

# TENTH JUDICIAL DISTRICT PLAN FOR OPERATIONS

v. 8/7/2020

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**Projected date for resumption of Jury Trial:** August 4, 2020 .

## **Introduction**

The plan of the Tenth Judicial District is to continue operations including jury trials (Plan). Operations will take place with appropriate COVID-19 precautions and restrictions set out in the plan. The precautions and restrictions will (i) protect the safety of those coming into the courthouses, (ii) minimize the number of people coming into the courthouses, (iii) allow in person hearings when necessary, (iv) allow the resumption of jury trials, and (v) protect the safety of judicial officers and staff.

It is anticipated that case filings will soon return to or exceed levels existing prior to implementation of the scaled back plans. There is limited capability to have clerk staff work effectively from home due to our small staff size. Two of our Court locations have only one Clerk. Two of our Court locations have only one Clerk and one Judge. The other two locations have only two or three clerks. Therefore, the Plan anticipates that clerk staff will be on site. Individual reasonable accommodations will be necessary for some staff.

The Plan assumes the continued rules expect expansive use of remote appearance at hearings and trials. Remote appearance by attorneys and parties is the expected method to conduct hearings and bench trials. The Plan assumes that there will be proceedings where, in the interest of the administration of justice and as supported by individualized findings, some in-person proceedings are necessary consistent with Supreme Court Orders.

The Plan set out below first sets out actions that will be taken District-wide at all courthouses. Following the general plan, there are protocols for jury trials for each courthouse.

All references to the “Chief Judge” in the Plan for the Tenth Judicial District refer to the Chief District Court Judge, not to a Presiding Magistrate Judge.

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## **Public Access to Courthouse and Court Facilities**

### **A. Signage and Posters**

Posters and Notices will be posted at the entrance of each courthouse, at the entrance of each courtroom, and at other locations in the courthouse. These include the posters provided by the Emergency Response Team (ERT). They will be in both English and Spanish.

Signs to be posted:

- Facemask must be worn
- COVID screening questions
- Stop the Spread of Germs
- Handwashing
- Social Distancing

### **B. Face Coverings and Masks**

1. Protective face coverings shall be worn by the public, judicial officers, and employees in the courthouses. Supreme Court Order No. 20-8500-025, and any subsequent Order, governs the use of face coverings and masks. This will continue until further order.
2. The Judiciary will provide disposable masks for use by jurors, parties, and witnesses.
3. Staff is prohibited from assisting anyone who refuses to wear a facemask. Staff may obtain a cell phone number and direct the individual to wait outside the courthouse.
4. Everyone who works in or enters the court facilities will be required to wear personal facemasks or disposable facemasks while within the court facility. If a party to a proceeding or witness refuses to wear a mask, they will be asked to provide a telephone number. They will then be asked to wait outside until the Court or their attorney can reach them. If the Court is

conducting an in-person proceeding, the Judge will be alerted and may allow the person to remain in or return to the courthouse if they comply with the face-covering requirement. If the person is a party or a witness, they will be informed that refusal may constitute contempt of court and result in a contempt hearing. If a party refuses to wear a mask, the court may make a finding that the party has voluntarily absented themselves from the hearing after making a record. The court may, alternatively, issue an order to appear and/or show cause and reschedule the hearing. If any one refuses to wear their personal facemask or a disposable facemask as provided, the person will be asked to leave the building.

- 5 All Court Proceedings are public. Each Judge shall encourage all proceedings to be observed. This may be done by allowing individuals access to the electronic hearings as a participant. The court shall continue any hearing to allow time for individuals wishing to observe to obtain access to the hearing.
6. Deputies providing security will be required to wear masks while in the courtroom or any other court area. In areas of the courthouse not used by the court, the Deputies will follow any directive or policy of the Sheriff's Office. Any law enforcement officer coming to a court facility, to testify, to prosecute a case, **or any other reason**, shall always wear a mask. This includes all court areas, courtrooms, and Judges' offices.

### C. Cleaning and Sanitation

1. All courtrooms and areas accessed by the public for hearings are cleaned after each hearing or individual uses the area. All Clerks offices are cleaned at the start of each day and at lunch. They also clean after each visitor.
2. In addition to the cleaning required after each hearing, District Court facilities, are cleaned daily by the individual county facilities maintenance divisions. Each County reports they are following the appropriate daily cleaning guidelines. We will work with our county facilities maintenance divisions to post restroom cleaning logs in each restroom. We will continue to work with the Counties to ensure the appropriate cleaning continues and request restroom cleaning be conducted every day. Other than staff, we

have fewer than 10 individuals per day using the judicial portions of the courthouse.

3. In addition to the cleaning required after each hearing, Magistrate Court facilities are cleaned by cleaning companies hired by each facilities property owner. The Administrative Office of the Courts (AOC) has been in contact with each property owner to ensure the facilities are cleaned according to appropriate standards.
  - Roy Magistrate – cleaned weekly
  - Ft. Sumner Magistrate – cleaned weekly
  - Tucumcari Magistrate – cleaned daily.

We will work with our Magistrate Court cleaning companies to post restroom cleaning logs in each restroom.

4. In addition, the Court will comply with all cleaning guidelines set the CDC and the New Mexico DOH

#### D. Personal Hygiene Supplies and Courtroom Surface Sanitizing

All Court equipment and surfaces will be sanitized between each individual use.

The District will provide the following personal hygiene supplies to the public while attending court proceedings or visiting the clerk’s office. Trash receptacles with trash liners will be in each lobby and courtroom area.

1. Hand sanitizer will be placed at the entrance to each courtroom and in the clerk’s lobby areas.
2. Facemasks are available if an individual does not have an acceptable personal facemask.
3. Facial tissues.
4. Gloves for the purpose of cleaning and sanitizing.
5. An unmanned table with hand sanitizer, masks and the written screening questions in Spanish and English will be placed in court spaces with signage making it clear that those who have business with the court must use sanitizer and a mask. There will be signage stating that no one can enter a courtroom without a “Screened Ticket.”

Public use equipment in Clerk's Office lobbies will be sanitized after each use. Hand sanitizer is provided.

#### E. COVID-19 Questions

1. The current screening questions and a temperature screen, will be used to screen all individuals entering the court facility. These questions may be modified as required by the Supreme Court. They may be expanded by the Chief Judge based on local conditions.
2. Screening will occur when an employee first interacts with any non-staff individual. All visitors, parties, witnesses, and attorneys will be screened by asking the COVID-19 questions and conducting a temperature screen. The questions will be asked of all persons entering the court facilities or other court space, including staff and officers. Any person answering "yes" to any of the questions will be excluded from the court facility.
3. Before entering a courtroom everyone, other than staff, must have a "Screened Ticket " Judges will also ask COVID-19 screening questions at the beginning of any court session where there are persons in the courtroom, until instructed otherwise by the New Mexico Supreme Court.
4. Sheets with the questions in English and Spanish will be available to hand out. Posters with the questions will also be posted.
5. Additional staff will be used for any jury day. Jurors will be provided the questions in advance and asked not to come to the courthouse if they answer yes to any question. Jurors will report by phone to the Clerk, if they answer yes to any question, they must be excused. When they arrive at the courthouse, Jurors will be routed through a checkpoint for screening.

#### F. Filing Pleadings

1. Fax Filing: fax filing of documents by self-represented litigants and attorneys into non-Odyssey E-filing categories will continue as normal.
2. E-mail Filing: email filing of documents by self-represented litigants and attorneys into non-Odyssey E-filing categories will continue with potential modifications to the current email addresses used during the initial

implementation. Modifications may need to take place if concerns regarding virus-infected documents or attachments become an issue.

3. All litigants should use fax or digital filing. Self-represented litigants may file documents in-person if they meet the required screening standards set to enter a court facility. The District will endeavor to eliminate or reduce the number of documents being exchanged at clerk windows.

#### G. Social Distancing:

1. Clerk's Office lobbies: Will be marked with social distancing floor markers to maintain social distancing while customers are in line and post signs limiting the number of people in the following manner.
  - Tucumcari District Court lobby - 72 sq. ft. = 1 person
  - Mosquero District Court lobby - 100 sq. ft. = 1 person
  - Ft. Sumner District Court lobby - 90 sq. ft. = 1 person
  - Tucumcari Magistrate Court lobby - 500 sq. ft. = 4 people
  - Roy Magistrate Court lobby - 150 sq. ft. = 1 person
  - Ft. Sumner Magistrate Court lobby - 160 sq. ft. = 1 person
2. Other public common areas: Signs will be posted limiting number of people in any particular area.
3. Courtroom galleries: Will be monitored by bailiffs, other court staff and Judge. 'Tickets' will be required.
4. Courtroom well: Will be monitored by the bailiff and Judge
5. Hallways/Public areas outside courtrooms: Signs will be posted limiting the number of people in any particular area.
  - Tucumcari District Court Hallway- 450 sq. ft. = 8 people
  - Tucumcari District Court Jury Room - 144 sq. ft. = 3 people
  - Ft. Sumner District Court Hallway - 900 sq. ft. = 5 people
  - Mosquero District Court Hallway- 228 sq. ft. = 2 people
  - Tucumcari Magistrate Hallway - 275 sq. ft. = 3 people
  - Tucumcari Magistrate Meeting room - 200 sq. ft. = 2 people
  - Tucumcari Magistrate Jury Room - 170 sq. ft. = 2 people

6. Elevators: Signs will be posted limiting passenger numbers to a maximum of 2 persons consistent with social distancing standards.
7. Restrooms: Signs limiting restrooms to one person at a time will be posted on restroom doors.
8. Sidewalk caulk will be used to make social distancing marks outside of the court facilities.
9. Groups of individuals who live together may request seating together. While the group may sit together the Judge and court will not allow the group to violate social distancing with others.

There are no break/snack rooms available to the public in our court facilities.

#### H. Ingress and Egress:

Magistrate Courts have their own building. The entire building is included in this plan.

District Courts share the building with other county offices. For the purpose of this plan, only the floor used by the Court is included. The District Courthouses are used by public officials and contain public offices outside the control of the Judiciary. Those entities are not willing to follow the Courts recommendation or advice regarding COVID19.

Because of the court floorplans the use of multiple ingress/egress points is **not an option**. In each of the six (6) courthouses in the District, there is no designated or controlled secondary entry/exit available.

#### I. Decreasing potential exposure of Employees to the COVID-19 virus:

1. Court employees and judicial officers will adhere to the Protective Face Coverings Policy and maintain appropriate social distancing.
2. A few employees will continue work-at-home as a reasonable accommodation.
3. Clerks will work their normal schedule while wearing facemasks and adhering to social distancing techniques.
4. Clerk's Offices work areas are arranged to provide 6-foot social distance.

5. All employees must wear masks and adhere to the proper social distancing.
6. All employee “celebrations” are suspended until further notice.

J. Procedure for confirmed positive COVID-19 exposure:

1. All employees in the District will be informed of any confirmed exposure to the COVID-19 virus at a court in the Tenth Judicial District. If the COVID19 positive person is an employee, the employees name shall not be disclosed, unless required for contact tracing or with the employee’s permission. The court will notify and work with our local public health offices for contact tracing.
2. The contaminated area will be sanitized before employees return to the work area.
3. All employees will be encouraged to be tested for the COVID-19 virus. Pursuant to Supreme Court direction, exposed employees are required to test and follow current directions regarding COVID19.
4. Any employee who was not in direct contact with or not present when the potential exposure occurred, will return to work.
5. Quarantined employees who have the ability and equipment to telework will be expected to perform duties remotely.
6. Clerks from other counties within the district will continue to process cases for the affected court.

K. Office and Courtroom Protective Barrier Modifications:

Courtrooms: In all courtrooms throughout the District, protective barriers will be available for counsel tables if requested. At each table there is marked six-foot distancing available and expected. The barriers are for additional protection if requested. The placement of the barriers is not required as all participants will maintain social distancing.

Administrative Offices: The staff are either in separate, individual offices or separated by more than 6 feet and no additional protective barriers are necessary. Barriers between the public and the clerks will be installed in the Harding and DeBaca Clerks offices.

L. Employee Screening for COVID-19 Symptoms:

1. Employees who become ill outside of work hours are required to self-report to their Manager before coming to work.
2. Employees who become ill while at work remain at their desk and immediately self-report to their Manager. The employee will leave the building and return to their home.
3. Employees are asked to take their temperature before coming to work.
4. Screening questions and temperatures will be taken of all Judges and employees daily. No employee who has a temperature equal to or greater than 100.4 degrees Fahrenheit, or who answers “yes” to any of the screening questions will be allowed to remain in the building.
5. Each temperature screener is trained on how to properly use the temperature gun, will wear a facemask during the screening process, and will record results on the Court Log. (The log will not be provided to anyone other than the NM Department of Health in instances where required by the New Mexico Pandemic Orders. The log will be retained by the judicial entity for four weeks and then destroyed.)

L. Screening of Visitors and Attorneys for COVID-19 Symptoms:

The District Courthouses are used by public officials and contain public offices outside the control of the Judiciary. Those entities are not willing to follow the Courts recommendation or advice regarding COVID19.

1. All courts fall into the “low volume” category (five or less visitors per hour) and will have a clerk’s window with a clear protective partition between visitors and staff where temperature and question screening can safely occur. None of our facilities have security officers or law enforcement presence during normal operations.
2. Screening will occur when a user or visitor first enters the court area. All visitors, parties, witnesses and attorneys will be screened by asking the COVID-19 questions and conducting a temperature screen. Anyone answering “Yes” or having a temperature greater than 100.4°F will be

instructed to leave. Any item or area the person has accessed will be immediately sanitized and no other person shall be allowed to enter until the sanitation has taken place.

3. The person will be given a “Screened Ticket”. Before all proceedings begin, the Judge or bailiff will ask to make sure that everyone in the courtroom has a “ticket.” If they do not, they will be instructed to leave the courtroom and go through the screening.

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## Court Proceedings

**All Court Proceedings are public.** Each Judge shall encourage all proceedings to be observed. This may be done by allowing individuals access to the electronic hearings as a participant. The court shall continue any hearing to allow time for individuals wishing to observe to obtain access to the hearing. If there is an expected large turnout the Judge will coordinate with the Chief Judge to implement greater public access.

### A. Docket Management

Each Judge will be responsible for managing their docket. Efforts are made to not continue hearings to reduce the inevitable backlog of cases and hearings. While criminal jury trials will be given priority in scheduling, civil trials will also be set. Priority will be given to cases where the Defendant is held in pretrial detention, is in custody, or the case is of an age that warrants attention. All jury trials will use District courtrooms. The Judges are committed to working together to coordinate scheduling of courtrooms to maximize the number of cases that are heard. Plea and Settlement deadlines will be established before all bench trials no later than the minimums set in New Mexico Supreme Court order 20-8500-025 or any subsequent Supreme Court order on this issue.

## B. Appearance for Court Proceedings

1. As required in New Mexico Supreme Court Order 20-8500-025, each person attending a court proceeding in-person will be required to provide staff their name and telephone number for the Court Log which includes the date of entry.
2. Inmates transported from the jail to the court facility must be screened using the same standards as implemented by the court, prior to transport by corrections personnel and upon arrival at the court by court personnel. Inmates are only transported pursuant to a court order after notice to the Chief Judge.
3. The role of the Court remains unchanged in this pandemic. While steps must be taken to reduce the number of people in the courthouse to the greatest extent possible, the courts' essential function of the administration of justice cannot be impeded or undermined. There is a strong preference to conduct hearings and trials with the public, attorneys, parties, and witnesses appearing remotely. However, given the nature of certain hearings or the issues involved, in-person appearance may be necessary. Where in-person appearance is necessary compliance with order 20-8500-025 is mandatory. The safety measures implemented at the courthouse are intended to protect the safety of all involved.
4. Consistent with Supreme Court Order Number 20-8500-025, each Judge has discretion to determine if an in-person appearance is necessary, either on the Judge's own motion or a motion of a party. Determinations of in-person hearings is subject to approval by the Chief Judge. Individualized reasons shall be given to the Chief Judge at least 48 hours before the in-person hearing. If there is an emergency, the Chief Judge shall be contacted by phone.
5. All participants in hearings are expected to appear by video. The following hearings, if by remote appearance, **require** the parties and witnesses to appear by video and not by phone:
  - Evidentiary hearing involving testimony; and,
  - Change of Plea / Disposition.

6. The Court will follow the provisions of Supreme Court Order Number 20-8500-025 as it relates to exhibits and identification of defendants in remote proceedings. The trial judge may adopt additional protocols relating to exhibits and testimony, with written notice given to the Chief Judge.

### C. Interpreters

The District will use interpreters appearing remotely wherever possible. Non-English-speaking parties must have meaningful participation in the proceedings. The District uses technologies to allow remote appearance of interpreters. For hearings and trials where interpreters must be present, the Chief Judge must approve their in-person appearance. Interpreters will be provided an area maintaining the appropriate 6-foot social distancing and supplies to follow all COVID19 procedures.

### D. Scheduling of Proceedings:

1. Remote and In Person Proceedings: These hearings can be scheduled as needed. Use of courtrooms for remote proceedings will be secondary to use of courtrooms for jury selection and trial. Rooms other than courtrooms may be used for hearings if technology requirements allow an appropriate record. All hearings must be conducted consistent with 20-8500-025.
2. Jury Proceedings: Judges and Judge's Staff will closely coordinate with one another regarding the scheduling of jury trials. Jury trial scheduling requires an increased number of persons in the court facility and use of multiple rooms for jury selection. Also, court staff will be required to travel to the location of the jury trial. All jury requests must be approved by the Chief Judge's TCAA.

### E. **Attorney Remote Appearance**

**Attorneys are expected to appear by video for any remote appearance.**

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**Supplies Needed:**

Hand Sanitizer  
Disposable Face Masks  
Sanitizing cleaning products  
Disposable cloths  
Hand Sanitizer stands  
Sanitizing wipes  
Temperature guns  
Protective Barriers  
Tissues  
Wastebaskets  
Trash can liners  
Signage - various  
Gaffers Tape  
Sidewalk Chalk  
Sign Holders  
Golf Pencils  
Manilla Envelopes  
Laminating Machine  
Door Stops  
Hand Held cleaning misters

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**Jury Trials Protocols**

Each courthouse must have a specific protocol for jury trials. Currently, it is not possible to conduct Jury Trials in the Magistrate court buildings.

# APPENDIX

## JURY TRIAL PROTOCOLS

- Tucumcari District Court
- Tucumcari Magistrate Court
- Ft. Sumner Magistrate Court
- Ft. Sumner District Court
- Mosquero District Court
- Roy Magistrate Court

**TENTH DISTRICT COURT  
QUAY COUNTY  
JURY TRIAL PROTOCOL**

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**1. Jury Preparation**

- a. Jurors will be sent a letter explaining the check-in procedures for trial and an overview of safety measures implemented at the courthouse. In the letter they will be provided with a sheet containing the COVID-19 questions in both English and Spanish.
- b. Jurors will be instructed that if, at any time during their term of service, they answer one of the questions in the affirmative, they are to immediately inform the Clerk and not come to the courthouse.
- c. Juror request for excusals due to COVID19 concerns shall be addressed as part of voir dire.
- d. The phone recording will remind the jurors to review the COVID-19 screening questions and inform the court staff as soon as possible if they answer yes to any questions.
- e. Jurors will be encouraged to take their temperature at home before coming to the courthouse in addition to the screening at the Court.

**2. Scheduling of Jury Trials**

- a. As Magistrate trials will occur in the District Courtroom, each Judge will review all pending cases that had or have trial settings from March through November. The Judges will create a list prioritizing the cases for trial in the following order:
  - Defendant is in custody on pretrial detention under Rule 5-409;
  - Defendant is in custody for some other reason;
  - Older cases where speedy trial not waived;
  - All other criminal cases;
  - Civil jury trials.
- b. Judges will create a list of cases and coordinate with each other on a master schedule of jury trials. Pre-trial hearings will be set and the trials

will be set on firm settings twenty five days prior to trial. There will only be jury selection on one case each day. Jury selection will occur on Tuesday or Thursday.

### 3. Pretrial Case Management

- a. Plea deadlines will be 30 days prior to jury trial and will be enforced. In civil cases, deadlines for pretrial settlement will be 30 days prior to jury trial.
- b. In criminal cases, a mandatory plea conference meeting will be held at least 45 days before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. This may be by video but may not be by phone. Counsel shall be responsible for scheduling the plea conference meeting. A Certificate of Compliance affirming that the conference was held shall be signed by both attorneys and filed. Counsel shall indicate on the Certificate if the case is proceeding to jury trial or if a Change of Plea hearing is requested.
- c. In all matters, all evidentiary hearing on pretrial issues shall be conducted at least 45 days prior to the day of trial.
- d. Costs for jurors and interpreters to appear at a trial that does not go forward may be taxed to the party or counsel causing the delay.
- e. All trial exhibits must be disclosed two weeks prior to trial. Counsel are urged to stipulate to authenticity and/or admission of exhibits where possible, for the purpose of shortening the time needed for jurors to be present.
- f. All pretrial motions must be filed no later than 60 days in advance of trial. They will be heard and decided without delaying trial.
- g. Any issue raised within seven days of trial that could delay the trial may be deemed untimely and denied on those grounds.
- h. Proposed jury instructions must be filed by noon seven days before trial by all parties.
- i. Disclosure of discovery after 45 days before trial will be grounds for dismissal, exclusion of evidence and/or sanctions.

- j. In criminal matters, all witnesses should be pre-screened by the District Attorney's Office or the Public Defender's Office to ensure the witness will be able to enter the courthouse on the day of the trial.
- k. All parties shall file certificates that all witnesses and criminal defendants are in New Mexico 14 days before trial. If a certificate is not filed, orders to show cause may be requested.
- l. Any proposals for electronic testimony shall be filed 60 days before the initial trial setting.
- m. On the day of trial, the Judge will meet with counsel and the defendant in the Hearing room at 8:00 am to address any issues.

#### **4. Jury Panel**

Jury panel members will be called to obtain a 45-person panel for most jury trials. If a Judge believes more jurors must be brought in, the Judge must consult with the Chief Judge prior to doing so. This number may need to increase due to the potential exclusion of certain groups of individuals and will be adjusted accordingly as excusal and no-show rates are determined.

#### **5. Scheduling for other Judges in the facility**

Scheduling of hearings in the court facility on jury trial days should be remote hearings only.

#### **6. Juror check-in process**

- a. In District Court, jury selection in almost all cases will take place in the courthouse by calling separate panels of 21 prospective jurors.
- b. Using alternative off-site locations for jury selection is not being pursued as an option, at this time. If an alternate location will be used, the location will have to be vetted to make sure that there are rooms to conduct the necessary proceedings, that equipment for recording at remote locations works in the space available, and that the location works for jury selection and creation of a proper record. A Memorandum of Understanding with the entity is necessary. Insurance may also be an issue. Prior to use of any off-site location, approval will be requested from the ERT.

- c. For most trials in District Court, the goal will be to have a panel of 35 show up for selection. A greater number, approximately 45, will be called.
- d. The Juror list will be pre-printed and randomized to shorten the check-in and selection process. The list will be available to council at least two business days before trial.
- e. On the business day prior to trial the Clerks will obtain from each juror the answer to the screening questions. This will be done by e-mail, phone, or other means. Jurors who answer yes will not be called in. Jurors who have conflicts that may interfere with their ability to give full attention to the proceedings will be identified and at the Judge's discretion may be excused for cause if a record is made.
- f. Jurors will be assigned in the random order to panels of 21 for voir dire. A group will be called at 8:30. The second group will be called at 9:45 and the third at 11:00. The seating area for the panel will be wiped down between each panel.
- g. Marks will be made outside the facility on the sidewalk indicating where jurors should stand while waiting to go through the check-in process. These marks (tape/chalk marks/etc.) will be 7 feet apart.
- h. A masked staff member will be outside the facility entrance to instruct jurors about the process, hand out masks, and remind jurors of the COVID-19 questions.
- i. Each Juror will be provided a disposable mask (if needed), be directed to stay on the marked spots, and given the screening questions, and have their temperature checked before entering the court. If a juror answers yes to any of the questions, or has a temperature over 100.4, their name will be taken, and they will be required to leave.
- j. A poster of the questions, in English and Spanish, will be at the entrance for easy reference.
- k. If they pass screening, they will be given a ticket.
- l. Staff will then direct each juror into the building. The jurors will be directed to the jury table outside the courtroom.
- m. Jurors will be given a juror number card. The cards will be destroyed after each jury selection.

- n. As jurors arrive at the courtroom, they will be directed to a specific seat in the seating area with the assistance of the bailiff to reduce contact/passing of jurors.
- o. After voir dire jurors will be released in the reverse order as seated to allow jurors to exit in a manner to reduce contact/passing of jurors.
- p. Hand Sanitizer, facial tissues, and trash receptacles will be made available for juror use while in the court facility.
- q. Courtroom doors will be propped open to reduce contact with highly touched surfaces. Doors will remain propped open until they are required to be closed for trial and record purposes.
- r. Seating in the courtrooms will be pre-marked with signage/tape directing individuals where they may sit. Each seat will be 6 feet from all other seating. Seating charts will be prepared.
- s. The Clerk will modify the standard seating charts to show the numbers of jurors. A copy will be made and provided to counsel.
- t. During voir dire, jurors will be referred to by number only.

## **7. Jury Voir Dire**

- a. Public and press will have designated seating during voir dire.
- b. The Judge may expand voir dire conducted by the court. Total voir dire per panel shall not exceed 60 minutes.
- c. The court will begin jury selection. The court will complete the introductory remarks and ask the initial questions of the jurors. The attorneys will then ask questions.
- d. The Judge, monitor, counsel and the defendant will go to the hearing room to address all for cause challenges before the group is dismissed. Those jurors dismissed for cause will not be required to return to the court. Once a panel of 25 is available after for cause challenges, no more groups will be called in. All Jurors not dismissed for cause will be directed to return at 1:15 pm.
- e. The east door will be used by council, and the Defendant, during voir dire and for all bench conferences to minimize contact with the seated jurors and spacing is maintained.

- f. The Judge, monitor, counsel and the defendant will go to the Hearing room for cause challenges and to set a jury.
- g. Those jurors not set will be contacted to not return at 1:15 pm. At 1:15 pm the jury clerk will verify all seated jurors are present.
- h. The seats where the jurors will be seated (combination of the jury box and the well) will be wiped down and sanitized before the jurors are seated for trial.

## **8. Witnesses**

- a. All State witnesses will remain in the DA space on the Third floor during trial. All defense witnesses shall remain in the Commission Chambers during trial. Attorneys may allow witnesses to leave the Courthouse, but they must wear a mask, and be present when called. Court staff will conduct Witness screening before the jury is sworn and before court each day.

## **9. Trial**

- a. All jury trials opening statements will begin at 1:15 pm to allow time to reconfigure and sanitize the court room.
- b. Counsel tables are located the gallery area. All questions and argument will be asked from counsel table. Attorneys shall remain seated.
- c. Jurors will be provided the packets from the ERT. The jurors will be sworn in before the trial begins.
- d. Jurors will be seated in the jury box, and chairs in the well to maintain social spacing.
- e. The parties must provide the court with the original and a copy of all exhibits prior to trial. The original set will be placed at the witness stand so that the attorney does not approach the witness. Evidence presentation systems are available and must be used. Attorneys may contact court staff to learn the system. If the attorney wishes to provide each juror with exhibits for inspection the attorney will have individual sets of exhibits made prior to the trial commencing and provide them to the court prior to the commencement of the trial.

Notice of this must be given to opposing council at least five days prior to trial,

- f. Jurors will be required to sit in the same seat for the duration of the trial.
- g. The morning and afternoon breaks will be at least 30 minutes in length to allow Jurors to use the restrooms and step outside the building to smoke, eat, or drink. Everyone must always maintain social distancing. A Bailiff will accompany the Jurors outside the courthouse. There will be a marked area with at least 10 feet of social distancing. All members of the public, and press, will be required to leave the courtroom, and maintain social distancing during the break.
- h. Available space in the gallery will be made available first to victims and victim representatives or family, then the press, and finally to other members of the public. However, the total number in the courtroom will not exceed room capacity to allow proper social spacing.
- i. If a person wishes to observe the trial but there is no space, that person will be given the link to a Google Meet session. The press and public will be able to listen to the trial proceedings using Google Meet. The press can also set up a fixed video camera to stream the proceedings. If there is more than one press entity requesting video, they shall share the single feed. The camera will be set up so that it does not show any of the jurors. At least one seat in the gallery will be available for a member of the press.
- j. For bench conferences, the Judge and counsel will go to the Hearing Room while jurors remain in the Courtroom. Places will be marked in the Hearing Room where the Judge and counsel are to locate to maintain social distancing. All participants will maintain social distancing.
- k. If issues come up during trial that must be considered outside the hearing of the jury, the Judge, monitor, counsel and the defendant will go to the Hearing Room to address the matters. Proceedings in the Hearing Room are public. No one shall go by the seated jurors. Spacing will be maintained. All members of the public, and press, will

be required to leave the courtroom. During these times the jurors will remain in the Courtroom and have access to bathroom facilities in the jury room. A Bailiff will remain with the jurors.

- l. The Client and their attorney will be able to communicate in writing by passing notes under or around any table barrier. If greater communication is required, the Court will allow a brief break for the client and their attorney to confer. Between direct and cross-examination, a break will be taken to allow counsel and client to meet briefly outside the courtroom while maintaining social distancing to discuss matters. The jury will be instructed that the break is necessary to allow communication while maintain social distancing. Defense counsel must plan to speak with the client. Parties and their counsel may use technology approved by the Court to privately communicate, while maintaining social distance.
- m. Jurors will be provided with notepads and pens for note taking by the ERT. At the end of the day, they will be given a manila envelope to put their pad in, seal the envelope and write their juror name or number on the outside. The Bailiff will gather the envelopes and put them in a box or accordion folder to distribute prior to the beginning of trial the next day.
- n. Individual sets of jury instructions will be copied and provided to the jurors and extra sets will be produced as the need arises. Jury deliberation will take place in the courtroom. Jurors will be instructed to remain in their assigned seating for the deliberation process. All other participants and spectators will be required to take all belongings and leave the courtroom.

## **10. Staff Assignments**

- a. For all jury selections at least four additional clerks from the Tenth will assist to shepherd jurors though entrance to the courthouse until seating of the final panel. The CEO shall give the needed staff members reasonable notice of the assignments. If necessary, the CEO

can place notices on the door of not more than one facility in each county that staff is being used at another location for jury selection.

- b. At least two jury bailiffs will be assigned from staff for each jury trial for the entire trial through verdict.

**TENTH MAGISTRATE COURT  
QUAY COUNTY  
JURY TRIAL PROTOCOL  
(TRIAL TO BE HELD IN DISTRICT COURT)**

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**1. Jury Preparation**

- a. Jurors will be sent a letter explaining the check-in procedures for trial and an overview of safety measures implemented at the courthouse. In the letter they will be provided with a sheet containing the COVID-19 questions in both English and Spanish.
- b. Jurors will be instructed that if, at any time during their term of service, they answer one of the questions in the affirmative, they are to immediately inform the Clerk and not come to the courthouse.
- c. Juror request for excusals due to COVID19 concerns shall be addressed as part of voir dire.
- d. The phone recording will remind the jurors to review the COVID-19 screening questions and inform the court staff as soon as possible if they answer yes to any questions.
- e. Jurors will be encouraged to take their temperature at home before coming to the courthouse.

**2. Scheduling of Jury Trials**

- a. As Magistrate trials will occur in the District Courtroom, each Judge will review all pending cases that had or have trial settings from March through November. The Judges will create a list prioritizing the cases for trial in the following order:
  - Defendant is in custody on pretrial detention under Rule 5-409;
  - Defendant is in custody for some other reason;
  - Older cases where speedy trial not waived;
  - All other criminal cases;
  - Civil jury trials.

- b. Judges will create a list of cases and coordinate with each other on master schedule of jury trials. Pre-trial hearings will be set and the trials will be set on firm settings twenty five days prior to trial. There will only be jury selection on one case each day. Jury selection will occur on Tuesday or Thursday.

### 3. Pretrial Case Management

- a. Plea deadlines will be 30 days prior to jury trial and will be enforced. In civil cases, deadlines for pretrial settlement will be 30 days prior to jury trial.
- b. In criminal cases, a mandatory plea conference meeting will be held at least 45 days before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. This may be by video but may not be by phone. Counsel shall be responsible for scheduling the plea conference meeting. A Certificate of Compliance affirming that the conference was held shall be signed by both attorneys and filed. Counsel shall indicate on the Certificate if the case is proceeding to jury trial or if a Change of Plea hearing is requested.
- c. In all matters, all evidentiary hearing on pretrial issues shall be conducted at least 45 days prior to the day of trial.
- d. Costs for jurors and interpreters to appear at a trial that does not go forward may be taxed to the party or counsel causing the delay.
- e. All trial exhibits must be disclosed two weeks prior to trial. Counsel are urged to stipulate to authenticity and/or admission of exhibits where possible, for the purpose of shortening the time needed for jurors to be present.
- f. All pretrial motions must be filed no later than 60 days in advance of trial. They will be heard and decided without delaying trial.
- g. Any issue raised within seven days of trial that could delay the trial may be deemed untimely and denied on those grounds.
- h. Proposed jury instructions must be filed by noon seven days before trial by all parties.

- i. Disclosure of discovery after 45 days before trial will be grounds for dismissal, exclusion of evidence and/or sanctions.
- j. In criminal matters, all witnesses should be pre-screened by the District Attorney's Office or the Public Defender's Office to ensure the witness will be able to enter the courthouse on the day of the trial.
- k. All parties shall file certificates that all witnesses and criminal defendants are in New Mexico 14 days before trial. If a certificate is not filed, orders to show cause may be requested.
- l. Any proposals for electronic testimony shall be filed 60 days before the initial trial setting.
- m. On the day of trial, the Judge will meet with counsel and the defendant in the Hearing room at 8:00 am to address any issues.

#### **4. Jury Panel**

Jury panel members will be called to obtain a 20-person panel for most jury trials. If a Judge believes more jurors must be brought in, the Judge must consult with the Chief Judge prior to doing so. This number may need to increase due to the potential exclusion of certain groups of individuals and will be adjusted accordingly as excusal and no-show rates are determined.

#### **5. Scheduling for other Judges in the facility**

Scheduling of hearings in the court facility on jury trial days should be remote hearings only.

#### **6. Juror check-in process**

- a. In Magistrate Court, jury selection in almost all cases will take place in the courthouse by calling separate panels of up to 19 prospective jurors.
- b. Using alternative off-site locations for jury selection is not being pursued as an option, at this time. If an alternate location will be used, the location will have to be vetted to make sure that there are rooms to conduct the necessary proceedings, that equipment for recording at remote locations works in the space available, and that the location works for jury selection and creation of a proper record. A Memorandum of Understanding with

- the entity is necessary. Insurance may also be an issue. Prior to use of any off-site location, approval will be requested from the ERT.
- c. For most trials in Magistrate Court, the goal will be to have a panel of 20 show up for selection. A greater number, approximately 30, will be called.
  - d. The Juror list will be pre-printed and randomized to shorten the check-in and selection process. The list will be available to council at least two business days before trial.
  - e. On the business day prior to trial the Clerks will obtain from each juror the answer to the screening questions. This will be done by e-mail, phone, or other means. Jurors who answer yes will not be called in. Jurors who have conflicts that may interfere with their ability to give full attention to the proceedings will be identified and at the Judge's discretion may be excused for cause if a record is made.
  - f. Jurors will be assigned in the random order to panels of 19 for voir dire. A group will be called at 8:30. The second group will be called at 9:45. The seating area for the panel will be wiped down between each panel.
  - g. Marks will be made outside the facility on the sidewalk indicating where jurors should stand while waiting to go through the check-in process. These marks (tape/chalk marks/etc.) will be 7 feet apart.
  - h. A masked staff member will be outside the facility entrance to instruct jurors about the process, hand out masks, and remind jurors of the COVID-19 questions.
  - i. Each Juror will be provided a disposable mask (if needed), be directed to stay on the marked spots, and given the screening questions, and have their temperature checked before entering the court. If a juror answers yes to any of the questions, or has a temperature over 100.4, their name will be taken, and they will be required to leave.
  - j. A poster of the questions, in English and Spanish, will be at the entrance for easy reference.
  - k. If they pass screening, they will be given a ticket.
  - l. Staff will then direct each juror into the building. The jurors will be directed to the jury table outside the courtroom.

- m. Jurors will be given a juror number card. The cards will be destroyed after each jury selection.
- n. As jurors arrive at the courtroom, they will be directed to a specific seat in the seating area with the assistance of the bailiff to reduce contact/passing of jurors.
- o. After voir dire jurors will be released in the reverse order as seated to allow jurors to exit in a manner to reduce contact/passing of jurors.
- p. Hand Sanitizer, facial tissues, and trash receptacles will be made available for juror use while in the court facility.
- q. Courtroom doors will be propped open to reduce contact with highly touched surfaces. Doors will remain propped open until they are required to be closed for trial and record purposes.
- r. Seating in the courtrooms will be pre-marked with signage/tape directing individuals where they may sit. Each seat will be 6 feet from all other seating. Seating charts will be prepared.
- s. The Clerk will modify the standard seating charts to show the numbers of jurors. A copy will be made and provided to counsel.
- t. During voir dire, jurors will be referred to by number only.

## **7. Jury Voir Dire**

- a. Public and press will have designated seating during voir dire.
- b. The Judge may expand voir dire conducted by the court. Total voir dire shall not exceed 60 minutes per panel.
- c. The court will begin jury selection. The court will complete the introductory remarks and ask the initial questions of the jurors. The attorneys will then ask questions.
- d. The Judge, monitor, counsel and the defendant will go to the hearing room to address all for cause challenges before the group is dismissed. Those jurors dismissed for cause will not be required to return to the court. Once a panel of 12 is available after for cause challenges, no more groups will be called in. All Jurors not dismissed for cause will be directed to return at 11:15 am.

- e. The east door will be used by council, and the Defendant, during voir dire and for all bench conferences to minimize contact with the seated jurors and spacing is maintained.
- f. The Judge, monitor, counsel and the defendant will go to the Hearing room for cause challenges and to set a jury.
- g. Those jurors not set will be contacted to not return at 11:15 am. At 11:15 am the jury clerk will verify all seated jurors are present.
- h. The seats where the jurors will be seated (combination of the jury box and the well) will be wiped down and sanitized before the jurors are seated for trial.

## **8. Witnesses**

- a. All State witnesses will remain in the DA space on the Third floor during trial. All defense witnesses shall remain in the Commission Chambers during trial. Attorneys may allow witnesses to leave the Courthouse, but they must wear a mask, and be present when called. Court staff will conduct Witness screening before the jury is sworn and before court each day.

## **9. Trial**

- a. All jury trial opening statements will begin at 11:15 am to allow time to reconfigure and sanitize the court room.
- b. Counsel tables are located the gallery area. All questions and argument will be asked from counsel table. Attorneys shall remain seated.
- c. Jurors will be provided the packets from the ERT. The jurors will be sworn in before the trial begins.
- d. Jurors will be seated in the jury box, and chairs in the well to maintain social spacing.
- e. The parties must provide the court with the original and a copy of all exhibits prior to trial. The original set will be placed at the witness stand so that the attorney does not approach the witness. Evidence presentation systems are available and must be used. Attorneys may contact court staff to learn the system. If the attorney wishes to

provide each juror with exhibits for inspection the attorney will have individual sets of exhibits made prior to the trial commencing and provide them to the court immediately prior to the commencement of the trial. Notice of this must be given to opposing council at least five days prior to trial,

- f. Jurors will be required to sit in the same seat for the duration of the trial.
- g. The morning and afternoon breaks will be at least 30 minutes in length to allow Jurors to use the restrooms and step outside the building to smoke, eat, or drink. Everyone must always maintain social distancing. A Bailiff will accompany the Jurors outside the courthouse. There will be a marked area with at least 10 feet of social distancing. All members of the public, and press, will be required to leave the courtroom, and maintain social distancing during the break.
- h. Available space in the gallery will be made available first to victims and victim representatives or family, then the press, and finally to other members of the public. However, the total number in the courtroom will not exceed room capacity to allow proper social spacing.
- i. If a person wishes to observe the trial but there is no space, that person will be given the link to a Google Meet session. The press and public will be able to listen to the trial proceedings using Google Meet. The press can also set up a fixed video camera to stream the proceedings. If there is more than one press entity requesting video, they shall share the single feed. The camera will be set up so that it does not show any of the jurors. At least one seat in the gallery will be available for a member of the press.
- j. For bench conferences, the Judge and counsel will go to the Hearing Room while jurors remain in the Courtroom. Places will be marked in the Hearing Room where the Judge and counsel are to locate to maintain social distancing. All participants will maintain social distancing.
- k. If issues come up during trial that must be considered outside the hearing of the jury; the Judge, monitor, counsel and the defendant will

go to the Hearing Room to address the matter. Proceedings in the Hearing Room are public. No one shall go by the seated jurors. Spacing will be maintained. All members of the public, and press, will be required to leave the courtroom. During these times the jurors will remain in the Courtroom and have access to bathroom facilities in the jury room. A Bailiff will remain with the Jurors.

1. The Client and their attorney will be able to communicate in writing by passing notes under or around any table barrier. If greater communication is required, the Court will allow a brief break for the client and their attorney to confer. Between direct and cross-examination, a break will be taken to allow counsel and client to meet briefly outside the courtroom while maintaining social distancing to discuss matters. The jury will be instructed that the break is necessary to allow communication while maintaining social distancing. Defense counsel must plan to speak with the client. Parties and their counsel may use technology approved by the Court to privately communicate, while maintaining social distance.
- m. Jurors will be provided with notepads and pens for note taking by the ERT. At the end of the day, they will be given a manila envelope to put their pad in, seal the envelope and write their juror name or number on the outside. The Bailiff will gather the envelopes and put them in a box or accordion folder to distribute prior to the beginning of trial the next day.
- n. Individual sets of jury instructions will be copied and provided to the jurors and extra sets will be produced as the need arises.
- o. Jury deliberation will take place in the courtroom. Jurors will be instructed to remain in their assigned seating for the deliberation process. All other participants and spectators will be required to take all belongings and leave the courtroom.

## **10. Staff Assignments**

- a. For all jury selections at least four additional clerks from the Tenth will assist to shepherd jurors through entrance to the courthouse until

seating of the final panel. The CEO shall give the needed staff members reasonable notice of the assignments. If necessary, the CEO can place notices on the door of not more than one facility in each county that staff is being used at another location for jury selection.

- b. At least two jury bailiffs will be assigned from staff for each jury trial for the entire trial through verdict.

**TENTH DISTRICT COURT  
DEBACA COUNTY  
JURY TRIAL PROTOCOL**

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**1. Jury Preparation**

- a. Jurors will be sent a letter explaining the check-in procedures for trial and an overview of safety measures implemented at the courthouse. In the letter they will be provided with a sheet containing the COVID-19 questions in both English and Spanish.
- b. Jurors will be instructed that if, at any time during their term of service, they answer one of the questions in the affirmative, they are to immediately inform the Clerk and not come to the courthouse.
- c. Juror request for excusals due to COVID19 concerns shall be addressed as part of voir dire.
- d. The phone recording will remind the jurors to review the COVID-19 screening questions and inform the court staff as soon as possible if they answer yes to any questions.
- e. Jurors will be encouraged to take their temperature at home before coming to the courthouse in addition to the screening at the Court.

**2. Scheduling of Jury Trials**

- a. As Magistrate trials will also occur in the District Courtroom, each Judge will review all pending cases that had or have trial settings from March through November. The Judges will create a list prioritizing the cases for trial in the following order:
  - Defendant is in custody on pretrial detention under Rule 5-409;
  - Defendant is in custody for some other reason;
  - Older cases where speedy trial not waived;
  - All other criminal cases;
  - Civil jury trials.
- b. Judges will create a list of cases and coordinate with each other on master schedule of jury trials. Pre-trial hearings will be scheduled and the trials

will be set on firm settings at least twenty five days prior to trial. There will only be jury selection on one case each day. Jury selection will occur on Wednesday.

### 3. Pretrial Case Management

- a. Plea deadlines will be 30 days prior to jury trial and will be enforced. In civil cases, deadlines for pretrial settlement will be 30 days prior to jury trial.
- b. In criminal cases, a mandatory plea conference meeting will be held at least 45 days before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. This may be by video but may not be by phone. Counsel shall be responsible for scheduling the plea conference meeting. A Certificate of Compliance affirming that the conference was held shall be signed by both attorneys and filed. Counsel shall indicate on the Certificate if the case is proceeding to jury trial or if a Change of Plea hearing is requested.
- c. In all matters, all evidentiary hearing on pretrial issues shall be conducted at least 45 days prior to the day of trial.
- d. Costs for jurors and interpreters to appear at a trial that does not go forward may be taxed to the party or counsel causing the delay.
- e. All trial exhibits must be disclosed two weeks prior to trial. Counsel are urged to stipulate to authenticity and/or admission of exhibits where possible, for the purpose of shortening the time needed for jurors to be present.
- f. All pretrial motions must be filed no later than 60 days in advance of trial. They will be heard and decided without delaying trial.
- g. Any issue raised within seven days of trial that could delay the trial may be deemed untimely and denied on those grounds.
- h. Proposed jury instructions must be filed by noon seven days before trial by all parties.
- i. Disclosure of discovery after 45 days before trial will be grounds for dismissal, exclusion of evidence and/or sanctions.

- j. In criminal matters, all witnesses should be pre-screened by the District Attorney's Office or the Public Defender's Office to ensure the witness will be able to enter the courthouse on the day of the trial.
- k. All parties shall file certificates that all witnesses and criminal defendants are in New Mexico 14 days before trial. If a certificate is not filed, orders to show cause may be requested.
- l. Any proposals for electronic testimony shall be filed 60 days before the initial trial setting.
- m. On the day of trial, the Judge will meet with counsel and the defendant in the Hearing room at 8:00 am to address any issues.

#### **4. Jury Panel**

Jury panel members will be called to obtain a 45-person panel for most jury trials. If a Judge believes more jurors must be brought in, the Judge must consult with the Chief Judge prior to doing so. This number may need to increase due to the potential exclusion of certain groups of individuals and will be adjusted accordingly as excusal and no-show rates are determined.

#### **5. Scheduling for other Judges in the facility**

Scheduling of hearings in the court facility on jury trial days should be remote hearings only.

#### **6. Juror check-in process**

- a. In District Court, jury selection in almost all cases will take place in the courthouse by calling separate panels of 15 prospective jurors.
- b. Using alternative off-site locations for jury selection is not being pursued as an option, at this time. If an alternate location will be used, the location will have to be vetted to make sure that there are rooms to conduct the necessary proceedings, that equipment for recording at remote locations works in the space available, and that the location works for jury selection and creation of a proper record. A Memorandum of Understanding with the entity is necessary. Insurance may also be an issue. Prior to use of any off-site location, approval will be requested from the ERT.

- c. For most trials in District Court, the goal will be to have a panel of 35 show up for selection. A greater number, approximately 45, will be called.
- d. The Juror list will be pre-printed and randomized to shorten the check-in and selection process. The list will available to council at least two business days before trial.
- e. On the business day prior to trial the Clerks will obtain from each juror the answer to the screening questions. This will be done by e-mail, phone, or other means. Jurors who answer yes will not be called in. Jurors who have conflicts that may interfere with their ability to give full attention to the proceedings will be identified and at the Judge's discretion may be excused for cause if a record is made.
- f. Jurors will be assigned in the random order to panels of 15 for voir dire. A group will be called at 8:30. The second group will be called at 9:45 and the third at 11:00. The seating area for the panel will be wiped down between each panel.
- g. Marks will be made outside the facility on the sidewalk indicating where jurors should stand while waiting to go through the check-in process. These marks (tape/chalk marks/etc.) will be 7 feet apart.
- h. A masked staff member will be outside the facility entrance to instruct jurors about the process, hand out masks, and remind jurors of the COVID-19 questions.
- i. Each Juror will be provided a disposable mask (if needed), be directed to stay on the marked spots, and given the screening questions, and have their temperature checked before entering the court. If a juror answers yes to any of the questions, or has a temperature over 100.4, their name will be taken, and they will be required to leave.
- j. A poster of the questions, in English and Spanish, will be at the entrance for easy reference.
- k. If they pass screening, they will be given a ticket.
- l. Staff will then direct each juror into the building. The jurors will be directed to the jury table outside the courtroom.
- m. Jurors will be given a juror number card. The cards will be destroyed after each jury selection.

- n. As jurors arrive at the courtroom, they will be directed to a specific seat in the seating area with the assistance of the bailiff to reduce contact/passing of jurors.
- o. After voir dire jurors will be released in the reverse order as seated to allow jurors to exit in a manner to reduce contact/passing of jurors.
- p. Hand Sanitizer, facial tissues, and trash receptacles will be made available for juror use while in the court facility.
- q. Courtroom doors will be propped open to reduce contact with highly touched surfaces. Doors will remain propped open until they are required to be closed for trial and record purposes.
- r. Seating in the courtrooms will be pre-marked with signage/tape directing individuals where they may sit. Each seat will be 6 feet from all other seating. Seating charts will be prepared.
- s. The Clerk will modify the standard seating charts to show the numbers of jurors. A copy will be made and provided to counsel.
- t. During voir dire, jurors will be referred to by number only.

## **7. Jury Voir Dire**

- a. Public and press will have designated seating during voir dire.
- b. The Judge may expand voir dire conducted by the court. Total voir dire shall not exceed 60 minutes per panel.
- c. The court will begin jury selection. The court will complete the introductory remarks and ask the initial questions of the jurors. The attorneys will then ask questions.
- d. The Judge, monitor, counsel and the defendant will go to the hearing room to address all for cause challenges before the group is dismissed. Those jurors dismissed for cause will not be required to return to the court. Once a panel of 25 is available after for cause challenges, no more groups will be called in. All Jurors not dismissed for cause will be directed to return at 1:15 pm.
- e. The east door will be used by council, and the Defendant, during voir dire and for all bench conferences to minimize contact with the seated jurors and spacing is maintained.

- f. The Judge, monitor, counsel and the defendant will go to the Hearing room for cause challenges and to set a jury.
- g. Those jurors not set will be contacted to not return at 1:15 pm. At 1:15 pm the jury clerk will verify all seated jurors are present.
- h. The seats where the jurors will be seated (combination of the jury box and the well) will be wiped down and sanitized before the jurors are seated for trial.

## **8. Witnesses**

All State witnesses will remain in the DA space on the first floor during trial. All defense witnesses shall remain in the Hallway during trial. Attorneys may allow witnesses to leave the Courthouse, but they must wear a mask, and be present when called. Court staff will conduct Witness screening before the jury is sworn and before court each day.

## **9. Trial**

- a. All jury trials opening statements will begin at 1:00 pm to allow time to reconfigure and sanitize the court room.
- b. Counsel tables are located the gallery area. All questions and argument will be asked from counsel table. Attorneys shall remain seated.
- c. Jurors will be provided the packets from the ERT. The jurors will be sworn in before the trial begins.
- d. Jurors will be seated in the jury box, and chairs in the well to maintain social spacing.
- e. The parties must provide the court with the original and a copy of all exhibits prior to trial. The original set will be placed at the witness stand so that the attorney does not approach the witness. Evidence presentation systems are available and must be used. Attorneys may contact court staff to learn the system. If the attorney wishes to provide each juror with exhibits for inspection the attorney will have individual sets of exhibits made prior to the trial commencing and provide them to the court prior to the commencement of the trial.

Notice of this must be given to opposing council at least five days prior to trial,

- f. Jurors will be required to sit in the same seat for the duration of the trial.
- g. The morning and afternoon breaks will be at least 30 minutes in length to allow Jurors to use the restrooms and step outside the building to smoke, eat, or drink. Everyone must always maintain social distancing. A Bailiff will accompany the Jurors outside the courthouse. There will be a marked area with at least 10 feet of social distancing. All members of the public, and press, will be required to leave the courtroom, and maintain social distancing during the break.
- h. Available space in the gallery will be made available first to victims and victim representatives or family, then the press, and finally to other members of the public. However, the total number in the courtroom will not exceed room capacity to allow proper social spacing.
- i. If a person wishes to observe the trial but there is no space, that person will be given the link to a Google Meet session. The press and public will be able to listen to the trial proceedings using Google Meet. The press can also set up a fixed video camera to stream the proceedings. If there is more than one press entity requesting video, they shall share the single feed. The camera will be set up so that it does not show any of the jurors. At least one seat in the gallery will be available for a member of the press.
- j. For bench conferences, the Judge and counsel will go to the Judge Chambers while jurors remain in the Courtroom. Places will be marked in the Judge Chambers where the Judge and counsel are to locate to maintain social distancing. All participants will maintain social distancing.
- k. If issues come up during trial that must be considered outside the hearing of the jury, the Judge, monitor, counsel and the defendant will go to the Judge Chambers to address the matters. Proceedings in the Hearing Room are public. No one shall go by the seated jurors. Spacing will be maintained. All members of the public, and press, will

be required to leave the courtroom. During these times the jurors will remain in the Courtroom and have access to bathroom facilities in the jury room. A Bailiff will remain with the jurors.

- l. The Client and their attorney will be able to communicate in writing by passing notes under or around any table barrier. If greater communication is required, the Court will allow a brief break for the client and their attorney to confer. Between direct and cross-examination, a break will be taken to allow counsel and client to meet briefly outside the courtroom while maintaining social distancing to discuss matters. The jury will be instructed that the break is necessary to allow communication while maintain social distancing. Defense counsel must plan to speak with the client. Parties and their counsel may use technology approved by the Court to privately communicate, while maintaining social distance.
- m. Jurors will be provided with notepads and pens for note taking by the ERT. At the end of the day, they will be given a manila envelope to put their pad in, seal the envelope and write their juror name or number on the outside. The Bailiff will gather the envelopes and put them in a box or accordion folder to distribute prior to the beginning of trial the next day.
- n. Individual sets of jury instructions will be copied and provided to the jurors and extra sets will be produced as the need arises.
- o. Jury deliberation will take place in the courtroom. Jurors will be instructed to remain in their assigned seating for the deliberation process. All other participants and spectators will be required to take all belongings and leave the courtroom.

## **10. Staff Assignments**

- a. For all jury selections at least four additional clerks from the Tenth will assist to shepherd jurors though entrance to the courthouse until seating of the final panel. The CEO shall give the needed staff members reasonable notice of the assignments. If necessary, the CEO can close facilities, and place notices on the door, of not more than one

facility in each county that staff is being used at another location for jury selection.

- b. At least two jury bailiffs will be assigned from staff for each jury trial for the entire trial through verdict.

**TENTH MAGISTRATE COURT**  
**DEBACA COUNTY**  
**JURY TRIAL PROTOCOL**  
**(TRIAL TO BE HELD IN DISTRICT COURT)**

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**1. Jury Preparation**

- a. Jurors will be sent a letter explaining the check-in procedures for trial and an overview of safety measures implemented at the courthouse. In the letter they will be provided with a sheet containing the COVID-19 questions in both English and Spanish.
- b. Jurors will be instructed that if, at any time during their term of service, they answer one of the questions in the affirmative, they are to immediately inform the Clerk and not come to the courthouse.
- c. Juror request for excusals due to COVID19 concerns shall be addressed as part of voir dire.
- d. The phone recording will remind the jurors to review the COVID-19 screening questions and inform the court staff as soon as possible if they answer yes to any questions.
- e. Jurors will be encouraged to take their temperature at home before coming to the courthouse, in addition to the screening at the Court.

**2. Scheduling of Jury Trials**

- a. As Magistrate trials will occur in the District Courtroom, each Judge will review all pending cases that had or have trial settings from March through November. The Judges will create a list prioritizing the cases for trial in the following order:
  - Defendant is in custody on pretrial detention under Rule 5-409;
  - Defendant is in custody for some other reason;
  - Older cases where speedy trial not waived;
  - All other criminal cases;
  - Civil jury trials.

- b. Judges will create a list of cases and coordinate with each other on master schedule of jury trials. Pre-trial hearings will be set and the trials will be set on firm settings twenty five days prior to trial. There will only be jury selection on one case each day. Jury selection will occur on Wednesday.

### 3. Pretrial Case Management

- a. Plea deadlines will be 30 days prior to jury trial and will be enforced. In civil cases, deadlines for pretrial settlement will be 30 days prior to trial.
- b. In criminal cases, a mandatory plea conference meeting will be held at least 45 days before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. This may be by video but may not be by phone. Counsel shall be responsible for scheduling the plea conference meeting. A Certificate of Compliance affirming that the conference was held shall be signed by both attorneys and filed. Counsel shall indicate on the Certificate if the case is proceeding to jury trial or if a Change of Plea hearing is requested.
- c. In all matters, all evidentiary hearing on pretrial issues shall be conducted at least 45 days prior to the day of trial.
- d. Costs for jurors and interpreters to appear at a trial that does not go forward may be taxed to the party or counsel causing the delay.
- e. All trial exhibits must be disclosed two weeks prior to trial. Counsel are urged to stipulate to authenticity and/or admission of exhibits where possible, for the purpose of shortening the time needed for jurors to be present.
- f. All pretrial motions must be filed no later than 60 days in advance of trial. They will be heard and decided without delaying trial.
- g. Any issue raised within seven days of trial that could delay the trial may be deemed untimely and denied on those grounds.
- h. Proposed jury instructions must be filed by noon seven days before trial by all parties.

- i. Disclosure of discovery after 45 days before trial will be grounds for dismissal, exclusion of evidence and/or sanctions.
- j. In criminal matters, all witnesses should be pre-screened by the District Attorney's Office or the Public Defender's Office to ensure the witness will be able to enter the courthouse on the day of the trial.
- k. All parties shall file certificates that all witnesses and criminal defendants are in New Mexico 14 days before trial. If a certificate is not filed, orders to show cause may be requested.
- l. Any proposals for electronic testimony shall be filed 60 days before the initial trial setting.
- m. On the day of trial, the Judge will meet with counsel and the defendant in the Judge Chambers at 8:00 am to address any issues.

#### **4. Jury Panel**

Jury panel members will be called to obtain a 20-person panel for most jury trials. If a Judge believes more jurors must be brought in, the Judge must consult with the Chief Judge prior to doing so. This number may need to increase due to the potential exclusion of certain groups of individuals and will be adjusted accordingly as excusal and no-show rates are determined.

#### **5. Scheduling for other Judges in the facility**

Scheduling of hearings in the court facility on jury trial days should be remote hearings only.

#### **6. Juror check-in process**

- a. In Magistrate Court, jury selection in almost all cases will take place in the courthouse by calling separate panels of up to 15 prospective jurors.
- b. Using alternative off-site locations for jury selection is not being pursued as an option, at this time. If an alternate location will be used, the location will have to be vetted to make sure that there are rooms to conduct the necessary proceedings, that equipment for recording at remote locations works in the space available, and that the location works for jury selection and creation of a proper record. A Memorandum of Understanding with

- the entity is necessary. Insurance may also be an issue. Prior to use of any off-site location, approval will be requested from the ERT.
- c. For most trials in Magistrate Court, the goal will be to have a panel of 20 show up for selection. A greater number, approximately 30, will be called.
  - d. The Juror list will be pre-printed and randomized to shorten the check-in and selection process. The list will be available to council at least two business days before trial.
  - e. On the business day prior to trial the Clerks will obtain from each juror the answer to the screening questions. This will be done by e-mail, phone, or other means. Jurors who answer yes will not be called in. Jurors who have conflicts that may interfere with their ability to give full attention to the proceedings will be identified and at the Judge's discretion may be excused for cause if a record is made.
  - f. Jurors will be assigned in the random order to panels of 15 for voir dire. A group will be called at 8:30. The second group will be called at 9:45. The seating area for the panel will be wiped down between each panel.
  - g. Marks will be made outside the facility on the sidewalk indicating where jurors should stand while waiting to go through the check-in process. These marks (tape/chalk marks/etc.) will be 7 feet apart.
  - h. A masked staff member will be outside the facility entrance to instruct jurors about the process, hand out masks, and remind jurors of the COVID-19 questions.
  - i. Each Juror will be provided a disposable mask (if needed), be directed to stay on the marked spots, and given the screening questions, and have their temperature checked before entering the court. If a juror answers yes to any of the questions, or has a temperature over 100.4, their name will be taken, and they will be required to leave.
  - j. A poster of the questions, in English and Spanish, will be at the entrance for easy reference.
  - k. If they pass screening, they will be given a ticket.
  - l. Staff will then direct each juror into the building. The jurors will be directed to the jury table outside the courtroom.

- m. Jurors will be given a juror number card. The cards will be destroyed after each jury selection.
- n. As jurors arrive at the courtroom, they will be directed to a specific seat in the seating area with the assistance of the bailiff to reduce contact/passing of jurors.
- o. After voir dire jurors will be released in the reverse order as seated to allow jurors to exit in a manner to reduce contact/passing of jurors.
- p. Hand Sanitizer, facial tissues, and trash receptacles will be made available for juror use while in the court facility.
- q. Courtroom doors will be propped open to reduce contact with highly touched surfaces. Doors will remain propped open until they are required to be closed for trial and record purposes.
- r. Seating in the courtrooms will be pre-marked with signage/tape directing individuals where they may sit. Each seat will be 6 feet from all other seating. Seating charts will be prepared.
- s. The Clerk will modify the standard seating charts to show the numbers of jurors. A copy will be made and provided to counsel.
- t. During voir dire, jurors will be referred to by number only.

## **7. Jury Voir Dire**

- a. Public and press will have designated seating during voir dire.
- b. The Judge may expand voir dire conducted by the court. Total voir dire shall not exceed 60 inutes per panel.
- c. The court will begin jury selection. The court will complete the introductory remarks and ask the initial questions of the jurors. The attorneys will then ask questions.
- d. The Judge, monitor, counsel and the defendant will go to the Judge Chambers to address all for cause challenges before the group is dismissed. Those jurors dismissed for cause will not be required to return to the court. Once a panel of 12 is available after for cause challenges, no more groups will be called in. All Jurors not dismissed for cause will be directed to return at 11:15 am.

- e. The south door will be used by council, the Defendant, and the court during voir dire so that no one has to go by the seated jurors and spacing can be maintained.
- f. The Judge, clerk, counsel and the defendant will go to the Judge Chambers for cause challenges and to set a jury.
- g. Those jurors not set will be contacted to not return at 11:15 am. At 11:15 am the jury clerk will verify all seated jurors are present.
- h. The seats where the jurors will be seated (combination of the jury box and the well) will be wiped down and sanitized before the jurors are seated for trial.

## **8. Witnesses**

- a. All State witnesses will remain in the DA space on the first floor during trial. All defense witnesses shall remain in the Hallway during trial. Attorneys may allow witnesses to leave the Courthouse, but they must wear a mask, and be present when called. Court staff will conduct Witness screening before the jury is sworn and before court each day.

## **9. Trial**

- a. All jury trial opening statements will begin at 11:15 am to allow time to reconfigure and sanitize the court room.
- b. All questions and argument will be asked from counsel table. Attorneys shall remain seated.
- c. Jurors will be provided the packets from the ERT. The jurors will be sworn in before the trial begins.
- d. Jurors will be seated in the jury box, and chairs in the well to maintain social spacing.
- e. The parties must provide the court with the original and a copy of all exhibits prior to trial. The original set will be placed at the witness stand so that the attorney does not approach the witness. Evidence presentation systems are available and must be used. Attorneys may contact court staff to learn the system. If the attorney wishes to

provide each juror with exhibits for inspection the attorney will have individual sets of exhibits made prior to the trial commencing and provide them to the court immediately prior to the commencement of the trial. Notice of this must be given to opposing council at least five days prior to trial,

- f. Jurors will be required to sit in the same seat for the duration of the trial.
- g. The morning and afternoon breaks will be at least 30 minutes in length to allow Jurors to use the restrooms and step outside the building to smoke, eat, or drink. Everyone must always maintain social distancing. A Bailiff will accompany the Jurors outside the courthouse. There will be a marked area with at least 10 feet of social distancing. All members of the public, and press, will be required to leave the courtroom, and maintain social distancing during the break.
- h. Available space in the gallery will be made available first to victims and victim representatives or family, then the press, and finally to other members of the public. However, the total number in the courtroom will not exceed room capacity to allow proper social spacing.
- i. If a person wishes to observe the trial but there is no space, that person will be given the link to a Google Meet session. The press and public will be able to listen to the trial proceedings using Google Meet. The press can also set up a fixed video camera to stream the proceedings. If there is more than one press entity requesting video, they shall share the single feed. The camera will be set up so that it does not show any of the jurors. At least one seat in the gallery will be available for a member of the press.
- j. For bench conferences, the Judge and counsel will go to the Judge Chambers while jurors remain in the Courtroom. Places will be marked in the Judge Chambers where the Judge and counsel are to locate to maintain social distancing. All participants will maintain social distancing.
- k. If issues come up during trial that must be considered outside the hearing of the jury; the Judge, monitor, counsel and the defendant will

go to the Judge Chambers to address the matter. Proceedings in the Judge Chambers are public. No one shall go by the seated jurors. Spacing will be maintained. All members of the public, and press, will be required to leave the courtroom. During these times the jurors will remain in the Courtroom and have access to bathroom facilities in the jury room. A Bailiff will remain with the Jurors.

1. The Client and their attorney will be able to communicate in writing by passing notes under or around any table barrier. If greater communication is required, the Court will allow a brief break for the client and their attorney to confer. Between direct and cross-examination, a break will be taken to allow counsel and client to meet briefly outside the courtroom while maintaining social distancing to discuss matters. The jury will be instructed that the break is necessary to allow communication while maintaining social distancing. Defense counsel must plan to speak with the client. Parties and their counsel may use technology approved by the Court to privately communicate, while maintaining social distance.
- m. Jurors will be provided with notepads and pens for note taking by the ERT. At the end of the day, they will be given a manila envelope to put their pad in, seal the envelope and write their juror name or number on the outside. The Bailiff will gather the envelopes and put them in a box or accordion folder to distribute prior to the beginning of trial the next day.
- n. Individual sets of jury instructions will be copied and provided to the jurors and extra sets will be produced as the need arises.
- o. Jury deliberation will take place in the courtroom. Jurors will be instructed to remain in their assigned seating for the deliberation process. All other participants and spectators will be required to take all belongings and leave the courtroom.

## **10. Staff Assignments**

- a. For all jury selections at least four additional staff from the Tenth will assist to shepherd jurors through entrance to the courthouse until

seating of the final panel. The CEO shall give the needed staff members reasonable notice of the assignments. If necessary, the CEO can close facilities, and place notices on the door, of not more than one facility in each county that staff is being used at another location for jury selection.

- b. At least two jury bailiffs will be assigned from staff for each jury trial for the entire trial through verdict.

**TENTH DISTRICT COURT  
HARDING COUNTY  
JURY TRIAL PROTOCOL**

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**1. Jury Preparation**

- a. Jurors will be sent a letter explaining the check-in procedures for trial and an overview of safety measures implemented at the courthouse. In the letter they will be provided with a sheet containing the COVID-19 questions in both English and Spanish.
- b. Jurors will be instructed that if, at any time during their term of service, they answer one of the questions in the affirmative, they are to immediately inform the Clerk and not come to the courthouse.
- c. Juror request for excusals due to COVID19 concerns shall be addressed as part of voir dire.
- d. The phone recording will remind the jurors to review the COVID-19 screening questions and inform the court staff as soon as possible if they answer yes to any questions.
- e. Jurors will be encouraged to take their temperature at home before coming to the courthouse in addition to the screening at the Court.

**2. Scheduling of Jury Trials**

- a. As Magistrate trials will also occur in the District Courtroom, each Judge will review all pending cases that had or have trial settings from March through November. The Judges will create a list prioritizing the cases for trial in the following order:
  - Defendant is in custody on pretrial detention under Rule 5-409;
  - Defendant is in custody for some other reason;
  - Older cases where speedy trial not waived;
  - All other criminal cases;
  - Civil jury trials.
- b. Judges will create a list of cases and coordinate with each other on master schedule of jury trials. Pre-trial hearings will be scheduled and the trials

will be set on firm settings at least twenty five days prior to trial. There will only be jury selection on one case each day. Jury selection will occur on Wednesday.

### 3. Pretrial Case Management

- a. Plea deadlines will be 30 days prior to jury trial and will be enforced. In civil cases, deadlines for pretrial settlement will be 30 days prior to jury trial.
- b. In criminal cases, a mandatory plea conference meeting will be held at least 45 days before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. This may be by video but may not be by phone. Counsel shall be responsible for scheduling the plea conference meeting. A Certificate of Compliance affirming that the conference was held shall be signed by both attorneys and filed. Counsel shall indicate on the Certificate if the case is proceeding to jury trial or if a Change of Plea hearing is requested.
- c. In all matters, all evidentiary hearing on pretrial issues shall be conducted at least 45 days prior to the day of trial.
- d. Costs for jurors and interpreters to appear at a trial that does not go forward may be taxed to the party or counsel causing the delay.
- e. All trial exhibits must be disclosed two weeks prior to trial. Counsel are urged to stipulate to authenticity and/or admission of exhibits where possible, for the purpose of shortening the time needed for jurors to be present.
- f. All pretrial motions must be filed no later than 60 days in advance of trial. They will be heard and decided without delaying trial.
- g. Any issue raised within seven days of trial that could delay the trial may be deemed untimely and denied on those grounds.
- h. Proposed jury instructions must be filed by noon seven days before trial by all parties.
- i. Disclosure of discovery after 45 days before trial will be grounds for dismissal, exclusion of evidence and/or sanctions.

- j. In criminal matters, all witnesses should be pre-screened by the District Attorney's Office or the Public Defender's Office to ensure the witness will be able to enter the courthouse on the day of the trial.
- k. All parties shall file certificates that all witnesses and criminal defendants are in New Mexico 14 days before trial. If a certificate is not filed, orders to show cause may be requested.
- l. Any proposals for electronic testimony shall be filed 60 days before the initial trial setting.
- m. On the day of trial, the Judge will meet with counsel and the defendant in the Hearing room at 8:00 am to address any issues.

#### **4. Jury Panel**

Jury panel members will be called to obtain a 45-person panel for most jury trials. If a Judge believes more jurors must be brought in, the Judge must consult with the Chief Judge prior to doing so. This number may need to increase due to the potential exclusion of certain groups of individuals and will be adjusted accordingly as excusal and no-show rates are determined.

#### **5. Scheduling for other Judges in the facility**

No other hearings will be set during Jury trials..

#### **6. Juror check-in process**

- a. In District Court, jury selection in almost all cases will take place in the courthouse by calling separate panels of 16 prospective jurors.
- b. Using alternative off-site locations for jury selection is not being pursued as an option, at this time. If an alternate location will be used, the location will have to be vetted to make sure that there are rooms to conduct the necessary proceedings, that equipment for recording at remote locations works in the space available, and that the location works for jury selection and creation of a proper record. A Memorandum of Understanding with the entity is necessary. Insurance may also be an issue. Prior to use of any off-site location, approval will be requested from the ERT.

- c. For most trials in District Court, the goal will be to have a panel of 35 show up for selection. A greater number, approximately 45, will be called.
- d. The Juror list will be pre-printed and randomized to shorten the check-in and selection process. The list will be available to council at least two business days before trial.
- e. On the business day prior to trial the Clerks will obtain from each juror the answer to the screening questions. This will be done by e-mail, phone, or other means. Jurors who answer yes will not be called in. Jurors who have conflicts that may interfere with their ability to give full attention to the proceedings will be identified and at the Judge's discretion may be excused for cause if a record is made.
- f. Jurors will be assigned in the random order to panels of 16 for voir dire. A group will be called at 8:30. The second group will be called at 9:45 and the third at 11:00.
- g. Marks will be made outside the facility on the sidewalk indicating where jurors should stand while waiting to go through the check-in process. These marks (tape/chalk marks/etc.) will be 7 feet apart.
- h. A masked staff member will be outside the facility entrance to instruct jurors about the process, hand out masks, and remind jurors of the COVID-19 questions.
- i. Each Juror will be provided a disposable mask (if needed), be directed to stay on the marked spots, and given the screening questions, and have their temperature checked before entering the court. If a juror answers yes to any of the questions, or has a temperature over 100.4, their name will be taken, and they will be required to leave.
- j. A poster of the questions, in English and Spanish, will be at the entrance for easy reference.
- k. If they pass screening, they will be given a ticket.
- l. Staff will then direct each juror into the building. The jurors will be directed to the jury table outside the courtroom.
- m. Jurors will be given a juror number card. The cards will be destroyed after each jury selection.

- n. As jurors arrive at the courtroom, they will be directed to a specific seat in the seating area with the assistance of the bailiff to reduce contact/passing of jurors. Jurors will be seated in the Gallery for voir dire and trial.
- o. After voir dire jurors will be released in the reverse order as seated to allow jurors to exit in a manner to reduce contact/passing of jurors.
- p. Hand Sanitizer, facial tissues, and trash receptacles will be made available for juror use while in the court facility.
- q. Courtroom doors will be propped open to reduce contact with highly touched surfaces. Doors will remain propped open until they are required to be closed for trial and record purposes.
- r. Seating in the courtrooms will be pre-marked with signage/tape directing individuals where they may sit. Each seat will be 6 feet from all other seating. Seating charts will be prepared.
- s. The Clerk will modify the standard seating charts to show the numbers of jurors. A copy will be made and provided to counsel.
- t. During voir dire, jurors will be referred to by number only.

## **7. Jury Voir Dire**

- a. Public and press will have designated seating during voir dire located in the Jury Box.
- b. The Judge may expand voir dire conducted by the court. Total voir dire shall not exceed 60 minutes per panel.
- c. The court will begin jury selection. The court will complete the introductory remarks and ask the initial questions of the jurors. The attorneys will then ask questions.
- d. The Judge, monitor, counsel and the defendant will go to the Jury room to address all for cause challenges before the group is dismissed. Those jurors dismissed for cause will not be required to return to the court. Once a panel of 25 is available after for cause challenges, no more groups will be called in. All Jurors not dismissed for cause will be directed to return at 1:15 pm.

- e. The North door will be used by council, and the Defendant, during voir dire and for all bench conferences to minimize contact with the seated jurors and spacing is maintained.
- f. The Judge, monitor, counsel and the defendant will go to the Jury room for cause challenges and to set a jury.
- g. Those jurors not set will be contacted to not return at 1:15 pm. At 1:15 pm the jury clerk will verify all seated jurors are present.
- h. The seats where the jurors will be seated (combination of the jury box and the well) will be wiped down and sanitized before the jurors are seated for trial.

## **8. Witnesses**

- a. All witnesses will remain outside the courthouse during trial. They must wear a mask and be present when called. Court staff will conduct Witness screening before the jury is sworn and before court each day.

## **9. Trial**

- a. All jury trials opening statements will begin at 1:00 pm to allow time to reconfigure and sanitize the court room.
- b. All questions and argument will be asked from counsel table. Attorneys shall remain seated.
- c. Jurors will be provided the packets from the ERT. The jurors will be sworn in before the trial begins.
- d. Jurors will be seated in the Gallery to maintain social spacing. Observers will be seated in the jury box.
- e. The parties must provide the court with the original and a copy of all exhibits prior to trial. The original set will be placed at the witness stand so that the attorney does not approach the witness. Evidence presentation systems are available and must be used. Attorneys may contact court staff to learn the system. If the attorney wishes to provide each juror with exhibits for inspection the attorney will have individual sets of exhibits made prior to the trial commencing and provide them to the court prior to the commencement of the trial.

Notice of this must be given to opposing council at least five days prior to trial,

- f. Jurors will be required to sit in the same seat for the duration of the trial.
- g. The morning and afternoon breaks will be at least 30 minutes in length to allow Jurors to use the restrooms and step outside the building to smoke, eat, or drink. Everyone must always maintain social distancing. A Bailiff will accompany the Jurors outside the courthouse. There will be a marked area with at least 10 feet of social distancing. All members of the public, and press, will be required to leave the courtroom, and maintain social distancing during the break.
- h. Available space will be made available first to victims and victim representatives or family, then the press, and finally to other members of the public. However, the total number in the courtroom will not exceed room capacity to allow proper social spacing.
- i. If a person wishes to observe the trial but there is no space, that person will be given the link to a Google Meet session. The press and public will be able to listen to the trial proceedings using Google Meet. The press can also set up a fixed video camera to stream the proceedings. If there is more than one press entity requesting video, they shall share the single feed. The camera will be set up so that it does not show any of the jurors. At least one seat in the gallery will be available for a member of the press.
- j. For bench conferences, the Judge and counsel will go to the Jury room while jurors remain in the Courtroom. Places will be marked in the Jury Room where the Judge and counsel are to locate to maintain social distancing. All participants will maintain social distancing.
- k. If issues come up during trial that must be considered outside the hearing of the jury, the Judge, monitor, counsel and the defendant will go to the Jury Room to address the matters. Proceedings in the Jury Room are public. No one shall go by the seated jurors. Spacing will be maintained. All members of the public, and press, will be required to leave the courtroom. During these times the jurors will remain on the

Second floor and have access to bathroom facilities on the Second floor. A Bailiff will remain with the jurors.

- l. The Client and their attorney will be able to communicate in writing by passing notes under or around any table barrier. If greater communication is required, the Court will allow a brief break for the client and their attorney to confer. Between direct and cross-examination, a break will be taken to allow counsel and client to meet briefly outside the courtroom while maintaining social distancing to discuss matters. The jury will be instructed that the break is necessary to allow communication while maintain social distancing. Defense counsel must plan to speak with the client. Parties and their counsel may use technology approved by the Court to privately communicate, while maintaining social distance.
- m. Jurors will be provided with notepads and pens for note taking by the ERT. At the end of the day, they will be given a manila envelope to put their pad in, seal the envelope and write their juror name or number on the outside. The Bailiff will gather the envelopes and put them in a box or accordion folder to distribute prior to the beginning of trial the next day.
- n. Individual sets of jury instructions will be copied and provided to the jurors and extra sets will be produced as the need arises.
- o. Jury deliberation will take place in the courtroom. Jurors will be instructed to remain in their assigned seating for the deliberation process. All other participants and spectators will be required to take all belongings and leave the courtroom.

### **10. Staff Assignments**

- a. For all jury selections at least four additional staff from the Tenth will assist to shepherd jurors through entrance to the courthouse until seating of the final panel. The CEO shall give the needed staff members reasonable notice of the assignments. If necessary, the CEO can close facilities, and place notices on the door, of not more than one

facility in each county that staff is being used at another location for jury selection.

- b. At least two jury bailiffs will be assigned from staff for each jury trial for the entire trial through verdict.

**TENTH MAGISTRATE COURT  
HARDING COUNTY  
JURY TRIAL PROTOCOL  
(TRIAL TO BE HELD IN DISTRICT COURT)**

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**1. Jury Preparation**

- a. Jurors will be sent a letter explaining the check-in procedures for trial and an overview of safety measures implemented at the courthouse. In the letter they will be provided with a sheet containing the COVID-19 questions in both English and Spanish.
- b. Jurors will be instructed that if, at any time during their term of service, they answer one of the questions in the affirmative, they are to immediately inform the Clerk and not come to the courthouse.
- c. Juror request for excusals due to COVID19 concerns shall be addressed as part of voir dire.
- d. The phone recording will remind the jurors to review the COVID-19 screening questions and inform the court staff as soon as possible if they answer yes to any questions.
- e. Jurors will be encouraged to take their temperature at home before coming to the courthouse, in addition to the screening at the Court.

**2. Scheduling of Jury Trials**

- a. As Magistrate trials will occur in the District Courtroom, each Judge will review all pending cases that had or have trial settings from March through November. The Judges will create a list prioritizing the cases for trial in the following order:
  - Defendant is in custody on pretrial detention under Rule 5-409;
  - Defendant is in custody for some other reason;
  - Older cases where speedy trial not waived;
  - All other criminal cases;
  - Civil jury trials.

- b. Judges will create a list of cases and coordinate with each other on master schedule of jury trials. Pre-trial hearings will be set and the trials will be set on firm settings twenty five days prior to trial. There will only be jury selection on one case each day. Jury selection will occur on Wednesday.

### 3. Pretrial Case Management

- a. Plea deadlines will be 30 days prior to jury trial and will be enforced. In civil cases, deadlines for pretrial settlement will be 30 days prior to trial.
- b. In criminal cases, a mandatory plea conference meeting will be held at least 45 days before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. This may be by video but may not be by phone. Counsel shall be responsible for scheduling the plea conference meeting. A Certificate of Compliance affirming that the conference was held shall be signed by both attorneys and filed. Counsel shall indicate on the Certificate if the case is proceeding to jury trial or if a Change of Plea hearing is requested.
- c. In all matters, all evidentiary hearing on pretrial issues shall be conducted at least 45 days prior to the day of trial.
- d. Costs for jurors and interpreters to appear at a trial that does not go forward may be taxed to the party or counsel causing the delay.
- e. All trial exhibits must be disclosed two weeks prior to trial. Counsel are urged to stipulate to authenticity and/or admission of exhibits where possible, for the purpose of shortening the time needed for jurors to be present.
- f. All pretrial motions must be filed no later than 60 days in advance of trial. They will be heard and decided without delaying trial.
- g. Any issue raised within seven days of trial that could delay the trial may be deemed untimely and denied on those grounds.
- h. Proposed jury instructions must be filed by noon seven days before trial by all parties.

- i. Disclosure of discovery after 45 days before trial will be grounds for dismissal, exclusion of evidence and/or sanctions.
- j. In criminal matters, all witnesses should be pre-screened by the District Attorney's Office or the Public Defender's Office to ensure the witness will be able to enter the courthouse on the day of the trial.
- k. All parties shall file certificates that all witnesses and criminal defendants are in New Mexico 14 days before trial. If a certificate is not filed, orders to show cause may be requested.
- l. Any proposals for electronic testimony shall be filed 60 days before the initial trial setting.
- m. On the day of trial, the Judge will meet with counsel and the defendant in the Jury Room at 8:00 am to address any issues.

#### **4. Jury Panel**

Jury panel members will be called to obtain a 20-person panel for most jury trials. If a Judge believes more jurors must be brought in, the Judge must consult with the Chief Judge prior to doing so. This number may need to increase due to the potential exclusion of certain groups of individuals and will be adjusted accordingly as excusal and no-show rates are determined.

#### **5. Scheduling for other Judges in the facility**

Scheduling of hearings in the court facility on jury trial days should be remote hearings only.

#### **6. Juror check-in process**

- a. In Magistrate Court, jury selection in almost all cases will take place in the courthouse by calling separate panels of up to 16 prospective jurors.
- b. Using alternative off-site locations for jury selection is not being pursued as an option, at this time. If an alternate location will be used, the location will have to be vetted to make sure that there are rooms to conduct the necessary proceedings, that equipment for recording at remote locations works in the space available, and that the location works for jury selection and creation of a proper record. A Memorandum of Understanding with

- the entity is necessary. Insurance may also be an issue. Prior to use of any off-site location, approval will be requested from the ERT.
- c. For most trials in Magistrate Court, the goal will be to have a panel of 20 show up for selection. A greater number, approximately 30, will be called.
  - d. The Juror list will be pre-printed and randomized to shorten the check-in and selection process. The list will be available to council at least two business days before trial.
  - e. On the business day prior to trial the Clerks will obtain from each juror the answer to the screening questions. This will be done by e-mail, phone, or other means. Jurors who answer yes will not be called in. Jurors who have conflicts that may interfere with their ability to give full attention to the proceedings will be identified and at the Judge's discretion may be excused for cause if a record is made.
  - f. Jurors will be assigned in the random order to panels of 16 for voir dire. A group will be called at 8:30. The second group will be called at 9:45.
  - g. Marks will be made outside the facility on the sidewalk indicating where jurors should stand while waiting to go through the check-in process. These marks (tape/chalk marks/etc.) will be 7 feet apart.
  - h. A masked staff member will be outside the facility entrance to instruct jurors about the process, hand out masks, and remind jurors of the COVID-19 questions.
  - i. Each Juror will be provided a disposable mask (if needed), be directed to stay on the marked spots, and given the screening questions, and have their temperature checked before entering the court. If a juror answers yes to any of the questions, or has a temperature over 100.4, their name will be taken, and they will be required to leave.
  - j. A poster of the questions, in English and Spanish, will be at the entrance for easy reference.
  - k. If they pass screening, they will be given a ticket.
  - l. Staff will then direct each juror into the building. The jurors will be directed to the jury table outside the courtroom.
  - m. Jurors will be given a juror number card. The cards will be destroyed after each jury selection.

- n. As jurors arrive at the courtroom, they will be directed to a specific seat in the seating area with the assistance of the bailiff to reduce contact/passing of jurors.
- o. After voir dire jurors will be released in the reverse order as seated to allow jurors to exit in a manner to reduce contact/passing of jurors.
- p. Hand Sanitizer, facial tissues, and trash receptacles will be made available for juror use while in the court facility.
- q. Courtroom doors will be propped open to reduce contact with highly touched surfaces. Doors will remain propped open until they are required to be closed for trial and record purposes.
- r. Seating in the courtrooms will be pre-marked with signage/tape directing individuals where they may sit. Each seat will be 6 feet from all other seating. Seating charts will be prepared.
- s. The Clerk will modify the standard seating charts to show the numbers of jurors. A copy will be made and provided to counsel.
- t. During voir dire, jurors will be referred to by number only.

## **7. Jury Voir Dire**

- a. Public and press will have designated seating during voir dire.
- b. The Judge may expand voir dire conducted by the court. Total voir dire shall not exceed 60 minutes per panel.
- c. The court will begin jury selection. The court will complete the introductory remarks and ask the initial questions of the jurors. The attorneys will then ask questions.
- d. The Judge, monitor, counsel and the defendant will go to the Judge Chambers to address all for cause challenges before the group is dismissed. Those jurors dismissed for cause will not be required to return to the court. Once a panel of 12 is available after for cause challenges, no more groups will be called in. All Jurors not dismissed for cause will be directed to return at 11:15 am.
- e. The north door through the clerk's office will be used by council, the Defendant, and the court during voir dire so that no one has to go by the seated jurors and spacing can be maintained.

- f. The Judge, clerk, counsel and the defendant will go to the Jury Room for cause challenges and to set a jury.
- g. Those jurors not set will be contacted to not return at 11:15 am. At 11:15 am the jury clerk will verify all seated jurors are present.
- h. The seats where the jurors will be seated (combination of the jury box and the gallery) will be wiped down and sanitized before the jurors are seated for trial.

## **8. Witnesses**

- a. All witnesses will remain outside the courthouse during trial. They must wear a mask and be present when called. Court staff will conduct Witness screening before the jury is sworn and before court each day.

## **9. Trial**

- a. All jury trial opening statements will begin at 11:00 am to allow time to reconfigure and sanitize the court room.
- b. All questions and argument will be asked from counsel table. Attorneys shall remain seated.
- c. Jurors will be provided the packets from the ERT. The jurors will be sworn in before the trial begins.
- d. Jurors will be seated in the north half of the Gallery.
- e. The parties must provide the court with the original and a copy of all exhibits prior to trial. The original set will be placed at the witness stand so that the attorney does not approach the witness. Evidence presentation systems are available and must be used. Attorneys may contact court staff to learn the system. If the attorney wishes to provide each juror with exhibits for inspection the attorney will have individual sets of exhibits made prior to the trial commencing and provide them to the court immediately prior to the commencement of the trial. Notice of this must be given to opposing council at least five days prior to trial,
- f. Jurors will be required to sit in the same seat for the duration of the trial.

- g. The morning and afternoon breaks will be at least 30 minutes in length to allow Jurors to use the restrooms and step outside the building to smoke, eat, or drink. Everyone must always maintain social distancing. A Bailiff will accompany the Jurors outside the courthouse. There will be a marked area with at least 10 feet of social distancing. All members of the public, and press, will be required to leave the courtroom, and maintain social distancing during the break.
- h. Available space in the gallery and jury box will be made available first to victims and victim representatives or family, then the press, and finally to other members of the public. However, the total number in the courtroom will not exceed room capacity to allow proper social spacing.
- i. If a person wishes to observe the trial but there is no space, that person will be given the link to a Google Meet session. The press and public will be able to listen to the trial proceedings using Google Meet. The press can also set up a fixed video camera to stream the proceedings. If there is more than one press entity requesting video, they shall share the single feed. The camera will be set up so that it does not show any of the jurors. At least one seat in the gallery will be available for a member of the press.
- j. For bench conferences, the Judge and counsel will go to the Jury Room while jurors remain in the Courtroom. Places will be marked where the Judge and counsel are to locate to maintain social distancing. All participants will maintain social distancing.
- k. If issues come up during trial that must be considered outside the hearing of the jury; the Judge, monitor, counsel and the defendant will go to the Jury Room to address the matter. Proceedings in the Jury Room are public. No one shall go by the seated jurors. Spacing will be maintained. All members of the public, and press, will be required to leave the courtroom. During these times the jurors will remain on the second floor and have access to bathroom facilities on the second floor. A Bailiff will remain with the Jurors.

- l. The Client and their attorney will be able to communicate in writing by passing notes under or around any table barrier. If greater communication is required, the Court will allow a brief break for the client and their attorney to confer. Between direct and cross-examination, a break will be taken to allow counsel and client to meet briefly outside the courtroom while maintaining social distancing to discuss matters. The jury will be instructed that the break is necessary to allow communication while maintaining social distancing. Defense counsel must plan to speak with the client. Parties and their counsel may use technology approved by the Court to privately communicate, while maintaining social distance.
- m. Jurors will be provided with notepads and pens for note taking by the ERT. At the end of the day, they will be given a manila envelope to put their pad in, seal the envelope and write their juror name or number on the outside. The Bailiff will gather the envelopes and put them in a box or accordion folder to distribute prior to the beginning of trial the next day.
- n. Individual sets of jury instructions will be copied and provided to the jurors and extra sets will be produced as the need arises.
- o. Jury deliberation will take place in the courtroom. Jurors will be instructed to remain in their assigned seating for the deliberation process. All other participants and spectators will be required to take all belongings and leave the courtroom.

## **10. Staff Assignments**

- a. For all jury selections at least four additional staff from the Tenth will assist to shepherd jurors through entrance to the courthouse until seating of the final panel. The CEO shall give the needed staff members reasonable notice of the assignments. If necessary, the CEO can close facilities, and place notices on the door, of not more than one facility in each county that staff is being used at another location for jury selection.

- b. At least two jury bailiffs will be assigned from staff for each jury trial for the entire trial through verdict.