



FOURTH JUDICIAL DISTRICT San Miguel, Guadalupe, and Mora Counties

Plan for Resumption of Court Operations

The Fourth Judicial District respectfully submits this plan for resumption of limited in-person hearings and trials in response to the Emergency Response Team's memoranda of May 7th and 19th, 2020. This plan's goal is to ensure access to the courts for the public in the safest environment possible under the circumstances of the ongoing Public Health Emergency (PHE). In designing this plan, the District sought to balance the needs to protect both public health and the constitutional rights of parties.

This plan is designed to be flexible in response to changing conditions of the PHE. The plan may be amended as needed in response to input from the New Mexico Supreme Court, the Administrative Office of the Courts, judicial officers, staff, litigants, attorneys, and jurors. Any amendments will be made in writing and provided to the Emergency Response Team shortly after completion.

I. MAINTAINING HEALTH CONDITIONS DURING RESUMPTION OF COURT OPERATIONS

As courts resume in-person hearings and trials, they must continue to adhere to social distancing and gathering size guidelines. Courts must take certain precautions to protect the health and safety of the public and court staff. These include regulating the number of visitors admitted into court buildings and public court spaces, including lobbies, courtrooms, offices, and jury assembly and deliberation areas. To this end, the Fourth Judicial District will do the following:

- Continue to follow directions from public health officials, including the Centers for Disease Control and Prevention (CDC) and the New Mexico Department of Health (NMDOH), relating to social distancing.
- Refrain from scheduling multiple, simultaneous hearings in a number that would jeopardize social distancing, for example, high volume arraignment, eviction, or child support enforcement calendars. In scheduling matters, courts should consider:
 - The size of the courtroom and courthouse facilities;

- Whether staggered start times can be scheduled;
 - Alternative available waiting areas; and
 - Creating seating assignments that ensure social distancing.
- Create “courtroom admittance” policies that include:
 - Limiting those physically permitted in the courtroom to the parties, attorneys, victims, jurors, witnesses, and other persons whose presence is essential to the case;
 - Setting a maximum occupancy level for courtrooms and other meeting areas;
 - Considering any necessary adjustments for security reasons; and
 - Providing public access to open court hearings using video streaming technology.
- Consistently apply the court’s “courtroom admittance” policies.
- Maximize the use of remote appearances through technology, such as video and audio platforms, giving due consideration to compliance with constitutional and statutory rights, feasibility, and connection stability.
- Use text messaging to ensure social distancing by limiting the number of people entering the courthouse at any one time. Specifically, if there is not sufficient seating in the lobby area to socially distance, court visitors will check-in at the front of the courthouse, state their business and provide their mobile phone number. Then they will then be sent back to their vehicles to wait and will be sent a text message when they should return and enter the courthouse. This allows visitors to appropriately social distance while they wait, without fear that they might miss their court appearance.
- Use appointment systems in the self-help area to minimize the assembly of visitors seeking court-related services during peak days and times. With limited capacity to expand the size of facilities, increase staffing, or curtail the public’s need for court-related services, appointment or reservation solutions will assist in maintaining social distancing.
- Consider how to best accommodate the needs of particularly vulnerable individuals (based on health or other issues, including age, underlying medical issues, compromised immune systems, etc.) and those who may live with or provide

custodial or residential care for them by offering alternatives to in-person court appearances.

- Turn away people who are ill, appear to be ill, or exhibit symptoms including coughing, sneezing, shortness of breath, etc., and relying on the use of technology or other means to make sure that such individuals' rights are protected.
- Take the temperature of everyone entering a court building.
- Establish guidelines and requirements to enter court buildings that are posted in English and Spanish on the court's website and at the entrance to every court building, and comply with the Americans with Disabilities Act.

II. COURTHOUSE CAPACITIES WITH 6 FEET SOCIAL DISTANCING

The Fourth Judicial District has eight district and magistrate courtrooms located in five different courthouse locations in San Miguel, Guadalupe, and Mora Counties. Photographs showing the District's facilities with precautions taken as a result of the PHE are attached to this plan as exhibits.

A. San Miguel County District Court

San Miguel County District Court has 3 courtrooms and 2 lobby areas on 2 floors. The approximate capacities of the first and second floor lobbies are 19 and 25, though available seating is lower than that and we cannot allow the first floor lobby to fill to capacity while still allowing convenient access to the clerk's office. The approximate capacities in the Division I, II, and III courtrooms are 21, 21, and 24. We could likely fit 1 or 2 more people into each of the courtrooms while maintaining social distancing, but the positioning would be awkward, with people sitting in the middle of the room in front of the bench. The courthouse has 2 elevators that can fit 2 people at a time while maintaining social distancing.

B. San Miguel County Magistrate Court

San Miguel County Magistrate Court has 2 courtrooms and a lobby and hallway area on a single floor. The approximate capacities of the courtrooms are 20 and 21. The lobby can hold 12 people while maintaining social distancing, though there are only 4 chairs available.

C. Guadalupe County District Court

Guadalupe County District Court is located on the second floor of a building controlled by Guadalupe County. It has 1 large courtroom and a small waiting area and hallway that could be used by the public. The courtroom has a capacity of 30 with existing furniture, but this could be increased to approximately 45 if the benches in the gallery are

replaced with individual chairs. The benches are movable, so this is a viable option if necessary. The combined capacity of the waiting area outside the courtroom and hallway leading to the clerk's office is approximately 10, but there is seating for only 2. There is an elevator that can fit 1 person at a time if social distancing is maintained.

D. Guadalupe County Magistrate Court

Guadalupe County Magistrate Court has 1 courtroom and 1 lobby area on a single floor. With social distancing, the courtroom can hold 12 people and the lobby can hold 9.

E. Mora County Magistrate Court

Mora County Magistrate Court is located on the second floor of a building controlled by Mora County. It has 1 courtroom and with lobby and hallway space available for visitors to use. The courtroom has a capacity of 17 with the existing furniture, but it is likely that we could add 2 more people if the existing five feet long counsel tables are replaced with six feet long counsel tables. The capacity of the lobbies and hallways with social distancing exceeds 25, though available seating is much lower than that. The elevator has a capacity of 1.

III. SIGNAGE AND SPECIFIC PATH ROUTING DIRECTIONS

We have posted clear and concise signage throughout the courthouses that direct people to courtrooms, court departments, waiting areas, and restrooms so that people can get to their destination using the correct route.

- The signage is highly visible and easy to understand.
- Signage is posted on the walls and floors of the courthouses.
- Court departments, courtrooms, and waiting areas are clearly labeled.
- Social distancing policies and expectations are posted in conspicuous locations.
- Signage includes arrows and other directional graphic images to assist visitors in reaching their destinations.
- Court signage is in English and Spanish.
- In hallways, we have used tape to designate the foot traffic pattern to maximize distancing. We have marked off seating in public areas to indicate six-foot distancing.

IV. E-FILING & PAPER FILINGS

Currently, all district courts accept e-filing for criminal and civil cases, with some accepting e-filing for other case types.

- Court staff should continue to urge attorneys and litigants to submit documents via electronic transmission or by e-filing in the district court whenever possible.
- For cases involving documents that cannot be e-filed, during the PHE and consistent with the directives and orders issued by our Supreme Court, the courts, litigants, and ancillary agencies shall proceed according to the following policies:

- The courts will accept email and fax filing of pleadings in criminal cases at the following addresses and fax numbers:

San Miguel County District Court (Las Vegas)
fax: 505-454-8611
email: lvedpublic@nmcourts.gov

Guadalupe County District Court (Santa Rosa)
fax: 575-472-4451
email: srodpublic@nmcourts.gov

San Miguel County Magistrate Court (Las Vegas)
fax: 505-425-0422
email for attorneys: lvemcriminal@nmcourts.gov
email for self-represented parties: lvempubli@nmcourts.gov

Guadalupe County Magistrate Court (Santa Rosa) fax: 575-472-3592
email for attorneys: sromcriminal@nmcourts.gov
email for self-represented parties: srompublic@nmcourts.gov

Mora County Magistrate Court (Mora) fax: 575-387-9081
email for attorneys: mormcriminal@nmcourts.gov
email for self-represented parties: mormpublic@nmcourts.gov

- Self-represented litigants shall also be encouraged to file by fax or email in all matters at the fax numbers and “public” email addresses above.
- Courts should promptly process documents filed and contact the filer if there are problems with the filing, payment for the filing, etc.

V. PROTECTION OF STAFF

We must ensure that court staff is adequately protected.

- We will make personal protective equipment (PPE), in the form of gloves and facemasks, available to court staff. We will provide basic training on the correct way to utilize facemasks and gloves to avoid cross-contamination. Per Supreme Court order, everyone entering a courthouse in the Fourth Judicial District shall wear a mask or face covering. The District has disposable masks at each of its five court locations. All courthouses will deny entry to persons refusing to wear a mask, who will be provided the phone number to the clerk's office or judge's chambers to address their need for court services remotely.
- While gloves are available, as a general matter, only those involved in cleaning and disinfecting activities or collection of bodily fluids should wear gloves. We have also made gloves available for optional use by employees directly involved in taking visitors' temperatures. Gloves are not a substitute for other safety protocols, such as hand washing with soap and water, sanitizing with at least 60% alcohol, and social distancing, and, in some cases, gloves not removed and disposed of properly can spread the virus.
- Protective barriers and physical setbacks can be used to protect staff when they are interacting with court visitors. For example, courts have a glass window at all filing areas to create a barrier of protection between the staff and public.
- Court staff will disinfect filing counters and other frequently touched public surfaces every two hours per NMDOH guidelines. In each court location, we have marked six-foot separations on the floor in high traffic public areas, such as near the clerk's office filing window and outside of courtrooms.
- All courthouses are cleaned daily, and we have supplies of hospital-grade cleaner to sanitize frequently touched surfaces. We have hand sanitizer available to the public in spray bottles that we refill from the larger containers provided by the Administrative Office of the Courts.
- We will continue to instruct employees not to report to work if they are ill.

VI. A & B TEAM STAFFING MODEL

Court employees are divided into two teams (A & B). Teams are assigned to work on-site at the courthouse or telework on alternating weeks. This model significantly reduces the number of staff in the courthouse, opens up office space, enhances social distancing, and reduces the exposure of staff to possible transmission. It also helps ensure continued court operations. If a staff member on one team becomes infected or exposed,

that team can isolate at home during a recovery period while other teams continue on-site staffing.

- We authorized all court staff to telework at least part-time as of March 23, 2020. During a typical day from March through June, staff present in the clerk's office was 50% of pre-PHE levels, with 50% of staff teleworking. We anticipate teleworking to continue through September 30, 2020, with the option to end sooner or extend depending on the PHE. With half of staff teleworking, this will allow staff to maintain distancing while in the office, including offices without cubicle walls. We may have to scale back on employee teleworking on days when some of our bailiffs are unavailable or when many in-person visitors are expected.
- In the San Miguel and Guadalupe District Courts:
 - Judges, reporters, court monitors, and TCAAs have separate offices and can work separated from others.
 - Bailiffs have workstations in open office areas that are more than six feet from each other.
 - Administrative/supervisory staff all have enclosed offices.
 - Treatment court staff and pretrial services staff have separate enclosed offices. They will continue to work remotely to the extent possible, but will need to be present in the courthouse approximately 80% of the time. Check-ins with treatment court or pretrial clients may continue to be by telephone for routine matters when the treatment court or pretrial participant is doing well by program standards.
 - Finance and human resources staff will continue to telework approximately 40% of the time. Individuals with these duties have their own offices or cubicle workspaces with greater than six-foot separation from others.
- The magistrate courts are in the process of reassessing the telework schedules for their employees to make sure that they have enough staff on site to help with in-person hearings and trials, but employee teleworking at least part-time is expected to continue until September 30, 2020.

VII. COMMUNICATION WITH STAFF ABOUT EMPLOYMENT LAW CHANGES AND SICK LEAVE

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act (FFCRA) into law. The FFCRA is designed to provide relief in the form of paid and job-protected sick leave for those impacted by COVID-19. The current Family and

Medical Leave Act (FMLA) has been expanded to include potentially paid leave under the FFCRA.

- The Court Executive Officer, human resource officers/managers, and other managers must keep staff informed of changes in such laws and how those changes impact employee's sick leave and job duties.
- The District will ensure that employees are kept informed of available crisis support and employee assistance programs.

VIII. PROCEEDINGS INVOLVING INDIVIDUALS WHO ARE IN CUSTODY

The Fourth Judicial District recognizes that cases involving individuals who are in custody generally have priority over cases involving individuals who are not in custody. The threat of COVID-19 exposure and spread presents challenges related to how courts should conduct proceedings involving individuals who are in custody. Recommendations for handling these situations include:

- Maintaining consistent and frequent communication with the local jail to stay informed as to whether any defendants who are in custody have tested positive for COVID-19.
- Collaborating with the jail to develop solutions for communicating with defendants who are in custody through Polycom, Google Hangouts, or telephonic means to minimize the transport of defendants from jails.
- Maximizing the use of remote appearances through technology, such as video and audio platforms, giving due consideration to compliance with constitutional and statutory rights, feasibility, and connection stability. Transports of defendants from the jail to court for in-person appearance before a judge should be the exception and not the normal practice.

IX. FREQUENT CLEANING OF COURT FACILITIES

The District must ensure that its facilities are adequately cleaned and disinfected to prevent the spread of COVID-19. Courts should be transparent and keep court staff and the public informed about such measures.

- Courthouse facilities must be cleaned frequently and regularly, throughout the workday.
- Entrances to courthouses shall be frequently cleaned, including wiping down surfaces such as counters, security screening stations, metal detectors, conveyor belts and bins, doors, doorknobs, and push bars, etc.

- Staff work areas shall be cleaned and disinfected at the end of each workday or after a staff member has occupied a work station, if staff are rotated at the work station during the workday.

Offices and common areas must be cleaned throughout the workday by regularly wiping down surfaces such as counters, doorknobs, railings, etc.

- High touch areas and equipment, including in restrooms, must be cleaned every two hours.
- Restrooms and the surfaces therein shall be frequently cleaned and disinfected.
- Hand sanitizers shall be made available in common areas and courtrooms.
- Tissues shall be made available so that staff and visitors can use tissues to touch surfaces and open doors.
- Wastebaskets shall be placed near doors and emptied regularly.
- To increase public confidence in safety at the courthouses, the Fourth Judicial District shall publicize measures taken to clean and disinfect court facilities on its website.

X. COVID-19 SCREENING

We are screening employees and visitors at all courthouses using the New Mexico Supreme Court's approved screening questions and infrared thermometers to check for temperatures equal to or greater than 100.4 degrees Fahrenheit.

At all of our courthouses, employees are responsible for screening themselves using the approved screening questions and an infrared thermometer. Stations have been set up near the employee entrances with a copy of the screening questions, a log for signing in on each entry (with name, date, and phone number), an infrared thermometer, wipes for sanitizing the thermometer after each use, and hand sanitizer. Management has held meetings with all District employees to ensure that they understand their obligations, and management has instructed employees not to come to their courthouses if they are feeling sick or would otherwise fail the screening.

If employees fail the screening questions or meet or exceed the temperature threshold, they are instructed to immediately leave the building while maintaining social distancing. They are also instructed to contact management by telephone to communicate about the circumstances after they leave. Any surfaces the employee touched must be sanitized thoroughly.

Due to differences in building configuration and staffing levels from courthouse to courthouse, how screening of the public is conducted varies based on location.

On a typical day in Mora County Magistrate Court or Guadalupe County District Court, there is only one clerk's office employee working onsite. They are responsible for having visitors sign in on a log, asking the screening questions from behind the clerk's office glass, and then, if the visitor passes the screening questions, coming around from behind the glass in the clerk's office and taking temperatures with an infrared thermometer. Masks are always required, and employees have also been provided with gloves and face shields for optional use when they take temperatures. On days when in-person hearings or trials are scheduled, a bailiff will be present for security and health screening purposes and another court employee may be called in from teleworking to assist with health screening.

On a typical day in Guadalupe County Magistrate Court, there are usually 2 or 3 employees working onsite. There is a screening station set up at the middle clerk's office window where the employees ask the visitor to sign in, ask the screening questions and then, assuming the visitor passes the screening questions, provide the visitor with a thermometer to take his or her own temperature. The visitor is instructed to show the result to the employee through the glass and wipe the thermometer with a Clorox or Lysol wipe after use. It is unlikely that many in person hearings will be held at Guadalupe County Magistrate Court during the PHE, but employees may be called in from teleworking to assist with health screening if in person hearings are held.

In San Miguel County Magistrate Court, there are usually 6 or 7 employees onsite on a typical day. After entering the building, the visitor is directed to come to a clerk's office window where the visitor signs in and an employee asks the approved screening questions through the glass. If the visitor passes the screening questions, the employee provides the visitor with a thermometer to take his or her own temperature. The visitor is instructed to show the result to the employee through the glass and wipe the thermometer with a Clorox or Lysol wipe after use. On days when in-person hearings or trials are scheduled, a bailiff will be present to conduct security screening and another court employee may be called in from teleworking to assist with health screening.

San Miguel County District Court is the largest courthouse in the District. Most of the District's employees are stationed at San Miguel County District Court and it is visited frequently by members of the public. Members of the public visiting San Miguel County District Court are screened at the front entrance using the approved screening questions and an infrared thermometer. A bailiff asks the screening questions while separated from the visitor by glass. If the visitor passes the screening questions, a bailiff opens a window into the security vestibule and takes the visitor's temperature using an infrared thermometer. The bailiff wears a mask at all times and gloves and face shields are available (but not required) for the bailiff's use.

There are usually two bailiffs in the security station at the front entrance, but there may be circumstances where one of the bailiffs is needed elsewhere. In such

circumstances, we will assign one court employee on a daily rotation to assist with COVID-19 screening. The only employees excluded from the rotation will be judges and bailiffs. We have not yet needed to do this, but it may be required from time to time when in-person hearings and jury trials resume and are occurring at multiple locations.

If a visitor fails the screening questions or temperature check at any location, bailiffs and staff are instructed to (1) request anyone waiting in line behind the visitor to exit the premises temporarily and to maintain social distancing, (2) request the visitor to leave the premises through the door the visitor entered, and (3) sanitize the door and surfaces the visitor touched or was in close proximity to thoroughly before allowing the next visitor to enter for screening.

XI. PRIORITIZATION OF CASE TYPES FOR RESOLUTION DURING INITIAL TRANSITION

In general, where limits on capacity require prioritization and triage, the following priorities for general case types should apply (recognizing constitutional and statutory preferences govern specific issues that may be raised in a specific case), starting with the highest priority:

- (1) Criminal
- (2) Domestic Violence and Emergency Injunctive Relief
- (3) Juvenile
- (4) Mental Health
- (5) Family (involving minor children)
- (6) Family (not involving minor children)
- (7) Probate
- (8) Other Civil Cases
- (9) Administrative Cases

However, civil jury trials can and should be planned and conducted concurrently with other in-person trials as capacity allows.

In criminal cases specifically, courts should apply the following priorities (recognizing constitutional and statutory preferences govern specific issues that may be raised in a specific case), starting with the highest priority:

- (1) Criminal cases, where the defendant is in custody
- (2) Criminal felony cases, where the defendant is not in custody
- (3) Criminal misdemeanor cases, where the defendant is not in custody

XII. IN-PERSON HEARINGS

During the PHE, the Fourth Judicial District has been conducting hearings using predominantly Polycom, Google Meet, and telephonic means. Under this plan, most hearings will continue by video or other remote means until a widespread effective

treatment or vaccine is available for COVID-19. Routine hearings including arraignments, first appearances, scheduling conferences, and motions involving purely legal issues or with minimal evidentiary issues will continue to occur only on a remote basis.

- In-person hearings should remain a rare exception and shall be allowed only in accordance with Supreme Court orders. For bench trials and other hearings that are not jury trials, the presiding judge must make oral or written findings of fact and conclusions of law supporting *a compelling need for an in-person appearance that are specific to the particular circumstances in an individual case*. Before proceeding with an in-person appearance that is requested upon motion of a party or upon the judge's own motion, the judge must also obtain the approval of the chief judge of the District. The judge may continue to take other protective measures, including the granting of continuances upon motion of any party or the judge's own motion, in appropriate cases, when remote appearances are not feasible but a compelling need for an in-person appearance does not exist.
- Examples of the types of hearings that may not be feasible without in-person appearances include hearings that involve significant documentary or physical evidence, and hearings with incapacitated persons as parties or minors as parties. Matters involving many parties or complex legal issues may also be eligible for in-person hearings, provided a compelling need can be shown, and social distancing, and other health and safety requirements can be met. These could include pleas, sentencing, and suppression hearings for higher-profile cases, as well as some civil and family cases. Though complex cases are included in this group, typically these cases will not involve more than three litigants and counsel. More complex matters with unusually large numbers of parties will continue to be heard remotely.
- All in-person hearings will be conducted in a manner whereby only the minimal number of people needed to conduct the hearing will be in the courtroom, hallways and waiting areas, with social distancing maintained.
- Regardless of hearing type, no judicial officer will have trailing dockets where multiple hearings are scheduled at one time and trail one another causing large numbers of attorneys, litigants, and visitors to gather. Instead, all hearings will be conducted in a discrete setting, with judicial officers providing adequate time between settings to allow people involved in one case to exit the courthouse before the subsequent hearing begins.
- Notices of hearing for in-person proceedings will include a notice to call the clerk's office (magistrate court) or judges' chambers (district court) if an attorney, party, or witness cannot pass the New Mexico Judicial Branch's facility screening questions. The clerk or judge's office can then make arrangements for that person to appear by audio-video or telephone. All courtrooms are set-up to use Google Meet and each has a conference telephone extension as well.

- With six-foot distancing, courtroom space for spectators and news media will fill up quickly. Judicial officers will provide access to video or a conference line for those interested in attending an open public hearing but who are not participants and who cannot be in the courtroom due to distancing requirements. Additionally, for hearings that generate a large amount of public interest, the hearing will be broadcast internally for spectators seated in another courtroom.
- Certain areas of courtrooms throughout the district are not amenable to six-foot distancing. In particular, due to the size of the counsel tables, if seats are placed behind the tables and facing the judge's bench (this was the normal configuration before the PHE), no more than one person can be seated at the table at a time. Most of the counsel tables are exactly 6 feet long, which allows social distancing if chairs are placed at opposite ends of the tables. Some courtrooms have counsel tables shorter than 6 feet long, and 6 feet social distancing will allow only one person to use each table seated at one end of the table, with another chair placed near the opposite end of the table and six feet away from the other chair. The person in the second chair will not be able to reach the table. The courtroom in Guadalupe County Magistrate Court is so small that only 3 seats for parties and counsel can be placed near the 2 counsel tables, with only 2 of the 3 attendees able to use the tables.
- Judges' staff (district) or the courtroom clerk (magistrate) will be responsible for sanitizing counsel tables and chairs after each hearing per NMDOH guidelines. Each counsel table is equipped with tissues and hand sanitizer and there is at least one trash can in the well of each courtroom accessible to the parties and attorneys.
- Where interpreters are necessary, the District will have them appear remotely wherever possible as long as proceedings can be adequately conducted and non-English speaking parties can have meaningful participation in the proceedings. However, in some instances, remote appearance by the interpreter will not be a viable option, such as in evidentiary hearings involving self-represented litigants who cannot appear by video. Therefore, it is likely that there will be hearings and trials where interpreters will also have to be present in order to allow the hearing to proceed. Interpreters will be provided a seat where they can maintain the appropriate 6-foot social distancing.

Provisions Specific to Magistrate Court Locations (San Miguel, Guadalupe, and Mora Counties)

- Clerk counter areas for all of the magistrate court locations have glass barriers to separate court staff from the public. There are pass-through slots for individuals to pass documentation back and forth between the court staff and the public so that neither court staff nor the public will have direct contact with each other.

- All lobby areas have reduced seating to ensure social distancing. Text messaging will be used to ensure social distancing by limiting the number of people in the courthouse at any given time.
- No plexiglass will be installed in front of the clerk's desks or judge's benches because there is sufficient space to maintain social distancing. However, in Guadalupe County Magistrate Court, where the clerk's workstation and judge's bench are located within six feet of counsel tables, parties and their counsel will be required to sit in chairs set back from the tables or in the gallery in order to maintain social distancing.
- The courtroom in the Guadalupe County Magistrate Court has a capacity of 12 people if 6 feet social distancing is maintained. On the other hand, the courtroom at the nearby Guadalupe County District Court has a capacity of 30 with existing seating options, with a possible capacity of up to 45 if the benches in the gallery are replaced with individual chairs. Consequently, any in-person hearing scheduled to be heard by the Guadalupe County Magistrate Court for which it is anticipated that more than 12 people will be in attendance (this includes the judge, court staff, attorneys, parties/litigants, witnesses, and the public) shall be held at the Guadalupe County District Court.
- In the office of the DWI "Sobriety" Drug Court Coordinator at San Miguel Magistrate Court, a plexiglass divider will be placed on the desk of the coordinator in a manner where the divider will separate the coordinator from any person or participant who enters her office and sits in her office for any length of time.
- In the DWI "Sobriety" Drug Court of the San Miguel County Magistrate Court, nearly all drug testing of drug court participants is outsourced to third-party providers who are capable of maintaining distancing while testing the large numbers of drug court participants. The testing restrooms allow for six-foot distancing during observed UAs, and staff and clients are provided and required to wear masks. Staff members also wear gloves. However, on those few occasions when court staff is called upon to test participants in house, staff will do so while maintaining the six-foot distancing and adhering to all other safety precautions. Clients shall be scheduled to arrive at specific times rather than in groups. There will be no in-home visits absent express permission of the presiding judge, and permission will require exceptional circumstances explained in writing.
- With relatively short advance notice, the courtrooms at San Miguel County District Court can be made available for in-person magistrate court hearings on Fridays. With longer advance notice and coordination of schedules, the courtrooms at San Miguel County District Court or Guadalupe County District Court can be made available for in-person magistrate court hearings on other days. These would be appropriate options for magistrate court matters when the magistrate judges

anticipate in-person attendance at hearings by an unusually high number of parties, attorneys, witnesses, or others.

Provisions Specific to San Miguel County District Court

- Clerk counter areas have a glass barrier to separate the court staff from the public. There are pass-through slots for individuals to pass documents back and forth between the court staff and the public.
- Because six-foot distancing can be maintained between the judge when the judge is seated on the bench, the court monitor, and the witness box, no plexiglass will be installed between these areas. As well, because any direct contact between the judge and counsel at the judge's bench shall be strictly prohibited, no plexiglass shall be installed on the front of the judge's bench.
- In the office of the Adult Drug Court Coordinator at the San Miguel District Court, a plexiglass divider will be placed on the desk of the coordinator in a manner whereby the divider will separate the coordinator from any person or participant who enters her office and sits in her office for any length of time.
- In the Adult Drug Court for the Fourth Judicial District Court, nearly all drug testing of drug court participants is outsourced to third-party providers who are capable of maintaining distancing while testing the large numbers of drug court participants. The testing restrooms allow for six-foot distancing during observed UAs, and staff and clients are provided and required to wear masks. Staff members also wear gloves. However, on those few occasions when court staff is called upon to test participants in house, we do so while maintaining the six-foot distancing and adhering to all other safety precautions. Clients will be scheduled to arrive at specific times rather than in groups.

Provisions Specific to Guadalupe County District Court

- Clerk counter areas have a glass barrier to separate the court staff from the public. There are pass-through slots for individuals to pass documents back and forth between the court staff and the public.
- Because six-foot distancing can be maintained between the judge when the judge is seated on the bench, the court monitor, and the witness box, no plexiglass will be installed between these areas. As well, because any contact between the judge and counsel at the judge's bench shall be strictly prohibited, no plexiglass shall be installed on the front of the judge's bench.

XIII. JURY TRIALS DURING THE PHE

As outlined below, the Fourth Judicial District intends to implement several safety protocols related to the conduct of jury trials during the PHE, including the following:

A. Location

1. Magistrate Courts

Conducting jury trials in the magistrate courts while maintaining six-foot social distancing will be challenging. The courtroom in Guadalupe County, with a capacity of 12, is too small to hold jury trials. We propose to hold any jury trials needed for pending cases at Guadalupe County Magistrate Court at the nearby Guadalupe County District Court. The courtroom of the Guadalupe County District Court has sufficient space to accommodate a jury panel large enough from which to select a six or seven-person jury without the need to call in multiple smaller panels at separate times.

There are two courtrooms in San Miguel County Magistrate Court, but their maximum capacities with social distancing are estimated at 20 and 21. Conducting some jury trials while maintaining social distancing would be possible, and selecting a jury would be possible using panels of 15 or fewer jurors called to the courthouse at staggered set times. It would require a lot of coordination as well as the potential closure and lost use of one courtroom for the duration of the trial.

The courtroom in Mora County, with a capacity of 17, could potentially be used to hold some jury trials, but it will be more difficult to conduct jury selection than at San Miguel County Magistrate Court. Jury selection could be accomplished using multiple groups of 10-12 jurors called to the courthouse at staggered appointment times. Unfortunately, because of limited space, cases with many participants will make this process difficult.

During the PHE, any magistrate court jury trials that would exceed capacity at Mora or San Miguel Magistrate Court could be held at San Miguel County District Court. Magistrate court staff would have to coordinate with district court staff on scheduling and logistics. As with the magistrate jury trials to be held in Guadalupe County, any magistrate jury trials for Mora and San Miguel County Magistrate Courts required to be held at San Miguel County District Court would follow the same procedures. Ideally, a six person jury plus an alternate could be selected from one venire seated in one of the courtrooms at the San Miguel County District Court, but multiple staggered panels could be required in some cases.

For magistrate jury trials held at district court locations, the safety procedures used by the district court in conducting its jury trials regarding recesses, bench conferences, motions hearings, social distancing, communication between defense counsel and defendant, handling/publication of exhibits, mode of witness examination, jury movement

during recesses, restriction of movement of counsel, seating of counsel, seating of the public, etc., shall be strictly adhered to by all trial participants and the public.

Magistrate judges will have more discretion in deciding how to conduct jury trials in their own courthouses than at the district courts, but they must abide by all directives of the New Mexico Supreme Court and the generally applicable requirements in this plan. They should also inform jurors of the precautions being taken to address the PHE.

The three magistrate courts in the Fourth Judicial District held only five jury trials in FY2019, a number that we can probably accommodate in the San Miguel and Guadalupe District Court locations. Jurors for magistrate court trials held in San Miguel or Guadalupe District Courts could be drawn from the district court jury pools. As a result, Mora and San Miguel Magistrate Court would not be summoning any jurors for trials to be held in district court, potentially reducing the number of citizens called to jury service.

2. District Courts

The district judges have the option to hold jury trials in either the San Miguel County District Court location or the Guadalupe County District Court location. While space in the courtrooms in the San Miguel County District Court is limited, it should be sufficient to hold jury trials even with social distancing if access is carefully controlled. The largest courtroom available in the district is in Guadalupe County District Court, and the district judges can schedule trials there if they are concerned about a lack of adequate space in the San Miguel County District Court courtrooms. Unfortunately, the jury rooms in both courthouses are not large enough to use for jury deliberations with social distancing, so the jurors will have to deliberate in the courtrooms.

Neither the San Miguel nor the Guadalupe County courthouse has a jury assembly room, and space is limited in the courtrooms and hallways. To minimize the number of people in the courthouse at any one time, jury selection will occur using staggered arrival times for potential jurors. The San Miguel and Guadalupe County courthouses can accommodate panels of up to 30 potential jurors per day in 2 groups of 15 instructed to arrive at different times throughout the day. Staggered arrival of potential jurors (sometimes over multiple days) will require more time than normal in jury selection, but it is the best of the possible options the District has considered.

Because the jury rooms are too small for social distancing, jury trials in the San Miguel County Courthouse will require the use of at least two courtrooms (one for the jury and trial and one for conferences outside the presence of the jury), leaving only one available for other hearings. The district judges may be able to use a courtroom not in use in another district or magistrate court building to hold hearings when trials are being held in San Miguel County District Court.

The Fourth Judicial District has secured the use of a 12,000 square foot auditorium at Luna Community College auditorium for jury selection in cases that are expected to attract a lot of public interest and that will require large panels, but details must be worked

out. Distancing and masks would be required at all times. We could potentially hold entire trials in a large auditorium or gymnasium if necessary, but we would need to take security precautions. The District does not currently plan to use the Luna Community College space, but it is available if necessary.

The Board of County Commissioners of San Miguel County has a hearing room in a building next to the San Miguel County District Court. The District is investigating the possibility of borrowing that space for members of the public to wait to conduct court business at San Miguel County District Court or to watch or listen to proceedings in courtrooms too full to accommodate in-person viewing.

We have considered the possibility of conducting online jury trials, but we do not believe that enough households in the District have reliable high-speed internet to make that option realistic. It will be challenging to resolve technical problems as they arise because we have only one information technology professional on staff.

B. Conduct of Trials

Negotiated plea agreements will not be considered or accepted by the court fewer than ten (10) days before the scheduled start of the jury trial. Thereafter, the court will only accept a guilty plea to all charges listed in the charging document with no agreements as to sentencing and at the sole discretion of the court.

The court shall hold a final pretrial conference not later than ten days before the scheduled start of the jury trial. This will allow court staff to notify jurors well in advance of the start of the jury trial that they do not need to appear.

Judges will use pretrial orders setting deadlines for submission of jury instructions, motions in *limine*, and witness and exhibit lists.

Judges will hear and decide outstanding motions, including any motions in *limine*, at the final pre-trial conference held not later than ten (10) days before the start of the jury trial. Thereafter, only emergency motions, that could not be anticipated by trial counsel in advance of the final pre-trial conference, will be considered by the court. The movant shall specifically state in the motion why the matter constitutes an emergency and why movant could not have anticipated the need for raising the issue(s) addressed in the emergency motion sufficiently in advance of the final pre-trial conference so that the matter could have been considered by the court at the final pre-trial conference. Failure to follow these requirements will result in the court denying the motions without a hearing.

The Court will actively engage in public outreach to promote jury service. The Court will send notices of the protective measures the court is taking to prospective jurors, list these on its website, and advertise in local media.

Prospective jurors will be screened by security personnel upon entry into the courthouse and excused from jury service if they do not pass the screening. Prospective jurors who do not have face masks will be provided with face masks.

Prospective jurors who are in the vulnerable population will be excused upon request. However, all courts shall continue to follow the procedures set forth in NMSA 1978, Section 38-5-2 for exemptions from jury service and jury excusals. Hand sanitizer will be available to prospective jurors at all times. To avoid potential contamination through the common use of a coffee carafe, we will provide only bottled water, if available, as a refreshment. Jurors will also be permitted to bring their own bottled water.

C. Juror Orientation

Jurors will be instructed to view the jury orientation video available on the court's website and will be provided with an acknowledgment form to sign stating that they have watched the video. In addition, staff will provide an abbreviated explanation of jury service, the public health precautions the Court is taking, and the special conditions of jury service during the PHE.

D. Jury Selection

The San Miguel and Guadalupe County courthouses can accommodate panels of up to 30 potential jurors per day in 2 groups of 15. As an example, groups could be instructed to arrive on a staggered basis at 8:00 a.m. and 1:00 p.m. Staff will help guide the groups through security to the appropriate courtroom and instruct them to sit in seats that have been previously marked as appropriate for social distancing. Only 3 people can sit in the jury box while maintaining social distancing, so most will be seated in the gallery. Staff will instruct jurors to keep their masks on at all times and will provide additional masks, if necessary.

Microphones will be tested prior to jury selection and appropriately distributed throughout the courtroom. Potential jurors will be wearing masks at all times, but staff is investigating options for microphones that can be used at distances of 6 feet or more to further minimize the chance of contamination.

To minimize juror time in a courthouse, judges will appropriately limit voir dire by the parties depending on the complexities of each case.

The judge will hear "for cause" challenges after voir dire for each group, and dismiss any excused jurors immediately.

Following voir dire of each group, the parties may exercise any preemptory challenges. Parties may request to postpone exercising their preemptory challenges until subsequent groups have been questioned, but judges will be instructed to allow this only in situations where it is evident that a complete jury will not be selected from the current group.

Every courtroom in the district has two or more entrances. When needed, the staff will use both entrances to escort jurors in and out of the courtrooms so that prospective jurors do not cross paths with one another.

E. Scheduling of Jury Trial

Due to the safety measures listed in this document and implemented because of the PHE, judges will expand the amount of time for completion of the trial taking into account the complexity of each case.

F. Jury Seating During Trial

In the San Miguel County District Courthouse, the jury boxes can accommodate three jurors with 6 feet social distancing. The remaining jurors will be seated in the gallery or in chairs placed in front of the jury box with six-foot spacing. The presiding judge will ensure that all jurors can hear witness testimony clearly and can view exhibits and demonstrative aids from wherever they are seated. The courtroom technology allows digitally presented exhibits to be broadcast to a monitor in the courtroom.

G. Interpreters

Interpreters will be required to appear in-person for jury trials.

H. Trial Procedure

Judges will limit the length of opening statements and closing arguments based on the complexity of the case. Judges will make every effort to resolve questions of authenticity and admissibility of exhibits before trial.

I. Recesses

If necessary, staff will be assigned to assist the jury during each recess to move the jury to an adjacent courtroom. Distancing requirements will be maintained while the jury is being moved from one location to another.

J. Confidential Communication during Trial and Bench Conferences

During the trial, no bench conferences/sidebars shall be held at the judge's bench. If there is a need for such a conference or sidebar, the party seeking the conference shall inform the court of the need for the conference. The Court will take a recess from the trial to take up the conference in a separate courtroom that has been made available for the holding of these conferences. During these conferences and any recess, the jury will remain in the courtroom where the trial is being held and all public and staff will be required to leave the courtroom. **NO ONE WILL BE PERMITTED TO COMMUNICATE WITH THE JURY DURING THESE RECESSES.** However, a bailiff will remain in the courtroom with the jury to

assure that a juror does not review any item of evidence or other documents or papers that are left in the courtroom by anyone.

During the trial, parties and counsel will communicate by passing notes on a legal pad. If the defendant/party cannot read or write, the court, when requested by the counsel for that party, will take a recess to allow the counsel to communicate with his/her client.

K. Exchanging Documents

If there is a need to have a document/item shown to a witness, the Court, or the jury, the document/item shall be handed to the bailiff by counsel. The bailiff will then hand the document/item to the witness, the court, or the jury. COUNSEL SHALL NOT LEAVE COUNSEL TABLE OR THE PODIUM FOR ANY REASON WITHOUT FIRST OBTAINING PERMISSION FROM THE COURT AND THEN SHALL ACCOMPLISH SUCH MOVEMENT WHILE MAINTAINING THE SIX FOOT DISTANCING REQUIREMENT. Whenever possible, and to minimize contact between persons in the courtroom, counsel should use the Elmo or other electronic media to publish the document/item to the witness, the court, or the jury. During any exchange of documents or items between counsel and a witness, the court, or the jury, court staff shall wear gloves.

L. Deliberation

Jury deliberations will occur in the courtroom where the trial was held. The judge presiding over the trial will clear the courtroom of parties, attorneys, staff, and spectators to allow jurors to deliberate in the courtroom. Any windows allowing views into the courtroom will be covered and microphones and security cameras will be disabled. A bailiff will be stationed outside of the courtroom's main doors to remain available for the jurors.

M. Mock Trials

We encourage (but do not require) district and magistrate judges in the District who are concerned about potential complications related to the PHE to hold a mock jury trial before holding real jury trials.

XIV. EDUCATION OF THE PUBLIC

After the plan is approved, the Chief Judge of the Fourth Judicial District Court will schedule one or more online meetings with members of the local legal community to inform them of the details. The District will also post a summary of the approved plan on its website. The Chief Judge also intends to provide a summary of the proposed plan at a meeting of the Fourth Judicial District Criminal Justice Coordinating Council on July 10th. The Chief Judge will also encourage the other district and magistrate judges to hold additional pretrial or status conferences to try to ensure that litigants and their attorneys are familiar with the plan and consider its effect on their trials.

Exhibit A-1

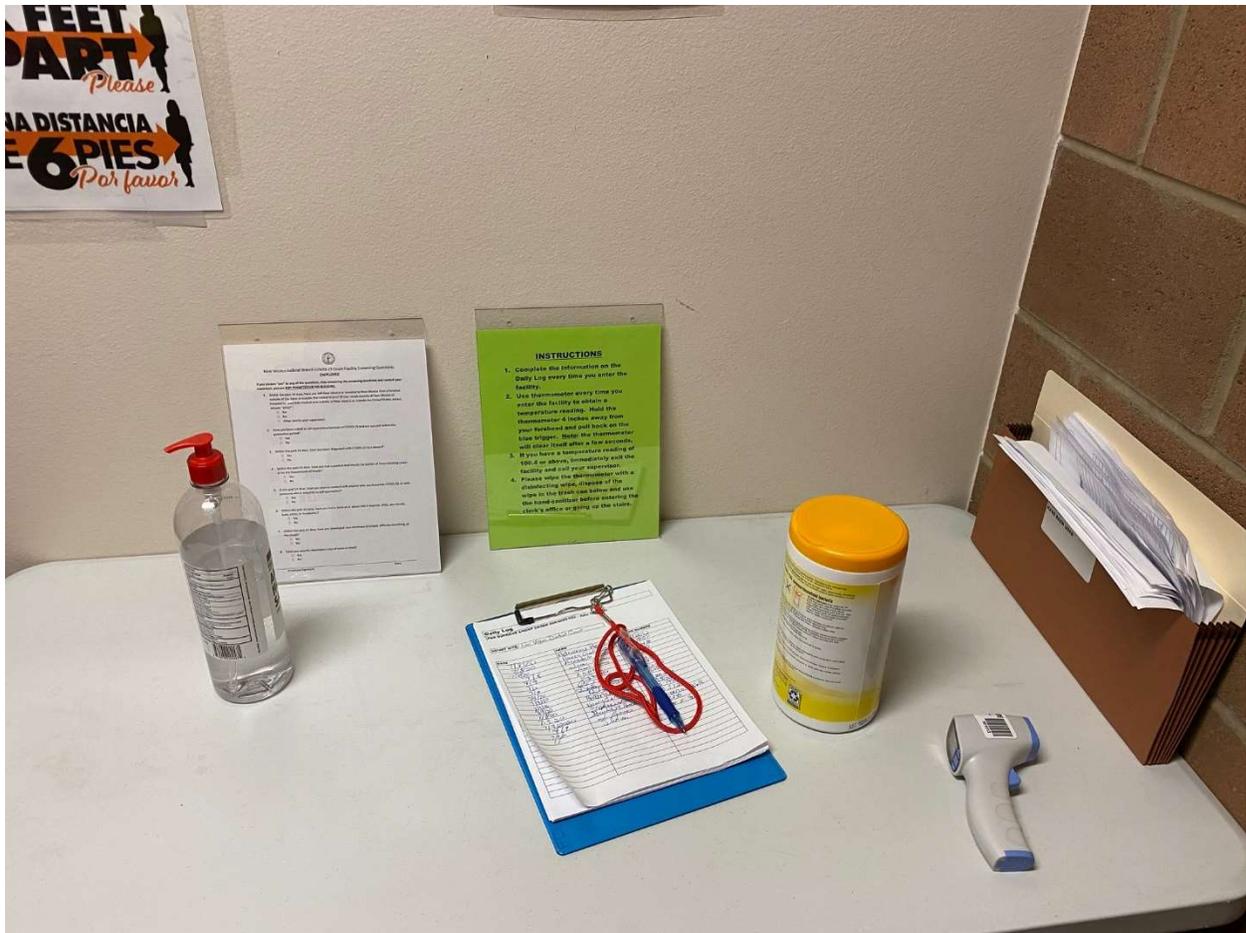
San Miguel County District Court



Front doors



Front sidewalk



Employee screening station in vestibule at non-public side door



Self-help center window



Clerk's Office windows



Vestibule before security screening



Entry to security screening area from front doors



Security screening area from other side



First floor lobby and stairs leading up to second floor



First floor lobby from view from clerk's office side



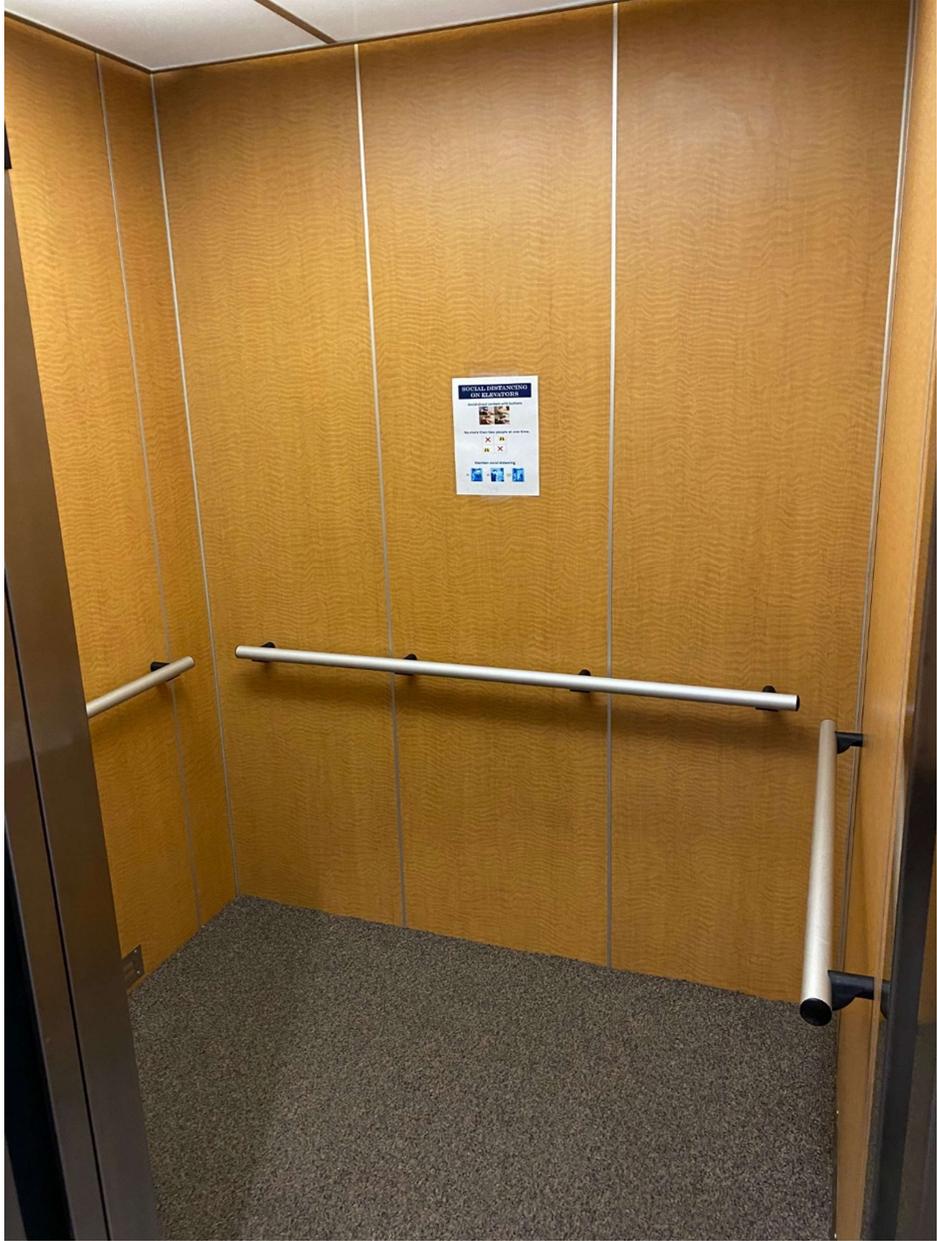
Back office elevator door (1st floor)



Back office elevator interior



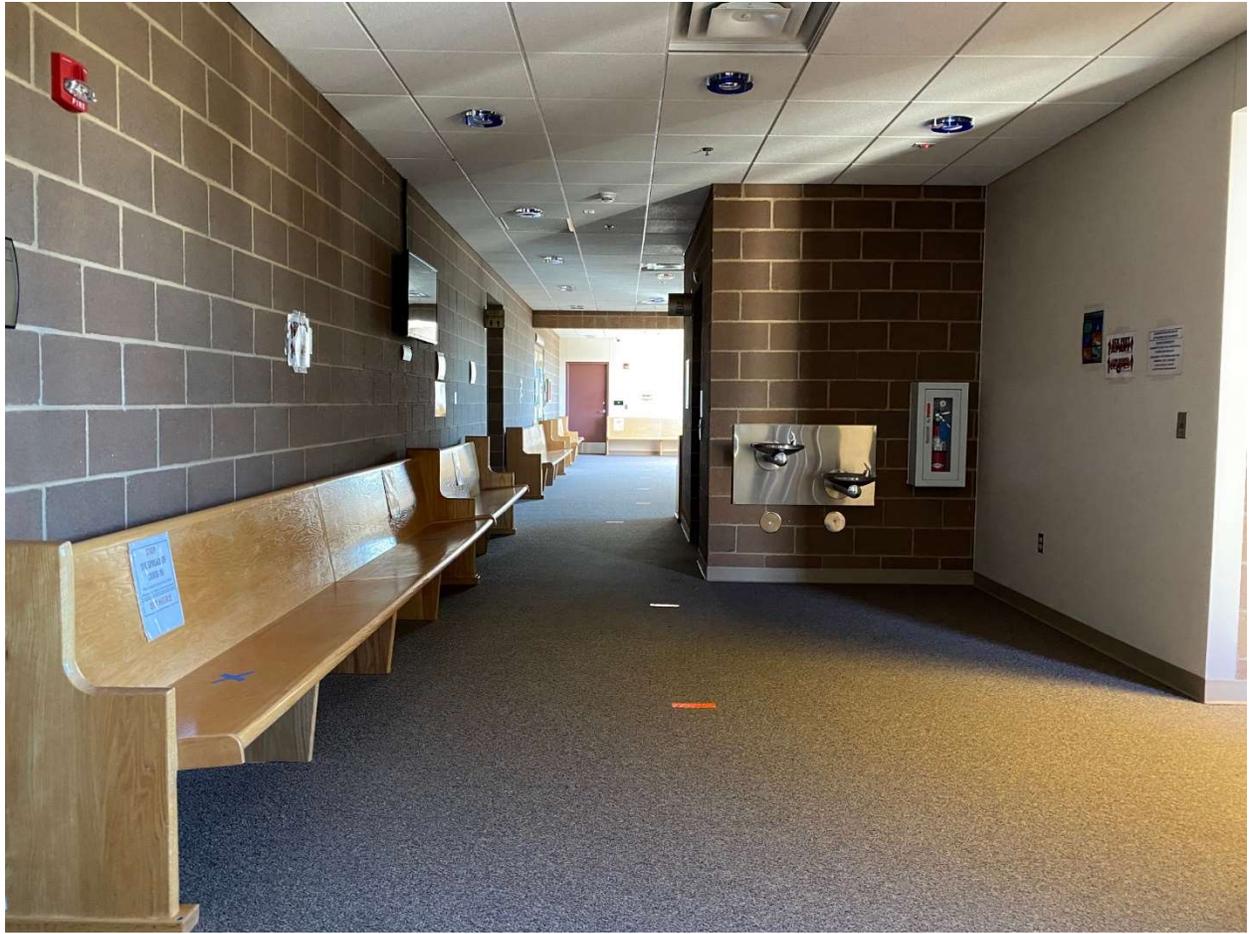
Public elevator door (1st floor)



Public elevator interior



Second floor lobby



Second floor lobby



Second floor lobby

Exhibit A-2

San Miguel County District Court – Division I Courtroom



Public doors



Bench, witness stand, and monitor's seat



Jury box



Counsel table and gallery



Counsel table and gallery



View from gallery

Exhibit A-3

San Miguel County District Court – Division II Courtroom



Public doors



Bench, witness stand, and monitor's seat



Jury box



Counsel table and gallery



Counsel table and gallery



View from gallery

Exhibit A-4

San Miguel County District Court – Division III Courtroom



Public doors



Bench, witness stand, and monitor's seat



Jury box



Counsel table and gallery



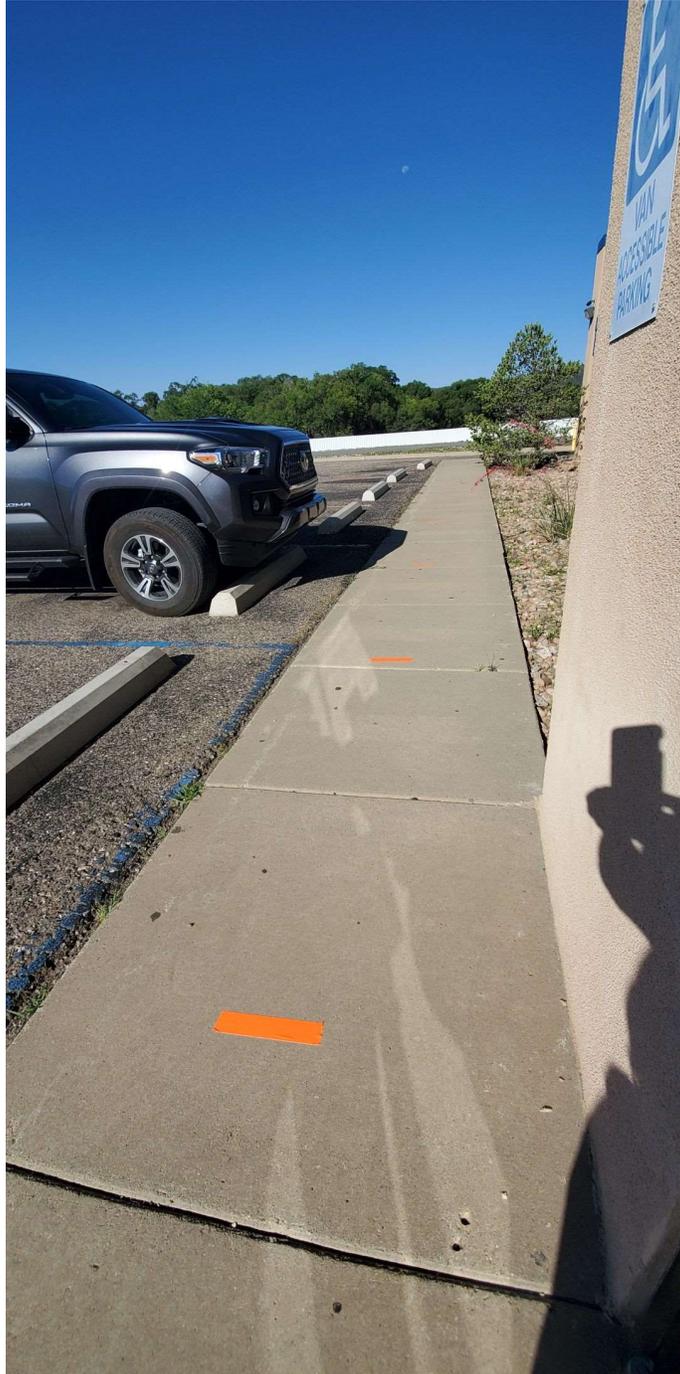
Counsel table and gallery



Seat at wall

Exhibit B-1

San Miguel County Magistrate Court



Exterior sidewalk



Exterior sidewalk



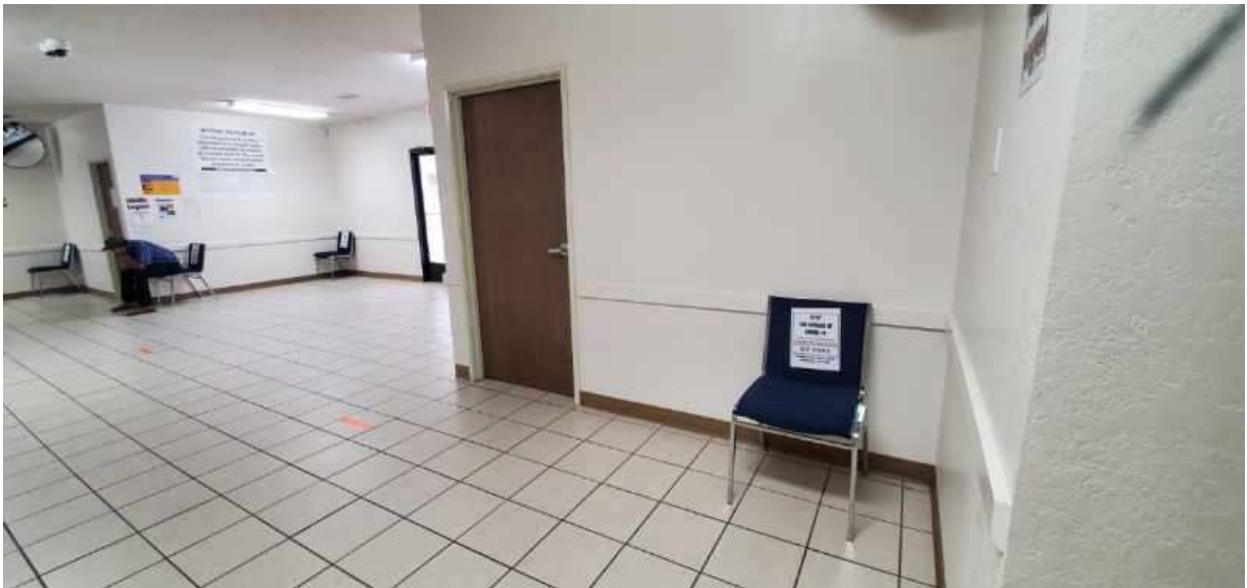
Exterior doors



Vestibule doors



Lobby floor with social distancing marks



Lobby seating



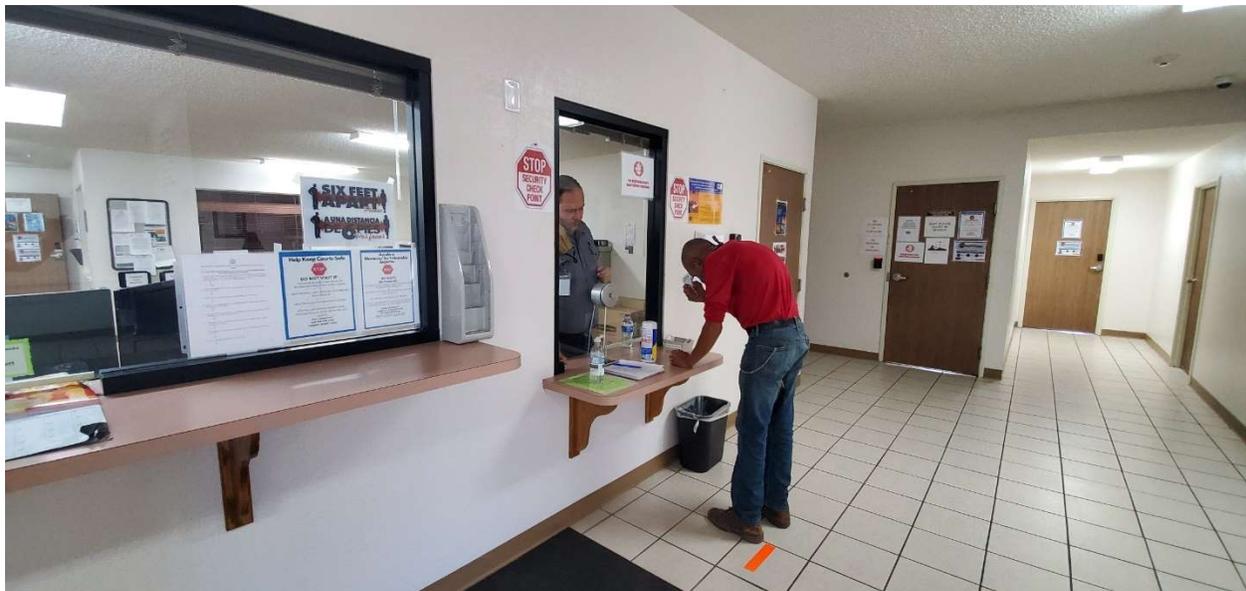
Clerk's office windows



Lobby seating



Clerk's office windows and bulletin board with signage



Screening station

Exhibit B-2

San Miguel Magistrate Court – Division I Courtroom



Bench, witness box, and clerk's seat



Jury Box



Counsel table and gallery



Counsel table and gallery

Exhibit B-3

San Miguel Magistrate Court – Division II Courtroom



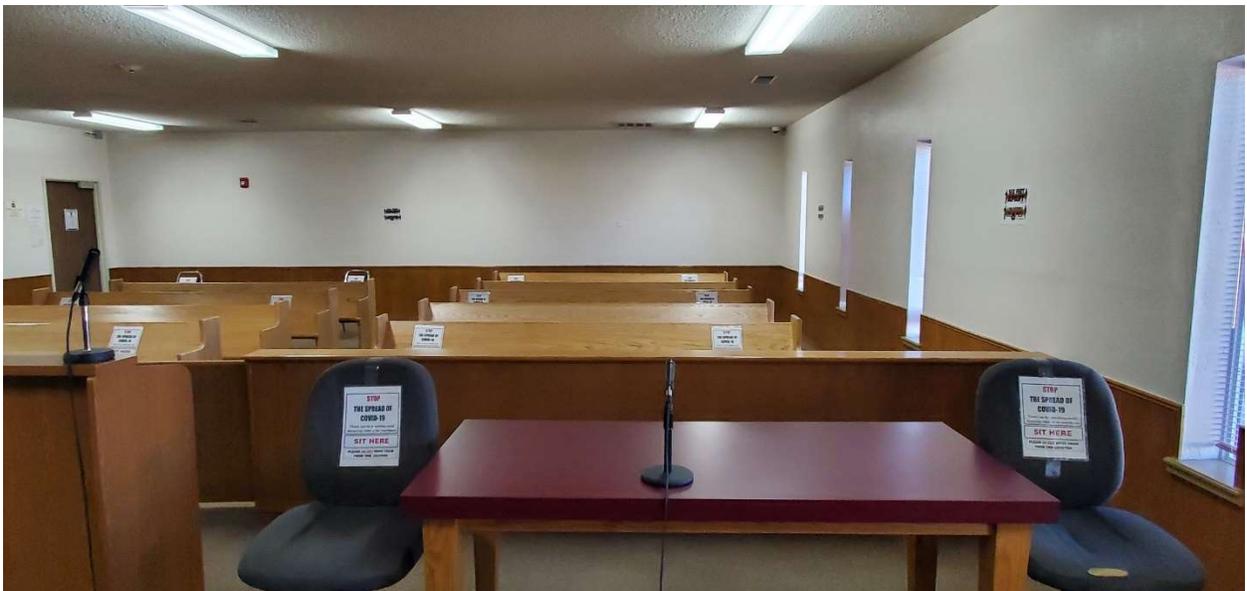
Bench, witness box, and clerk's seat



Jury box



Counsel table and gallery



Counsel table and gallery

Exhibit C-1

Guadalupe County District Court



Building exterior doors



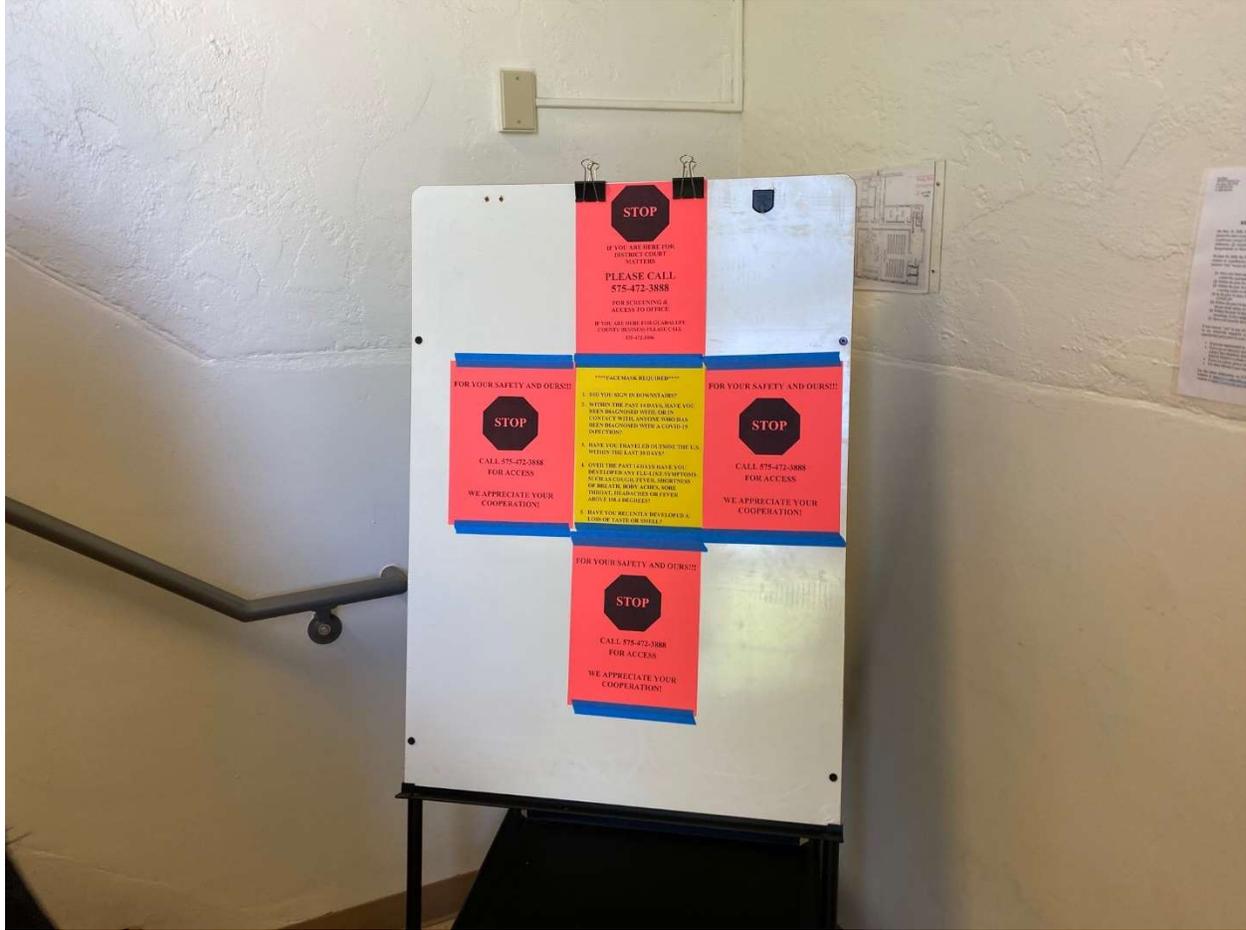
Screening station at bottom of stairs



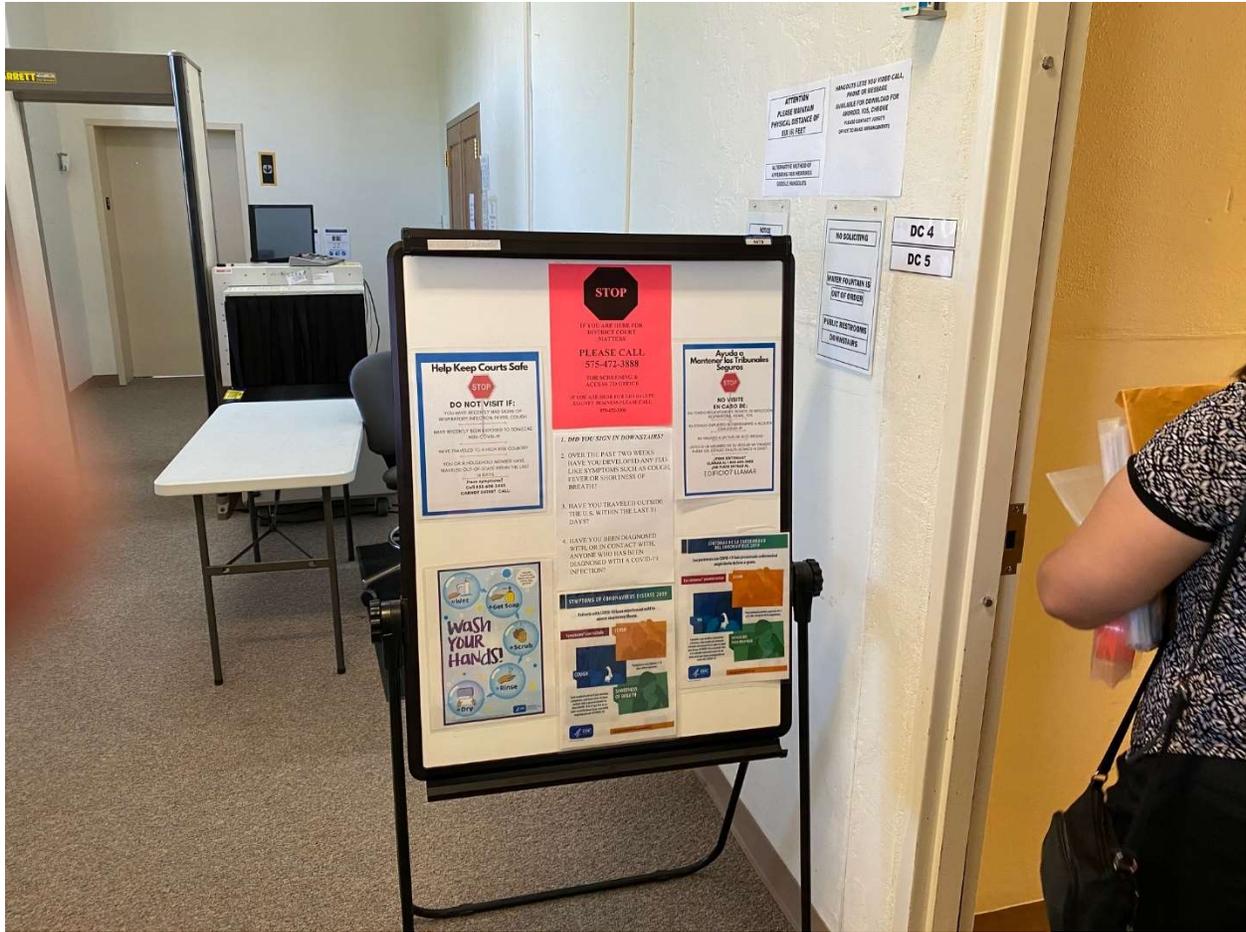
Elevator



Signage on stairs



Easel in corner of stairs with instructions to sign in and call for access to clerk's office



Easel near access door to clerk's office with signage



Security screening station, metal detector, bench seating, and double doors for public access to courtroom



Door leading to hallway to clerk's office



Hallway with six feet marks from clerk's office door on left to door shown in previous photo



Clerk's office windows

Exhibit C-2

Guadalupe County District Court Courtroom



View from gallery



Judge's bench and seats for witness and court monitor or clerk



Jury box and seat at counsel table



Chair near jury room and seats for witness and judge



Counsel tables and gallery



Counsel tables and seat with small desk

Exhibit D-1

Guadalupe County Magistrate Court



Sidewalk in front of courthouse



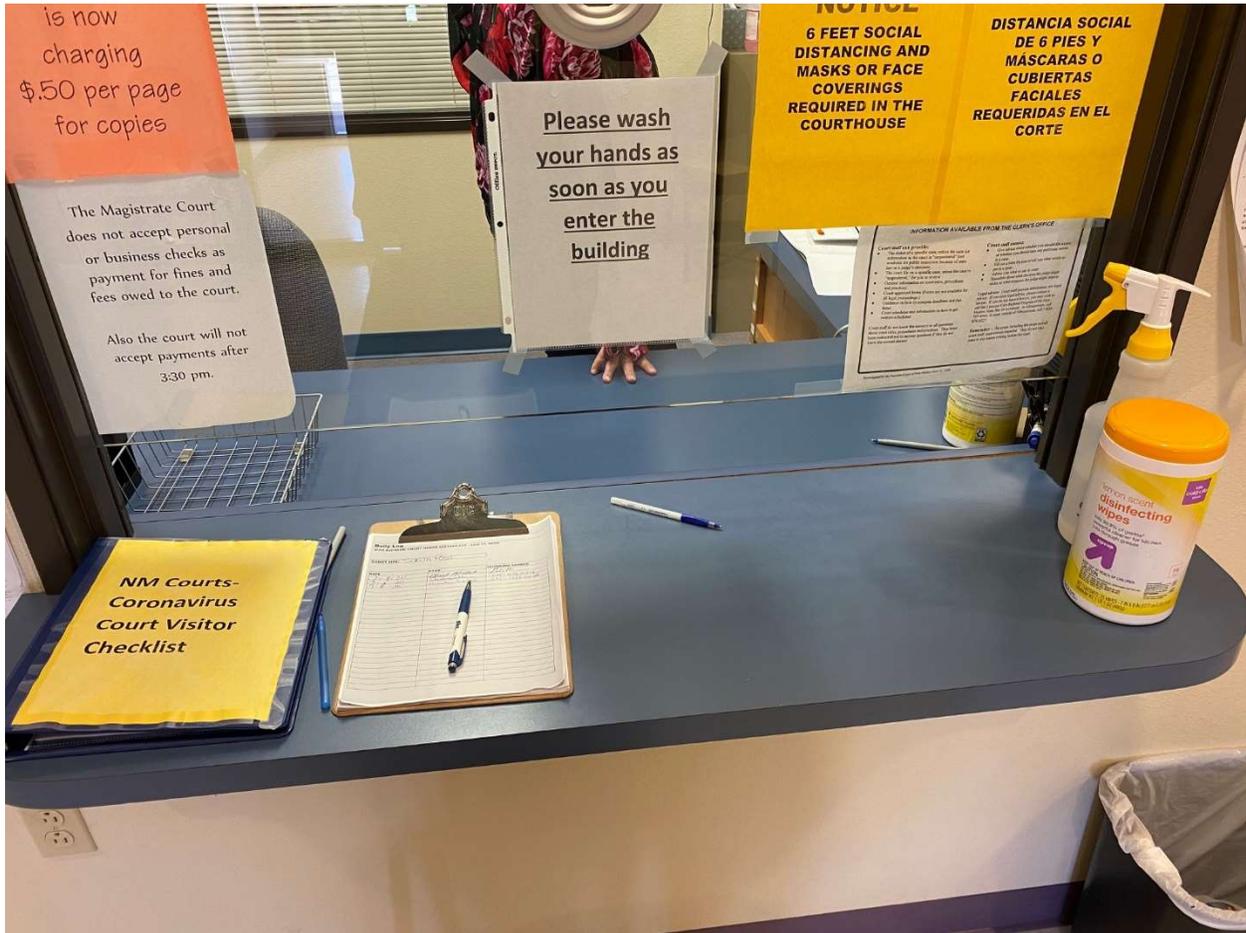
Exterior door



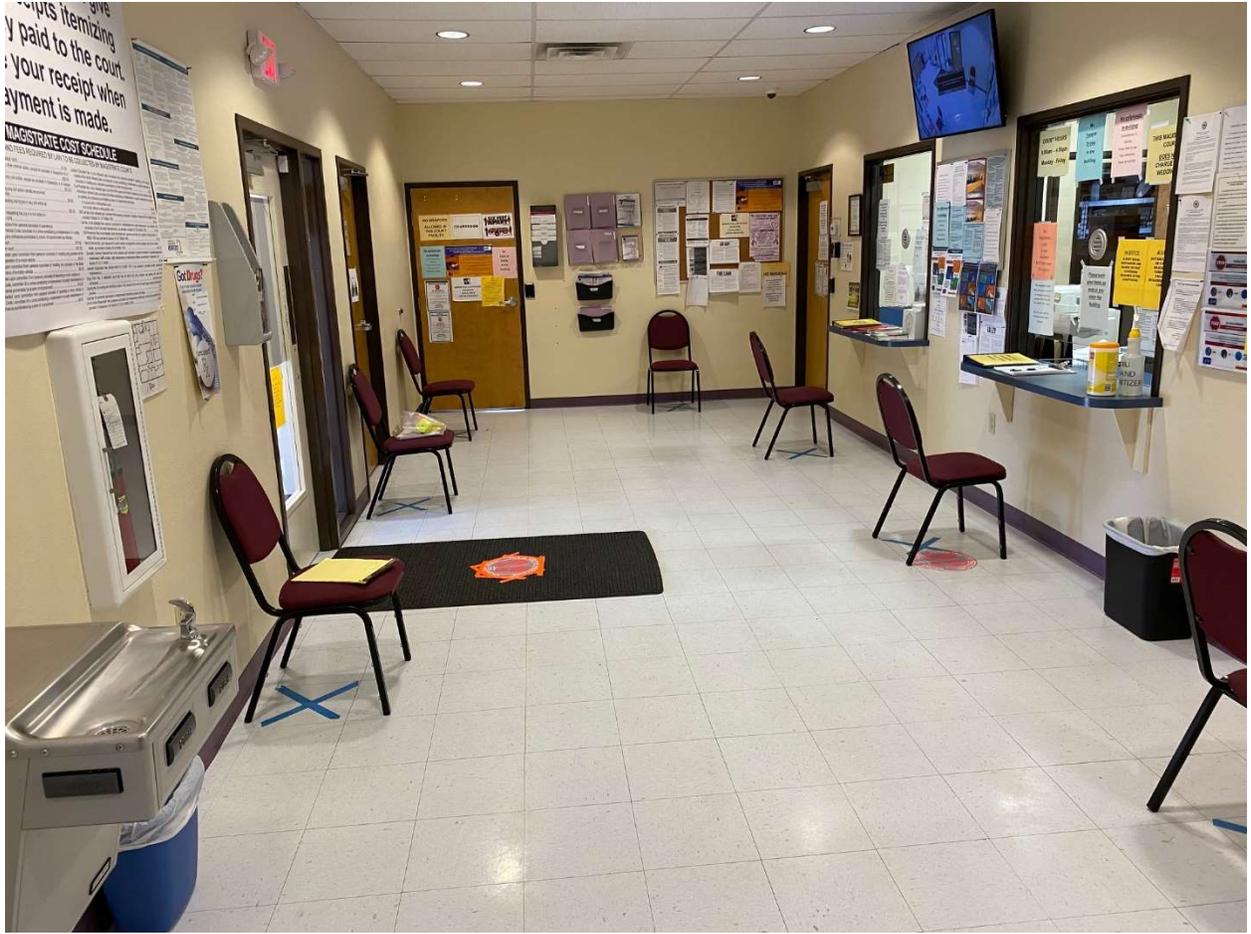
Vestibule door to lobby



View of clerk windows in lobby



Center clerk window where screening is performed



View from left side of lobby



View from right side of lobby



Public restrooms in lobby

Exhibit D-2

Guadalupe Magistrate Court Courtroom



View from rear of courtroom



Gallery



Jury box and counsel/party chair away from table



Counsel table



Witness chair and one counsel/party chair at counsel table

Exhibit E-1

Mora Magistrate Court



Front exterior door to building



Stairs leading to courthouse



Public elevator to courthouse on second floor



Second floor lobby with view to stairs down



View from top of stairs into lobby



Hallway from lobby to hallway in front of clerk's office



Hallway from elevator leading to clerk's office



Doorway to clerk's office



Clerk's office windows



Courtroom door

Exhibit E-2

Mora Magistrate Court Courtroom



View from gallery to counsel tables, bench, witness box, court monitor station, and clerk's desk



View from behind bench



Jury box



Counsel tables showing seat placement and jury box



Gallery



Other side of gallery