

# Twelfth Judicial District & Magistrate Courts

Otero County · Lincoln County

## Final COVID-19 Resume and Adapt Plan

June 30, 2020

The Court's COVID-19 Resume and Adapt Plan has been developed in coordination with the District and Magistrate Court Judges, the District and Magistrate Court Managers, the Court Services Manager, the court's Program Manager, the Chief Financial Officer, the court's IT Technician, the court's self-help/mediation team, the District Attorney, the Chief District Defender, Otero and Lincoln County jail officials, and other stakeholders of the Otero and Lincoln County CJCCs. This Plan is evolving and may be amended or modified as the Court continues to identify issues.

### **Safety Precautions**

The Court had staff return to work on Monday, May 18, 2020 to resume normal operations. The Court expects there to be times in which telework is approved, however, those instances will be on a case-by-case basis. To the extent some staff can effectively telework, we are allowing them to do so.

In the event someone tests positive for COVID-19, staff from other locations will be called upon to assist at the location in need.

In order to ensure the safety of staff, the Court reviewed the design and layout of every departmental office to determine what safety measures needed to be implemented.

Otero County District Court – Administrative Office – The staff are in separate, individual offices and therefore no protective barriers are necessary. The staff has been provided with masks, gloves and hand sanitizer. Masks are mandatory when they interact with other staff or the public until further notice from the Supreme Court. Staff will be required to clean their individual work areas every day.

Otero County District Court – Judges, TCAAs, and Hearing Officers – The judges, TCAAs, and hearing officers are in separate, individual offices and therefore no protective barriers are necessary. Everyone has been provided with masks, gloves and hand sanitizer. Masks are mandatory when they interact with other staff until further notice from the Supreme Court. Judges and staff will be required to clean their individual work areas every day.

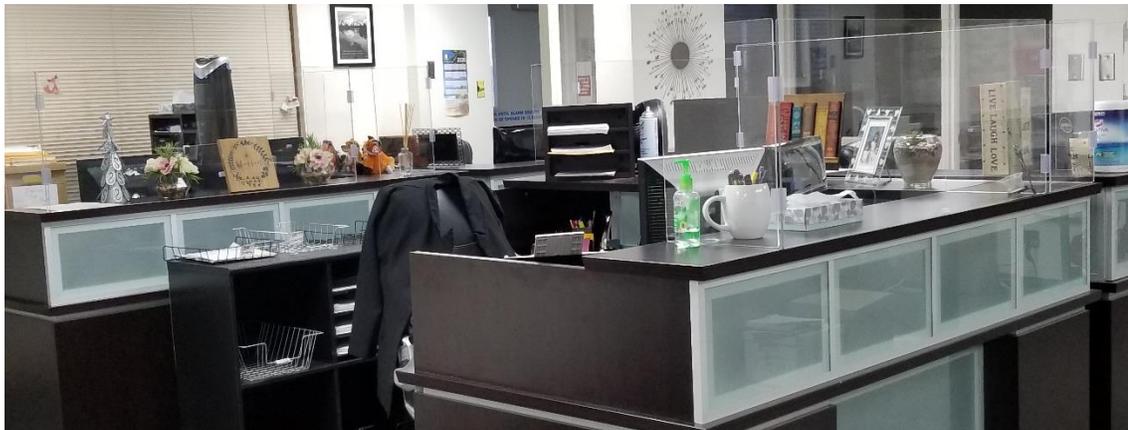
Otero County District Court – Self-Help/Mediation Department – The self-help/mediation department will be relocated to the court's administrative offices.

The area is being modified so that staff will be separated from the public through enclosed offices with transaction windows. Mediations will be conducted remotely. The staff has also been provided with masks, gloves and hand sanitizer. Masks are mandatory when they interact with other staff or the public until further notice from the Supreme Court. Staff will clean the transaction window every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*.

Otero County District Court – Clerk's Office – The clerk's office is set up so that desks are in immediate proximity to each other. The Court has added plexiglass shields to each desk so that there is a protective divider between all staff. Staff will be required to clean the plexiglass dividers and their individual work stations every day.

The lobby area has been equipped with a scanner so that the public can scan documents as opposed to passing paperwork through the transaction window. Staff will clean the scanner and transaction window every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*.

Staff has been provided with masks, gloves and hand sanitizer. Masks are mandatory until further notice from the Supreme Court. The clerk's office will continue to accept pleadings by email and fax.



Otero County District Court – Court Services' Department – The court services' department is set up so that the desks are in immediate proximity to each other. The Court has added plexiglass shields to each desk so that there is a protective divider between all staff. Staff will be required to clean the plexiglass dividers and their individual work areas every day. The staff has also been provided with masks, gloves and hand sanitizer. Masks are mandatory until further notice from the Supreme Court. Face shields are also available if needed for additional protection.

Court Services' staff will be required to clean the public kiosks every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*.

Otero County District Court – Court Monitor Department – The court monitor department is set up so that the desks are in immediate proximity to each other. The Court has added plexiglass shields to each desk so that there is a protective divider between all staff. Staff will be required to clean the plexiglass dividers and their individual work stations every day. The staff has been provided with masks, gloves and hand sanitizer. Masks are mandatory until further notice from the Supreme Court. Face shields are also available if needed for additional protection.

Court Monitors will be responsible for cleaning party tables, witness stands, and courtroom equipment in between court sessions if used by the public for in-person hearings or trials.

Otero County District Court – Pretrial Services and Drug Court – Staff is located in separate, individual offices and therefore no protective barriers are necessary. Defendants will check-in either remotely or by coming in by appointment. The area where defendants check in is equipped with a Dutch door. Drug screening will occur through a variety of methods including: oral swabs that a defendant does in the presence of the program staff on the other side of the Dutch door; patches; and U/As. Staff will wear gloves and masks when conducting U/As.

Staff will be required to clean their work areas every a day. Staff will clean the public check-in area every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*. Masks are mandatory when they interact with other staff or the public until further notice from the Supreme Court. Face shields are also available if needed for additional protection.

Lincoln County District Court – Judge, TCAA, Court Monitor, Court Manager, and Court Services Specialist – All are in separate, individual offices and therefore no protective barriers are necessary. Everyone has been provided with masks, gloves and hand sanitizer. Face shields are also available if needed for additional protection.

The Court Services Specialist will clean the public kiosks every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*. The Court Monitor will be responsible for cleaning party tables, witness stands, and courtroom equipment in between court sessions if used by the public for in-person hearings and trials.

Lincoln County District Court – Clerk's Office – The clerk's office is set up so that desks are in immediate proximity to each other with short partitions separating the desks, however they do not provide a protective barrier. The Court is adding clear mounts to each partition so that there is a protective divider between all staff (example below). The clerk's office will continue to accept pleadings by email and fax.

Staff will be required to clean the clear dividers and their individual work areas every day.

The lobby area has been equipped with a scanner so that the public can scan documents as opposed to passing paperwork through the transaction window. Staff will clean the scanner and transaction window every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*.

Staff has been provided with masks, gloves and hand sanitizer. Masks are mandatory when interacting with other staff or the public until further notice from the Supreme Court. The clerk's office will continue to accept pleadings by email and fax.



Lincoln County District Court – Pretrial Services and Drug Court – There is one staff in an isolated office. Defendants will check-in either remotely or by coming in by appointment with proper social distancing standards. Drug screening will occur through a variety of methods including: oral swabs that a defendant does in the presence of the program staff; patches; and U/As. Staff will wear gloves and masks when conducting U/As.

Staff will be required to clean their work area every day. Areas where defendants come in will be cleaned every two hours. Masks are mandatory when interacting with other staff or the public until further notice from the Supreme Court. Face shields are also available if needed for additional protection.

Otero County Magistrate Court – The clerk's office is a common area for staff. It is arranged so that the desks are at least six feet apart. Given the open, shared space, the Court has added partitions so that there is added protection. Staff will not work in the courtroom providing paperwork to the public after court hearings. Rather, if there are in-person hearings, the judge will direct the public to wait in the lobby for their paperwork and staff will provide the documents through the transaction window. If there are too many individuals in the lobby, staff will direct people to wait in their vehicles and will call them in when the paperwork is ready. The clerk's office will continue to accept pleadings by email and fax.

The lobby area has been equipped with a scanner so that the public can scan documents as opposed to passing paperwork through the transaction window. Staff will clean the scanner and transaction window every two hours as

recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*.

Staff has been provided with masks, gloves and hand sanitizer. Masks are mandatory until further notice from the Supreme Court.

Carrizozo Lincoln County Magistrate Court – The judge and court manager are in separate, individual offices and therefore no protective barriers are necessary. There is one clerk occupying the main clerk's office area. There is proper separation and therefore no protective barriers are necessary. Staff will not work in the courtroom providing paperwork to the public after court hearings. Rather, if there are in-person hearings, the judge will direct the public to wait in the lobby for their paperwork and staff will provide the documents through the transaction window. If there are too many individuals in the lobby, staff will direct people to wait in their vehicles and will call them in when the paperwork is ready. The clerk's office will continue to accept pleadings by email and fax.

The lobby area has been equipped with a scanner so that the public can scan documents as opposed to passing paperwork through the transaction window. Staff will clean the scanner and transaction window every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*.

Staff has been provided with masks, gloves and hand sanitizer. Masks are mandatory when interacting with other staff or the public until further notice from the Supreme Court.

Lincoln County Magistrate Court – Ruidoso – The judge and court manager are in separate. There are two clerks occupying the main clerk's office area. Their desks are situated on opposite side of the room facing opposite walls. There is at least six feet separating them. Since staff are facing opposite walls a protective barrier is not necessary. Staff will not work in the courtroom providing paperwork to the public after court hearings. Rather, if there is an in-person hearing, the judge will direct the public to wait in the lobby for their paperwork and staff will provide the documents through the transaction window. If there are too many individuals in the lobby, staff will direct people to wait in their vehicles and will call them in when the paperwork is ready. The clerk's office will continue to accept pleadings by email and fax.

The lobby area has been equipped with a scanner so that the public can scan documents as opposed to passing paperwork through the transaction. Staff will clean the scanner and transaction window every two hours as recommended by the *NMDOH's COVID-Safe Practices for Individuals and Employers*.

Staff has been provided with masks, gloves and hand sanitizer. Masks are mandatory until further notice from the Supreme Court.

In the event that staff elects to wear gloves, they shall continue to routinely wash hands with soap and water or hand sanitizer. Hand sanitizer is also available in locations where there is publicly available equipment. The Court is in regular communication with the Counties and landlords about the on-going cleaning of the facilities. High-touch areas are disinfected frequently throughout the day.

At the Otero County District Court, attorneys, jurors, parties, and the public will enter through entrances where security is provided by the Sheriff's office. The public is screened and not permitted to enter the courthouse if they are experiencing signs of respiratory infection, fever or cough, if they have recently been exposed to someone with COVID-19, or if they or a household member has traveled of the country or state within the past fourteen days. Security also has an infrared thermometer and is taking temperatures of individuals entering the courthouse. Staff is required to report if they are experiencing signs of respiratory infection, fever or cough, if they have recently been exposed to someone with COVID-19, or if they have traveled out of the country or state immediately upon coming into work. Staff will be required to telework if they meet any of the criteria.

The Lincoln County District Court has two entrances. Individuals coming in for hearings or trials are required to go through a security check-point. Individuals coming to the clerk's office enter through an entrance by the clerk's office where access to the rest of building has been closed off. At either location, the public is screened and not permitted to enter the courthouse if they are experiencing signs of respiratory infection, fever or cough, if they have recently been exposed to someone with COVID-19, or if they or a household member has traveled of the country or state within the past fourteen days. Security and staff also have infrared thermometers and is taking temperatures of individuals entering the courthouse. Staff is required to report if they are experiencing signs of respiratory infection, fever or cough, if they have recently been exposed to someone with COVID-19, or if they have traveled of the country or state immediately upon coming into work. Staff will be required to telework if they meet any of the criteria.

At the Magistrate Courts, everyone entering the building will be required to check in at the clerk's office. Through the transaction window, the public is screened and not permitted to enter the courthouse if they are experiencing signs of respiratory infection, fever or cough, if they have recently been exposed to someone with COVID-19, or if they or a household member has traveled of the country or state within the past fourteen days. Staff also has an infrared thermometer and is taking temperatures of individuals entering the courthouse. Staff is required to report if they are experiencing signs of respiratory infection, fever or cough, if they have recently been exposed to someone with COVID-19, or if they have traveled of the country or state immediately upon coming into work. Staff will be required to telework if they meet any of the criteria.

The Court has made available masks to anyone entering its facilities if they do not have one. Should there be individuals that refuse to wear a mask and need to conduct business with the clerk's office, clerk's staff will go outside and meet with them in order to successfully assist customers in emergency situations, i.e., providing someone with a TRO packet.

The Court will ensure adequate social distancing of at least six feet by removing chairs and separating the remaining chairs by at least six feet. Public areas including all clerks' offices, pretrial services and drug court have floor decals designating six-foot social distancing markers. The mediation and self-help center is being relocated and will have markers when the center is ready to reopen to the public. Public seating has been rearranged in every court wherein chairs have been removed and any remaining chairs are socially distanced. In courtrooms with pews or stadium seating, the pews and seats have been marked with six-foot decals. The following outlines the number of gallery seating available that ensures social distancing:

Otero County District Court

- Ceremonial courtroom – 16
- South circular courtroom – 10
- Large hearing room – 20
- Small hearing room – 2
- Chambers hearing room – 0 (parties only)

Lincoln County District Court

- Ceremonial courtroom – 20
- Second courtroom – 16
- Small hearing room – 0 (parties only)

Otero County Magistrate Court

- Two courtrooms – 10 each

Lincoln County Magistrate Court – Carrizozo – 10

Lincoln County Magistrate Court – Ruidoso – 10

Space capacity per the Center for Disease Control and Prevention (CDC) 6-foot separation criteria, we have identified the following common area capacity limits:

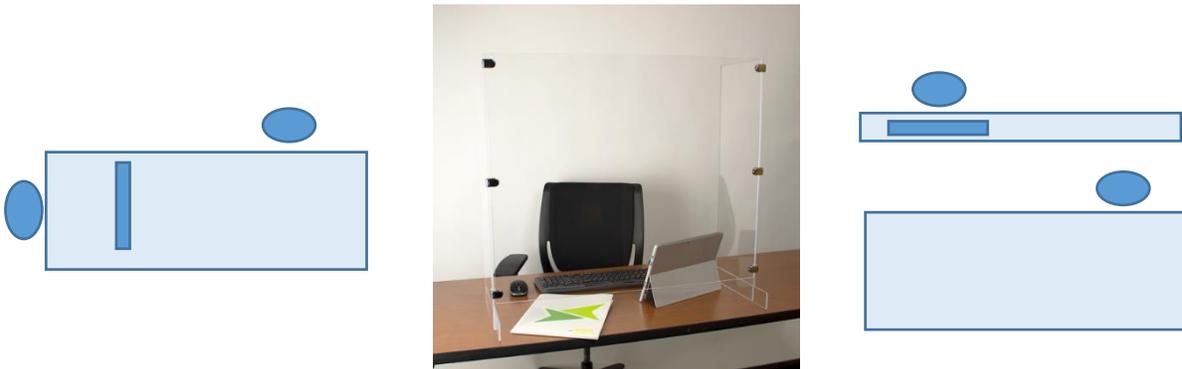
- Otero County District Court Clerk's office lobby capacity – 3
- Otero County elevator capacity – 1
- Otero County Self-Help office – 1
- Lincoln County District Court Clerk's office lobby capacity – 4
- Alamogordo Magistrate Court lobby capacity – 7
- Ruidoso Magistrate Court lobby capacity – 2
- Carrizozo Magistrate Court lobby capacity – 3

Capacity signs will be posted at each location.

The Otero and Lincoln County District Courts have double doors that enable ingress and egress management in and out of the courthouse. The Magistrate Courts have single door entrance/exit points at each courthouse. All doors will be cleaned routinely. Social distancing posters have been placed at the entrance of every court, office lobby areas,

restrooms and common areas in each courthouse. Hygiene posters have also been placed in the restrooms, office areas, and common areas in each courthouse.

Every court will have mobile plexiglass dividers so that attorneys and their clients can be separated by six feet and will enable them to communicate by passing notes through a transaction window. This will be accommodated by one of two ways. One way involves a chair for the attorney being placed at one end of the party table facing the judge and another chair being placed at the far end of the table facing the attorney with the plexiglass on the table in front of the party chair. A second way involves the attorney sitting at the table and the client sitting in the first row of the gallery behind the attorney with a plexiglass divider placed on the wall separating the attorney and defendant.



## **Interpreters**

Language Access Services are a federally mandated right for individuals appearing in Courts. To accommodate this the 12<sup>th</sup> District intends to adhere to the following:

It is the responsibility of the private attorney, Public Defender or District Attorney to request qualified interpretation for proceedings

For hearings wherein the parties appear remotely, the Language Access Services Memorandum (“Memo”) dated March 23, 2020 from the Language Access Services of the AOC will still be effective.

For hearings wherein the parties have been approved to appear in person, an interpreter may appear in person as well if approved by the Court. Otherwise the interpreter can provide Consecutive Services by calling into the Court via Polycom, or Simultaneous Services as outlined below. Consecutive Services and Simultaneous Services and their distinctions are outlined in the Memo.

Consecutive Services are the default, but should only be used for brief hearings.

For Simultaneous Remote Services (preferred method for substantial hearings), the request filed with the Court needs to be obviously and unequivocally a request for Simultaneous Services, and filed as soon as possible before the hearing. The Interpreter

will be given the information to appear by Polycom with the Court, and a Google Meet which will be exclusively for the Limited English Proficient (“LEP”) participant and the interpreter. The interpreter will be able to hear everything through the Polycom and translate to the LEP through a private Google Meet with the use of headphones. If needed, the LEP can speak to the interpreter through Google Meet and they can address the Court on the record through the Polycom.

The Google Meet services may also be used for attorney/client communication outside the presence of others in private rooms using a consecutive translation.

## **Court Hearings**

Except for jury trials, all hearings will be scheduled remotely unless a judge or hearing officer determines that there is good cause for an in-person hearing. While one party may need to appear in-person, the court recognizes that another party may be able to effectively appear remotely. To accomplish a combination hearing, the Court will equip every courtroom and hearing room with four camera-enabled laptops – one for the judge’s bench, one for each party table, and one for the witness stand. The laptops will be set up and connected to the video URL by the court staff – any parties attending will not need to touch the keyboards. Court staff will clean the tables and laptops after each session when there is in-person attendance.

The public and press may be permitted in courtrooms provided there is proper social distancing space available. If there is not proper social distancing space, the public and press will be provided with the video URL or call-in number so that they can attend public, non-sequestered hearings remotely.

The Request for Hearing form has been updated so that parties are notified that hearings will be conducted remotely unless there is good cause for in-person hearing is necessary. The Notices of Hearings will be generated with the Google Meet URL and call-in information. JID is creating a mechanism so that the Google Meet information is automatically pulled and populated into the hearings notices.

The Court has established evidence protocols wherein a Google Drive folder is utilized to submit proposed exhibits (Attachment 1). For individuals that do not have the capability to submit proposed evidence through the Google Drive folder, the Court will permit them to submit proposed exhibits to the clerks’ offices. Every Request for Hearing and Notice of Setting will have an attachment outlining this process (Attachment 2).

No judge or hearing officer will schedule in-person trailing dockets in either District or Magistrate Court. Hearings will be scheduled with individual calendar times in order to control the attendance at hearings – this includes matters that used to occur through a walk-in calendar at the Magistrate Court.

The Court is also working with the Otero and Lincoln County jails to add additional laptops, headphones and Google Meet carrel stations so that more hearings can be conducted remotely through Google Meet. These stations will be set up at the jails and will provide

dedicated access for defendants. The current goal is to have four Google Meet carrels at the Otero County jail and three Google Meet carrels at the Lincoln County jail.



Google Meet carrels will also be set up at the Otero County District Court, the Lincoln County District Court, and the Lincoln County Magistrate Court – Ruidoso. These will enable anyone that doesn't have access to technology to come to the court and attend hearings from three regions in the District. For example, individuals that reside in Ruidoso but have court in Carrizozo would be able to go to the Ruidoso Magistrate Court and attend the hearing remotely (provided in-person attendance is not required). If the maximum capacity of a courtroom has been met, an individual could go to one of these stations and attend a hearing remotely. Headphones, laptop equipment and the carrels will be cleaned after every use. The Google Meet carrels and equipment located at the courthouses will be cleaned after each use. There will be two Google Meet carrels at the Otero County District Court that will be at least six feet apart. Because there will be only one station at the Lincoln County District Court and one at the Lincoln County Magistrate Court – Ruidoso, social distancing standards will be satisfied.

When in-person hearings occur, the courtrooms will be cleaned in between every in-person hearing involving different parties.

### **Screening**

Everyone entering the courthouses will be screened by having their temperature taken and asked the approved screening questions. At our District Courts, Sheriff's Deputies provide security and are taking temperatures and asking the screening questions. At our Magistrate Courts there currently is no security at the entrance. At these courts there are five or less visitors per hour. The Clerk's office windows are by the entrance thereby making screening readily accessible for staff when members of the public enter.

On jury trial days, we will have three to five staff assisting with screening and checking in jurors, attorneys, parties, witnesses and spectators.

We have communicated with the County jails and no inmate will be transported to the courts if they have a temperature of 100.4 or have answered yes to any of the screening questions. The Otero County jail uses a screening form on every inmate entering and leaving their facility (Attachment 3).

## Jury Trials

### Criminal Case Management

Cases set for trial will be prioritized by incarceration of the defendant, age of the case, cases where the Victims' Rights Act is invoked, and other particularized prejudice to either the defendant or the State.

District and Magistrate judges will continue to schedule pretrial conferences to ensure cases are proceeding in a timely manner. Judges will also enter case management orders to ensure that jury trials operate as efficiently as possible, to reduce the number of jurors at the courthouse at any given time, and to reduce the amount of time jurors are in the courthouse. Case management orders will include, but not be limited to, the following case requirements:

1. Plea Meets – a mandatory plea conference will be held at least one month before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. Counsel shall be responsible for scheduling the Plea Meets using Google Meets (or another agreed upon platform). 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.  
Plea Deadlines – all judges will require a plea deadline a minimum of five days before trial. No pleas will be accepted the day of trial without a finding of good cause and deadlines will be set for the acceptance of pleas. The burden is on counsel to request a change of plea hearing prior to the jury trial.
2. Jury Instructions – proposed jury instructions shall be submitted prior to trial and a hearing will be scheduled to resolve as many jury instruction issues as is possible before the day of trial.
3. Witness and Exhibit Lists – final witness and exhibit lists shall be submitted prior to the trial and a hearing will be set to identify stipulations and address issues.
4. Motions in Limine – motions in limine shall be addressed prior to the day of trial, unless the court makes a finding of good cause for the delay. It is the duty of counsel to request a hearing on motions in limine.

### Encouragement of Jury Service

The Court will actively engage in public outreach to promote jury service. The Court will appear on local radio stations and submit public service announcements

recognizing jurors as the heroes of the criminal justice system and thanking the community for fulfilling this civic duty. We will also message all of the precautions the Court is making to ensure their safety in our courthouses.

### Jury Assembly

Prospective jurors will be screened and excused from service if they do not pass screening. Prospective jurors that do not have face masks will be provided with face masks. Gloves will be available upon request.

Based on the average number of jury trials between the District and Magistrate Courts in the Twelfth, the Court believes it needs to be prepared to have 625 masks in stock per month in order to conduct jury trials. At this time, the court expects to have enough masks to get through June, July, August and September

Prospective jurors that are in the vulnerable population will be excused upon request. Hand sanitizer will be available to prospective jurors at all times. The Court will not provide coffee and will remove the water dispensers, instead making bottled water available. Two doors in the courtroom will be left open to help with air flow and ventilation.

### Mock Trials

We conducted mock trials and simulations in every courtroom that will be used for jury trials in the district. The following is a synopsis of arrangements for each courtroom where jury trials will be held.

At the Otero County District Court, the ceremonial courtroom will be used for all jury trials. Once we had jurors seated, we rearranged our seating chart (Attachment 4). The attorney tables were adequately spaced as well as spacing between attorneys and the defendant or case agent. We changed the path that witnesses will take to get to the witness stand. Witnesses will be moved through a back hallway into the jury deliberation room. When called, they will be brought in through the jury deliberation door which is right by the witness stand. We were able to set up a court monitor station in another location in the court which frees up a second courtroom where jurors will be moved for recesses and deliberation. Two lecterns will be set up so that the plaintiff and defendant have a dedicated lectern, thereby minimizing delays for cleaning. Paper exhibits will be handed to the witness through a plexiglass transaction window, but once admitted, the exhibit will be published on an Elmo document presentation device. In the event a defendant and attorney need to have a private consultation, they will use the jury deliberation room. Hand sanitizer will be available at the witness stand and attorney tables.

At the Lincoln County District Court, the ceremonial courtroom will be used for all jury trials for both the District and Magistrate Court in Carrizozo (Attachment 5 – revised seating chart). Additional plexiglass will be added to the witness stand, judge's bench and court monitor's desk. The adjacent small hearing room will be

used for bench conferences. Witnesses will be brought in through an interior hallway to a door by the witness stand. If a defendant testifies, he or she will use a door at one end of the courtroom by the defense table, walk through the interior hallway and enter in through the door by the witness stand. Paper exhibits will be handed to the witness through a plexiglass transaction window, but once admitted, the exhibit will be published on an Elmo document presentation device. In the event a defendant and attorney need to have a private consultation, they will use the jury deliberation room. Jurors will be moved to the second courtroom for recesses and deliberations. Hand sanitizer will be available at the witness stand and attorney tables.

At the Alamogordo Magistrate Court, once jurors were seated we were able to rearrange the gallery seating and two additional chairs. We had to rearrange the attorney tables in well and witness stand (from where the defendant was sitting the witness could not be seen). A lectern will not be used, rather attorneys will stand at their tables and face the jurors. The witness will testify from the jury box. The DA will move from the table when the witness navigates through the well to get to the witness stand. The new configuration is shown in Attachment 6. Paper exhibits will be handed to the witness through a plexiglass transaction window, but once admitted, the exhibit will be published on and video monitor in the courtroom. Hand sanitizer will be available at the witness stand and attorney tables.

At the Ruidoso Magistrate Court, in order to ensure proper social distancing with the judge's bench, witness stand and attorney tables, the courtroom was rearranged. For jury selection, the witness stand will be moved thereby enabling ten chairs for prospective jurors. Once the trial begins, the witness stand will be moved and three chairs will be eliminated (Attachment 7). A lectern will not be used, rather attorneys will stand at their tables and face the jurors. The court has a large room in the back where chairs will be set up for the second group of prospective jurors while waiting. Paper exhibits will be handed to the witness through a plexiglass transaction window. Attorneys will have enough copies of exhibits to provide to each juror individually after being admitted. Witnesses will be brought in and exit through a back door of the courtroom. Hand sanitizer will be available at the witness stand and attorney tables.

Complex District Court Cases – In complex criminal cases requiring additional jury pools, the Court will add a full day to the trial so that jurors can be staggered with half coming to the court in the morning and half coming to the court in the afternoon. The jurors that are selected will be called to begin the trial the following day.

### Jury Randomization

There will be significant logistical challenges that would add a lot of time to a trial if the Court seated jurors in different areas of each courthouse, randomize after jurors have signed in, then find and relocate the jurors based on the randomized list. For this reason, while we are making modifications during the pandemic, the Court will randomize the jurors that are scheduled to come in the day before the

trial. The morning of the trial, jurors will be directed to pre-determined locations based on their number from the randomized list. For example, at the Otero County District Court, jurors numbered 1-25 would be directed to the courtroom in the designated seats, jurors numbered 26-40 would be directed to the jury assembly room, and so on. For any vacant seats where jurors numbered 1-25 do not show up, we will begin filling those seats with the next consecutive numbers beginning with 26 in order to fill 25 seats in the courtroom. We will have a blank seating chart and the bailiffs will hand write in juror names as they check in on the seating chart. Any jurors that were pulled to fill in, those names will then be hand-written on the seating chart. The bailiff will be able to quickly make copies of the seating chart and disseminate to the attorneys and the judge.

### Jury Selection

Every aspect of these jury trials require the Court to be cognizant of the need to limit the time that people are gathered and move the trial in an expeditious and efficient manner. For this reason, the State and defense will each be limited to thirty minutes for voir dire. If additional time is needed, a request shall be filed for additional time prior to trial.

In a continued effort to reduce the number of people in the courthouse at all times, the court will hear “for-cause” challenges after each voir dire for each group and dismiss those jurors immediately.

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

Peremptory challenges will be heard after voir dire has been conducted with all jurors. While the court is hearing peremptory challenges, jurors will remain socially distanced in various spaces throughout the courthouse. Jurors who are not selected to serve will be promptly excused and exit the building in an organized, and social distanced manner.

### Scheduling of Voir Dire

To ensure proper time management for the voir dire process, an extra half-day will be added to each District Court jury trial setting (more complex cases requiring additional jury pools may require additional voir dire time). An extra half-day will not be added for voir dire in Magistrate Court jury trials as their jury panels are smaller.

### Jury Boxes and Galleries

While jurors are entering the courtroom before jury selection begins, the court monitor will ensure traffic control and direct prospective jurors to move so that other prospective jurors can access their designated seat, while maintaining the 6’ social distance.

### Jury Seating During Trial

In both the Otero and Lincoln County District Courts, three jurors will be seated in the jury box and the remaining jurors will be seated in the courtroom gallery.

In the Otero and Lincoln County Magistrate Court – Ruidoso, two jurors will be seated in the jury box and the remaining jurors will be seated in the courtroom gallery.

The Court will ensure that all jurors are able to hear witness testimony clearly and are able to view exhibits and demonstrative aids from wherever they are seated.

While jurors are entering the courtroom before jury selection begins, the court monitor will ensure traffic control and direct prospective jurors to move so that other prospective jurors can access their designated seat, while maintaining the 6' social distance.

### Pads and Pencil

The juror bags, pens and pencils will be placed in plastic bins next to the jurors' seats so they can access and deposit the items back into the bins. This will enable the items to be collected without touching each other.

### Trial Procedure

Every judge will limit opening statements and closing arguments based on the complexity of the case.

### Bench Conferences

In District Court, bench conferences will occur by the judge and attorneys leaving the courtroom to a secure area by the judge's chambers. A wireless mic that feeds directly to the court monitor's FTR will be used so that a record is made.

In Magistrate Court, bench conferences will occur by the judge and attorneys leaving the courtroom to a secure area by the judge's chambers.

### Recesses

In District Court, recesses will occur by separating the jurors into two separate groups and putting them each in two different jury deliberations rooms. Two staff will be assigned to assist the jury at each recess location.

In Magistrate Court, recesses will occur by separating the jurors into two separate groups and putting one group in the jury deliberation room and the second group in the lobby. Two staff will be assigned to assist the jury at each recess location.

### Confidential Communication during Trial.

Defendants will be able to communicate with their attorney by passing notes through the plexiglass pass-through transaction windows. These will be arranged to ensure social distancing as shown on page 7. Because counsel and defendants will not be able to simply whisper to one another during the proceeding, counsel will be instructed pretrial to be mindful of asking for a brief break if a moment is needed to read a note from a defendant. The Court will ensure that defendants continue to be able to meaningfully assist in their defense despite COVID-19 precautions. The Court is also exploring the use of technology to allow counsel and defendants to privately communicate in real time, while maintaining social distancing.

### Publishing Exhibits and Exchanging Documents

Gloves will be worn by bailiffs when exchanging documents with counsel or handing anything to the jurors.

### Social Distancing from the Bench

Portable plexiglass partitions will be used during trial on all benches with less than a six feet separation between the judge, witness stand and monitor station.

### Jury Instructions

A copy of all jury instructions will be given to each juror.

### Deliberation

Otero County District Court – The jury will deliberate in the jury-assembly room.

Lincoln County District Court, Lincoln County Magistrate Courts, and Otero County Magistrate Court – All juries will deliberate in the courtroom to ensure proper social distancing.

### Public and Press Viewing

For jury trials, the Otero County District Court has six seats available for the public and press during a trial. The Lincoln County District and Carrizozo Magistrate Court have fifteen seats available for the public and press (Carrizozo Magistrate trials will be conducted at the Lincoln County District Court). The Alamogordo Magistrate Court has three seats available for the public and press. And the Ruidoso Magistrate Court is not large enough to accommodate any seating for the public and press.

On all hearing notices, the court website, and posted on the courthouse windows, Google Meet remote access information will be provided for the public and the media for all trials. The video and call-in information will allow remote *viewing*

*access only* of the proceedings. We will connect the court Polycom to google meet via a Pexip Bridge. The Polycom camera, as well as laptop computers will enable remote participants to view the trial from different vantage points in the room (the judge, counsel, the defendant, and witnesses). The court will have viewing rooms available where the remote attendance will be set up for overflow spectators.

The Ruidoso Magistrate Court will not have jury trials until July. Therefore, in addition to the jury trial plan outlined in paragraph 10, we also have time to look into remote locations for trial to afford some public and press seating. We are also exploring larger remote locations for our other courts for high profile cases with challenging and sensitive facts.

### Justice Partner Awareness of the Resume and Adapt Jury Trial Plan

In cooperation with the Twelfth Judicial District Attorney's Office, the Twelfth Judicial Law Office of the Public Defender's Office and the local criminal defense Bar, the Court conducted mini mock trials to ensure that safety, social distancing, and constitutional protection issues were identified and addressed in advance of our resumption of jury trials at each court location. The Court also scheduling at least one special CJCC meeting to educate our justice partners on the Court's Resume and Adapt Plan.

## **Grand Jury**

Grand juries are only convened if approved by the Chief Judge. The process involves the District Attorney filing a motion stating with specificity the grounds justifying the convening of the grand jury. The Chief Judge then enters an order either granting or denying the motion and, if granted, restricting the number of individuals who may assemble to ensure proper social distancing.

If approved, grand juries are scheduled Tuesday through Friday. Staff calls jurors the week before to confirm attendance, review the mask requirements and ask the COVID-19 screening questions. The day before the grand jury is scheduled, staff again calls the jurors to confirm their attendance, advise them that a mask is required, informs that masks are available if they do not have one and again asks the COVID-19 screening questions. In the event there are jurors who don't pass screening, this process affords us time to call on other jurors. Hand sanitizer will be available in the grand jury room.

## **Docket Management**

### District Court

The District Court has continued hearing all case types and hearing types, but for jury trials. All hearings are conducted remotely mostly using Google Meet, and occasionally incorporating the Polycom technology when necessary.

For proceedings involving incarcerated individuals, the Court is working in cooperation with the detention facilities in the Twelfth Judicial District to expand remote access for multiple hearings at the same time.

During the 2020 legislative session, the Twelfth Judicial District Court was granted a fifth judge for a civil docket. The Judicial Selection Commission convenes on June 11, 2020 and the Court expects the new judge to significantly lessen the impact of case backlog in the Twelfth.

The Twelfth will be able to handle an influx of new cases by providing staff with added safety precautions and getting them back to work at the courthouse (for some court staff like the clerk's offices, teleworking is less efficient and therefore slows down normal work-product). The Court has invested in providing added protections for staff to provide safe work zones by adding Plexiglas dividers, partitions, providing face shields, gloves, and masks. This will enable the court to resume close-to-normal operations with intermittent telework approved on a case-by-case basis.

### Magistrate Court

The Lincoln County Magistrate Judge for Carrizozo, who has a lower caseload than the other judges, will assist the other Magistrate Courts as needed to help with any backlog.

### Other

The Court has made available video tutorials and written instructions on attending hearings remotely through Google Meet and admitting evidence, all of which are on its website. The Court has plans to host a remote meeting with members of the local Bar to provide additional training and answer questions about remote hearings, evidence presentation and the technologies available.

The Court has coordinated with the District Attorney, Chief District Defender, and jails to ensure that competency evaluations are being conducted. Arrangements are being made for the psychiatrists to meet with defendants remotely and accommodations are being made by the Court and the jails to facilitate this.

The Court will work with AOC's Communications Department to coordinate public service announcements and press releases.

# Attachment 1

## **TWELFTH JUDICIAL DISTRICT COURT COVID-19 EVIDENCE SUBMISSION PROTOCOL**

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The 12<sup>th</sup> Judicial District is committed to keeping our staff and the public safe. We are also committed to providing essential justice services to the public that are guaranteed by the Constitution and the laws of the United States and the state of New Mexico. To this end, protocols have been established by the 12<sup>th</sup> Judicial District Judges for submission of certain exhibits and evidence while working remotely. These protocols are subject to change as is necessary and may be extended past May 29, 2020. If changes are made, we will notify you immediately.

Cloud-based Google Drives have been established for each District and Magistrate Judicial Division in the twelfth district and one for the Domestic Relations unit. Upon scheduling a remote access meeting through Google Meet for an evidentiary hearing, judicial staff will also create a cloud-based Google Drive Folder for evidence submission.

Invitations to access the folder in order to upload proposed Exhibits/Evidence will be sent to the attorneys of record via email. Unless otherwise requested in writing, the email address will be the address of record with the New Mexico Bar Directory. If the attorney does not have an email address on record with the NMBar, or a party is self-represented, the standard notice of hearing will direct individuals to contact the Court for details on submission of evidence.

A valid Google Account will be required to access/upload to the drive. A video tutorial on how to establish a Google Account is located at [www.12thdistrict.net](http://www.12thdistrict.net) the Twelfth District Court's Website.

Parties may request an evidence submission folder be established for a hearing, if one was not automatically set up, by contacting the Court prior to the hearing. A video tutorial on how to upload files to the Google Drive is located on the Twelfth District Court's Website.

Files uploaded must be in a recognized 'portable' format: PDF, TIFF, JPEG, BMP, PNG, MP4, WAV, MP3 (without specialty codecs). Files that require specialty software in order to view may not be recognized, and therefore not admitted, by the Court.

Files must be named by the party or their representative prior to uploading to follow the naming convention of:

“Party's' Ex. 'A/1'” (e.g., Defendant's Ex. A, Petitioner's Ex. 3, State's Ex. 7, etc...)

If the opposing party has already uploaded their exhibits and has chosen numbers or letters, please be considerate of the Court and choose the other option.

Pursuant to New Mexico Supreme Court Order NO. 20-8500-012 the offering party shall submit the proffered exhibits to the Court (through the Google Drive Folder), with a copy to the opposing party, no later than forty-eight (48) hours before the start of the hearing, unless otherwise directed by the court, along with an exhibit list that indicates whether the

parties stipulate or object to the admission of each proffered exhibit and the grounds for any objections.

**Files uploaded and used during the hearing are not the actual exhibits.** They will be treated as electronic references to the actual physical exhibits in the attorneys' possession.

**The cloud-based drives are not the official record** and will be intermittently wiped of all data.

It is therefore incumbent upon any party seeking admission of an exhibit to mail all their admitted exhibits postmarked within three (3) days of the hearing to the Clerk's Office. Exhibits may alternatively be delivered in person to the Clerk's Office to collection boxes within three (3) days. Whether mailed or delivered in person, exhibits shall be properly identified as admitted (e.g., Defendant's Ex. A, Petitioner's Ex. 3, State's Ex. 7, etc...), and accompanied with a cover sheet identifying the case with the style, cause number, and date of hearing.

**Upon delivery through either method, parties must file a certificate of compliance** stating that they have delivered all of their admitted exhibits.

## **Attachment 2**

## EVIDENCE PROCEDURES

Evidence protocols have been established that enable parties to submit evidence through a Google Drive folder. These protocols can be found on the Court's website at [www.12thdistrict.net](http://www.12thdistrict.net).

If you have evidence that you want to submit, but do not have the technology to submit through a Google Drive folder, you must do the following:

1. Mark each exhibit (i.e., Petitioner's Exhibit 1, 2, 3... or Respondent's Exhibit 1, 2, 3...).
2. Make a copy of the marked exhibits and serve the opposing party at least two business days prior to the hearing. If you are mailing a copy to the opposing party, you need to mail the exhibits in time so that the opposing party has the copies at least two business days prior to the hearing.
3. Place the proposed exhibits in an envelope, seal the envelope and write on the outside of the envelope your name, your case number and the date of the hearing.<sup>1</sup>
4. Deliver the sealed envelope to the clerk's office at least two business days prior to the hearing.

Failure to comply with these procedures may result in the proposed exhibits not being admitted into evidence at the discretion of the judge or hearing officer.

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<sup>1</sup> Keep a copy of your exhibits for yourself.

## **Attachment 3**

## Attachment 2. COVID-19 New Intake Screening Form

<b>1. Assess the Risk Of Exposure</b>		
<b>Have you.....</b>		
<input type="checkbox"/> Yes <input type="checkbox"/> No	Traveled from, or through, any of the international locations identified by the CDC as having community spread of COVID-19 within the last 14 days? <i>Reference: CDC <a href="#">High Risk Countries</a></i>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Lived in or traveled from area or state with a declared emergency or community spread of COVID-19? <i>Reference: CDC <a href="#">State Map</a>. Place cursor on state to determine if community transmission.</i>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Had close contact with anyone diagnosed with the COVID-19 illness within the last 14 days?	
<p><i>If the answer to <b>ALL</b> the above risk of exposure questions is <b>NO</b>, then <b>STOP here</b> and proceed with normal intake.</i></p> <p>Officers can proceed with normal procedures such as finger printing while using standard precautions and hand hygiene after contact with inmate.</p>		
<p><i>If the answer to <b>ANY</b> of the above risk of exposure questions is <b>YES</b>, immediately assess Symptoms in 2.</i></p>		
<b>2. Assess for Signs or Symptoms of Illness</b>		<b>Date of Onset:</b>
<ul style="list-style-type: none"> <li>Persons with symptoms of illness or cough should be masked immediately and separated from others.</li> </ul> <p><b>Do you have a.....</b></p>		
<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Subjective Fever // Record temperature:</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Cough</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Shortness of Breath</b>	
<p>3. <i>If <b>YES</b> to ANY <b>RISK AND SYMPTOM</b> questions, place in person in <b>ISOLATION</b>.</i></p>		
<p>4. <i>If <b>YES</b> to ANY <b>RISK</b> questions, but <b>NO</b>, to all <b>SIGNS</b> or <b>SYMPTOMS</b>, place person in <b>QUARANTINE</b>.</i></p>		

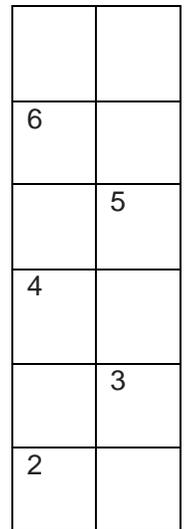
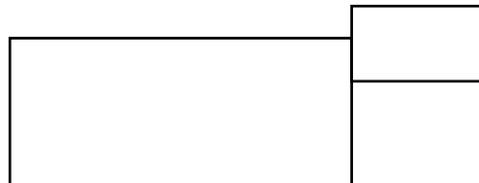
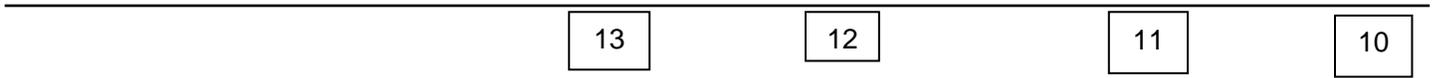
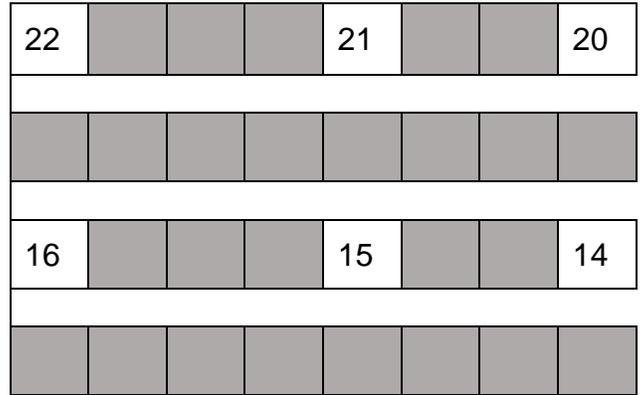
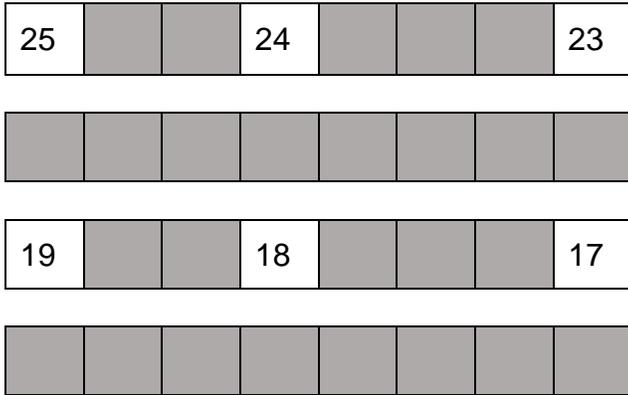
Inmate Name: \_\_\_\_\_ Number: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

# **Attachment 4**

# Otero County District Court – Ceremonial Courtroom



## **Attachment 5**

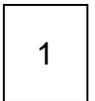
# Lincoln County District Ceremonial Courtroom

29				28			27
26				25			24
23				22			21
20				19			18

17				16			15
14				13			12
11				10			9
8				7			6



5	
	4
3	
	2



## **Attachment 6**

Otero County Magistrate Court

10

9

8

7

6

5

4

3

2

1

Witness

## **Attachment 7**

# Ruidoso Magistrate Court

