not to change at any point over the course of the trial.

In the “well” area of the courtroom, all attorneys, paralegals, parties, sheriffs, defendants, and party representatives will sit at tables where each chair is at least three feet away from every other

chair. With the approval of the presiding trial judge, counsel may move or relocate chairs and tables in the well of the courtroom. At the end of the trial, all relocated chairs and tables shall be returned to their original positions by counsel.

Plexiglass will be installed in areas where social distancing is not possible. For example, there will be a plexiglass shield around the court reporter because the court reporter's seat is less than three feet from the presiding judge's bench and the witness stand. Mobile plexiglass barriers will also be available in each courtroom should they become necessary.

Because courtrooms have been drastically reconfigured, attorneys are strongly encouraged to visit their respective courtrooms prior to trial to familiarize themselves with the layout. Counsel may email Michelle Arlene at: michelle.arlene@courts.phila.gov to set up an appointment or request to see the room after jury selection. Counsel are also encouraged to set up all AV/technical equipment before trial, provided that the courtroom is not in use.

Each courtroom and jury room will have enhanced cleaning and disinfecting protocols performed by City employees in accordance with CDC guidelines. Hand sanitizer bottles are available inside courtrooms. Disinfectant spray and/or disposable wipes will be used by Court staff to disinfect the witness chair after each witness testifies and as necessary on other surfaces throughout the trial. All clipboards, notebooks, and pens provided to jurors must be sanitized by Court staff after each use. Court staff must direct jurors not to share any of these materials with anyone. Court staff must also maintain a daily log of all persons present in the courtroom.

Trial Procedure

Examination of Witnesses

With the permission of the presiding trial judge, counsel may use the podium to conduct an examination of a witness, provided that they abide by social distancing requirements. Otherwise, counsel shall remain seated during the examination of witnesses. All testimony must be presented in person, except as otherwise permitted by the Pennsylvania Rules of Criminal Procedure or Rules of Evidence.

Witnesses shall go to the assigned courtroom and sit on the benches outside until instructed by Court staff to enter. All trial participants must use microphones to enable members of the public situated in the observation courtroom to hear the proceedings via Zoom.

Presentation of Evidence

Counsel must display all documents and other evidence on a television or projection screen unless otherwise permitted by the presiding judge. If the judge allows paper documents to be submitted into evidence, counsel shall ensure that there are enough copies for each person in the room to review them, including jurors, other counsel, witnesses, and the judge. With the Court's permission, counsel may also use poster boards or flip charts on an easel. Any such use must comply with social distancing requirements.

Opening Statements and Closing Arguments

With permission from the trial judge, counsel may use the podium to make opening statements and closing arguments, provided that counsel abide by social distancing requirements. Otherwise, counsel must remain seated when making opening statements and closing arguments.

Sidebars

Sidebars are strongly discouraged while social distancing protocols remain in place. Counsel should instead raise anticipated issues with the judge before trial begins, during any recess, or after trial adjourns for the day. In the limited circumstance when a sidebar is required during the examination of a witness, the conference will be held in the jury deliberation room or robing room, with all participants in the conference maintaining social distancing. During the conference, at least one court officer, in addition to the assigned sheriff, shall remain in the courtroom to ensure that no misbehavior occurs in the absence of the judge and counsel.

Breaks and Recesses

Except for jurors, no trial participant may eat inside the Stout Center. During breaks and recesses, jurors must either go to the assigned deliberation room or outside of the Stout Center. All other trial participants must remain in their seats inside the courtroom or leave the Stout Center. Loitering in hallways or other areas of the courthouse is not permitted. No person may remove their face mask while they are on a break or recess in the Stout Center unless eating or drinking in a designated area.

Contact Tracing

Counsel are required to conduct daily COVID-19 screenings for every trial participant. If any person answers “yes” to any of the screening questions listed above, counsel must advise the presiding trial judge’s staff so that appropriate action may be taken. Counsel and staff must maintain a list of names and contact information for all trial participants so that they may get in touch with each person in case of COVID-19 exposure. Every juror is given our pandemic coordinators information in case they test positive after leaving our facilities.

Failure to Comply with COVID-19 Protocols and Contact Tracing Procedures

All judges, attorneys, Court staff, jury staff, judicial staff, witnesses, officers, jurors, and anyone else who enters the courtroom during trial must abide by the COVID-19 protocols adopted herein. Counsel and Stout Center staff must remain up to date on COVID-19 protocols, as they are subject to change. Any failure to comply with these protocols may result in sanctions.