

**THIRD JUDICIAL DISTRICT COVID-19 TRANSITIONAL PLAN  
FOR HOLDING TRIALS AFTER OCTOBER 15, 2021 (5th AMENDED)**

**Objective:** The purpose of this Transitional Plan is to incorporate a comprehensive and detailed plan in preparation for holding jury trials after July 1, 2020. It is anticipated that while certain COVID restrictions may be lifted, the 6-foot spacing requirement will remain in place, and in addition, all persons entering the Courts within the Third Judicial District (district, magistrate and municipal) will need to wear face masks.

**1. Safety**

a. Entry to Courthouse (Primary)

- i. Every person entering the building is screened outside the main door. Personnel stationed outside the door will assess each individual's physical condition both by observation and by inquiry. In the event someone responds yes to any of the screening questions, they will be directed to leave the courthouse and contact us by phone for assistance. Each person will be asked a series of questions as provided by the Supreme Court ERT.
- ii. All persons entering the building will be required to wear a mask. A limited number of disposable masks are available for those that do not have a mask and must enter the court for business. Wearing a mask is mandatory; attorneys, witnesses, parties or court staff will not remove the mask. Masks will be worn regardless of spacing, use of Plexiglass or other barriers being used.
- iii. Court signage will remain posted in clearly visible areas indicating proper social distancing requirements.
- iv. Staff personnel shall administer temperature checks for all persons entering the courthouse. Designated employees will temperature check any person entering the courtroom. If any individual's temperature exceeds 100.4, then entry shall be denied.

b. Post Entry (Secondary)

This section removed.

c. Contact Tracing

- i. At all points of screening, the public, legal participants, staff and judicial officers will have their names and telephone numbers logged in for each day of entry. This will include information as to what division(s) or courtroom(s) they will be attending, in addition to the time of entry.
- ii. This information will be held in logbooks or notebooks and retained for a period as defined by the Supreme Court Orders. Any information released from these sources will be held confidential in compliance with privacy to the fullest extent necessary, to be used solely for contact tracing. Approval from administration (CEO and HR) must be obtained before any information may be released.

d. Screening of Judges, Staff and Inmate Appearances

- i. Judges:

1. All judges will enter through the secured entrance in the South parking lot. Masks will be mandatory upon entering. All judges are aware of the COVID questions and symptoms. Judges shall utilize the Google Form to answer screening questions prior to entrance into the building.
- ii. Staff:
  1. All staff will also wear masks. Masks do not need to be worn when working alone in an office that can be closed. Work from cubicles does not qualify as a closed office. Staff shall utilize the Google Form to answer screening questions prior to entrance into the building. Supervisory staff will monitor and visually assess staff for signs of COVID, including asking staff daily on whether they can answer COVID screening in the affirmative. Courthouse cleaning will continue at a minimum twice a day in individual and private offices. Janitorial services will continue daily.
- iii. Inmate Screening:
  1. Detention/transport personnel is responsible for the screening of any inmates being transported to the Third Judicial District. This includes a temperature check to insure that the inmate does not have a temperature of 100.4 degrees Fahrenheit or higher. The screening includes a series of questions to determine if they have been exposed to other inmates with the COVID-19 infection, whether they have experienced a fever, cough, or shortness of breath in the past 14 days, whether the inmate has traveled to, or been detained in a high-risk COVID-19 affected areas as defined by the NMDOH within the last 14 days, whether the inmate has had contact with anyone who has a diagnosis, of a COVID-19 infection, or has been in contact with someone who has been in a defined high-risk area within the last 14 days. The detention center will also determine whether the inmate had been quarantined in the past. Upon arriving at the Court, the Judge will also ask the same screening questions of the inmate.
- e. Markers/Signage/Spacing
  - i. All public areas that have the potential for individuals to be standing in a line have been clearly marked with a minimum of 6 feet of social distancing. The majority of the hallways in the Third can accommodate 6 foot distancing – our district is a converted high school with a great number of 12 foot-wide hallways.
  - ii. The courthouse, both public and staff areas, have the AOC provided posters reminding the public of the COVID spread prevention, handwashing directions, and social distancing.
  - iii. Digital signage also carries a scrolling message of COVID prevention measures.
  - iv. All courtrooms and public seating have been marked with tape and signage to ensure appropriate social distancing of 6 feet.
  - v. The elevator is clearly marked with limit of 2 riders at a time and utilizing the buttons.
- f. Cleaning/Sanitizing
  - i. Sanitizing cleaner has been placed in each courtroom, at high traffic areas (entrance, screening areas, and public locations) and all employee areas. All cleaning will be

- consistent with NMDOH and CDC guidelines. Any high touch areas and equipment in the Courthouse shall be sanitized every two hours at a minimum. Supervisors for those areas will assign personnel to clean at regular intervals as indicated. If it is not possible to clean at regular intervals, hand sanitizers and cleaning wipes are available regardless.
- ii. The security equipment is wiped down with a disinfecting agent between each person when areas are touched.
  - iii. The courtroom areas are cleaned with a disinfecting agent between each user of equipment.
  - iv. The doors into each courtroom will be propped open during ingress and egress to minimize touch. Further, the doors will be wiped down with a disinfecting agent between each session and hearing within that room.
  - v. The clerk's office currently cleans the counters at least every hour or more frequently if there are several visitors to the clerk's office at once.
  - vi. Restrooms are cleaned daily by the custodial staff, as is the rest of the courthouse. The County will be alerted to have staff available to clean and monitor restrooms every two hours in addition to any high-traffic areas where public/jury may be present. Cleaning will include sanitizing handles, doorknobs, sinks, and such areas that require a physical touch.
  - vii. Custodial staff will clean/disinfect courtrooms in between each wave of jury pools and after each in-person hearing conducted.
  - viii. Hand sanitizer has been placed in each courtroom, within public areas of the courthouse and in all employee areas.
  - ix. The clerk's offices and counters will be cleaned and disinfected every two hours and the counters will be wiped down after every interaction with the public. Cleaning materials and sanitizers will be at each counter. The clerk staff with public contact will work behind a glass window (two counters) wearing masks and gloves. All court staff will wear masks unless working inside an office alone.
  - x. Trashcans are readily available and visible within each courtroom and public areas within the courthouse. Tissue boxes, cleaning wipes and sanitizers are available in all courtrooms, clerk's office area, and in public areas.
- g. Staffing
- i. All staff are mandated to wear masks while in the building public areas. Those that are in cubicles are mandated to wear masks the entire time.
  - ii. Employees that have contact with the public are encouraged to wear gloves, use hand sanitizer and wash hands frequently.
  - iii. Staff work areas are separated to ensure that staff are maintaining a minimum of 6 feet apart.
  - iv. Each court division has been placed on a rotating telework schedule to the best extent possible and still maintaining the functionality of the court. Telework will be allowed so long as the needs of the court can accommodate the rotating schedule. High-risk employees will continue on a telework schedule to limit potential exposure for any period of significant risk.

- v. Supervisors will continue to monitor their department employees on a daily basis and will inquire whether they can answer all of the questions assessing the COVID risk in the negative.
- vi. Any staff that presents themselves as ill will be sent home immediately. Their area will be cleaned and they are not allowed to return until they are in compliance with return to work protocols of the Supreme Court FAQs. Any staff that have been exposed to a COVID positive case will be handled in compliance with the protocols of the Supreme Court FAQs. This information is reported as required by the ERT and Supreme Court.
- vii. Staff also have the use of a separate secured entrance for the morning ingress to limit the contact with others.

h. Filing

- i. Those litigants that have attorneys are continuing to utilize e-filing. Lower court appeals, sequestered cases and DV cases with attorney representation are filed by mail or fax.
- ii. Filings by self-represented litigants with non-emergency filings are being accepted by fax, email or mail.
- iii. Emergency filings such as DV, TRO, or emergency motions are allowed to be done in person with the clerk provided the following is adhered to (1-4).
  - 1. Everyone filing in person has to be masked
  - 2. There is a glass partition between the litigant and the clerk
  - 3. The counter is cleaned at least hourly or in between use.
  - 4. Hand sanitizer is available for use as well.

i. Appearances

i. In-Person

- 1. A motion (or written request such as email) for in-person appearances must be filed if the request is on behalf of a party where a remote proceeding is not possible or practical. These requests are approved or denied by the Chief Judge by order based on the following criteria:
  - a. whether a remote proceeding is technically possible or practical, and if so, whether it will serve justice and the interests of the litigation;
  - b. whether in-person appearances will allow the court to continue in compliance with the COVID precautions including spacing, considering the court's dockets for that time and date; and
  - c. whether there is any reasonable alternative that is available such as telephone, a waiver of appearance, etc.
- 2. Appearances to appear in-person for arraignments, critical criminal hearings, or related matters will be reviewed by the Chief Judge under the criteria stated, including any constitutional considerations presented.
- 3. Judges can request on their own initiative in-person appearances from the Chief Judge. Those requests are approved or denied verbally.

ii. Remote Appearances

- 1. Remote appearances shall be conducted in accordance to Supreme Court Order. The remote accessing will be conducted by Google Meet. In compliance with

open court access, the public and press can request the Google Meet information to join the hearings. The phone number and access pin will be placed on the Odyssey docket so that any clerk can easily convey the information to any member of the public where public access is allowed.

2. If a Pro-Se litigant is unable to appear through Google Meet, in-person or telephonic requests can be requested. To date, this has not been an issue.
3. Schedules have been created to accommodate all criminal video appearances with the limited resource of IT equipment within the courthouse and the available room at the detention center for in-custody defendants.

## **2. Docket Management and Scheduling**

### **a. District Court**

- i. All case types and hearings will continue remotely via Google Meet, except for jury trials. In-person appearances will be handled as outlined above.
- ii. An order has been entered naming a Docket Manager for the District Court. The Docket Manager will continue to work with, coordinate and provide advice for the use of video appearances by in-custody defendants at detention facilities. This includes coordinating and scheduling in-custody appearances with the Third Judicial District Court's calendar of fixed trials and hearing dates for probation revocations, pretrial detention hearings, etc.
- iii. In coordination with the local Detention Center, the TCAAs, and paralegal (Melody Longwill) have been calendaring reserved courtrooms and assembly rooms (not all courtrooms can accommodate a 12-person trial). The Docket Manager will strive to eliminate any potential conflicts in the schedules.
- iv. Grand Jury
  1. Grand Jury has been resumed as of April 2<sup>nd</sup>, see Grand Jury section at the end of this plan.
- v. Domestic docket

The Domestic Violence docket will minimize the number of in-person appearances for that period. Through the end of July 2020, all hearings in front of the Domestic Violence Special Commissioner will be held via Google Meet unless the parties have been granted special permission to appear in person by the Chief Judge to appear in person. The plan for the foreseeable future as far as hearings in front of the Domestic Violence Special Commissioner is to stagger the docket, scheduling hearings no closer together than one hearing per every 15 minutes. Where multiple hearings involve the same parties, they will be scheduled during the same time block.
- vi. Court reporters

The role of the court reporters and court monitors in jury trials will be determined by the decisions made regarding the logistics of those hearings and trials. The priority of assignments would be:

  1. Court reporters assigned to all jury trials where possible;
  2. If we don't have enough reporters to cover all trials, then a monitor would be assigned to cover a jury trial and the assigned Judge and counsel will be advised before trial;

3. The priority for assigning a court reporter would be first-degree felony cases, lengthy or complex civil cases, then lower-degree felonies and less complex civil cases. For example, a DWI case or a shoplifting case could easily be covered by a monitor.

b. Magistrate Court

- i. The court manager at Magistrate Court has taken control of the entire docket and schedule. With this control, the possibility of a scheduling conflict or over scheduling is minimized.
- ii. The court manager has also been named as the Docket Manager at the district court. This is most effective to guarantee no scheduling conflict exists for the Detention Center's one room that is utilized for remote accessing.

c. Backlog

- i. During the COVID restrictions, and while some restrictions are lifted (with the exception of spacing), the trial backlog will be addressed as follows:
  1. Criminal trials will take priority: We have two criminal divisions and the respective courtrooms may not be adequate to conduct 12-person trials. Alternative large rooms will be utilized such as grand jury room, the ceremonial courtroom, jury assembly room #2, etc. A non-criminal docket will be relocated to the extra courtroom #9 if the ceremonial courtroom is needed for trial.
  2. Domestic violence, child support, and time-sensitive criminal hearings will be set with equal priority. The courtroom space for these hearings appears adequate at this time.
  3. Given the spacing limitations, the remaining dockets will continue with remote access. Civil jury trials will continue but their scheduling will be considered and coordinated with the scheduling of the criminal trials with the objective to minimize entry into the courthouse where possible, and also maintain appropriate distancing. The Docket Manager and the Judges along with their TCAAs will coordinate each month's scheduling of trials to accommodate the dockets and avoid having too many trials in one week going on at the same time. In addition, the staffing available will also be considered to determine whether the staffing is realistic for two, three or four trials in any one week. The Third currently has only five (5) bailiffs for eight (8) judges.
  4. For requested hearings that have been delayed due to COVID, they are and will continue to be reset further into the calendar as time allows. Currently, emergency type hearings are set on emergency or expedited calendar. All other requests are set in accordance with what is available on the calendar for that particular judge.

### 3. Jury Trials

a. Notification

- i. Normal jury notifications have resumed. Prescreening potential jurors has become too labor intensive. With the normal procedures we are able to select a panel.

b. Selection of Jury

- i. Courtroom 1 will be used for selection due to the limited staff required to coordinate the ingress, seating, spacing and egress of potential jurors. Depending on the calendar, other courtrooms may be utilized if they can accommodate a 12-person jury trial (Courtroom 6 & 7).
- ii. “Rolling Waves”. Panels of 26 potential jurors will be brought into the courtroom up to four times during the day. These panels will appear at 8 a.m., 10:30 a.m., 1:00 p.m., and 3:30 p.m. If enough persons are selected in the morning panels, the afternoon panels will be cancelled. Rolling waves of jury panels will avoid the potential of mass gatherings and also, of overwhelming the district court when it has limited staff to handle multiple jury trials on the same day.
- iii. The responsible Judge will contact counsel in advance of jury selection to advise them of the process (and allow for participation in mock trials). The responsible Judge will move jury selection in a timely manner so that no jury panel is left waiting for too long.
- iv. These panels will be seated in the gallery utilizing marking tape to designate social distancing that we have increased to 6.5 for extra precaution.
- v. All panels will be screened in our primary screening and skip secondary screening.
- vi. If a potential juror willfully refuses to wear a mask, they will be identified and information recorded. They will be sent home with the instruction that an Order to Show Cause will be issued.
- vii. Judges shall notify counsel prior to the Jury Selection of the voir dire time frame and limitations, at the judge’s discretion – voir dire and selection should be completed in 1 ½ hours.
- viii. Bench conferences requested by jurors during jury selection will be done in the Jury Room individually, and at the end of the voir dire by counsel.
- ix. Jury Division will send notice via electronic means (email and or text) if selected and will also notify those not selected. Jury Division may give instance notice on the same day.
- x. Certificates of Attendance will be emailed the same day and/or send via US Mail

c. Trial Day

- i. Jurors will enter the building through a separate north entrance and will be screened as they come in with the same screening questions presented in Safety above.
- ii. Staff member(s) will meet the jurors and escort them to the courtroom and maintain the required social distancing during the escorting. Jury bags containing 2 masks, sanitizer, pen, writing pad will be given to each juror the first day of trial.
- iii. Seating has been set-up in Courtrooms 1, 6 and 7 to accommodate a 12-person jury with two alternates (one alternate in courtroom 7). There are diagrams attached at the end of this document of each of these courtrooms showing the seating for all parties involved and maintaining a minimum of 6 feet social distancing.
- iv. Seating has been designed and marked within the used courtrooms to accommodate interpreters, bailiff, and security. (See attached diagrams)
- v. Judges shall ascertain from all counsel if they believe they cannot proceed to trial for any reasons at the earliest possible moment.

- vi. Judges shall repeat the screening questions on a daily basis prior to the trial as a reminder to report any illness experienced while in court that was not present at initial screening.
- vii. There will be a limit of 2-3 persons at each counsel table spaced 6 feet apart; the front gallery seating or jury box may be used if necessary.
- viii. Court staff shall sanitize all microphones after each use
- ix. News media to share video feed – only one newsperson allowed. Where a case is of high public interest, a separate courtroom or room will be set aside and equipped with a video to telecast the proceedings of the subject trial. The 6-foot spacing will be observed and sanitation procedures as discussed herein will continue while the space is being utilized. All members of the media and public will wear facemasks and practice social distancing.
- x. No photos will be allowed without permission of the Chief Judge
- xi. If juror refuses to continue to wear a mask – they will face contempt procedures as indicated.
- xii. Every judge will limit opening statements and closing arguments based on the complexity of the case as the Judge directs. Counsel will be allowed to utilize the podium in the courtroom if spacing permits. The podium will be placed with adequate social distancing and will be cleaned between each speaker.
- xiii. The Elmo stand will be used for questioning. It is placed with appropriate social distancing and will be cleaned between each user.

d. Confidential Communication during Trial:

- i. Parties and their attorneys will be seated at the same counsel table with an effort at maintaining a distance of 6 feet. The parties and counsel will need to wear facemasks. Private communication between counsel and their litigant can be achieved by text messaging or email with advanced approval from Chief Judge for the use of electronics in court. Counsel will be responsible for providing the electronic devices for communication. The court will ensure that criminal defendants continue to be able to meaningfully assist in their defense despite COVID-19 precautions. Any particular issue or problem anticipated should be brought to the attention of the Judge prior to trial.
- ii. If text or email messaging is not possible, counsel may communicate with their clients through note writing. In this case, counsel and client may consider wearing disposable gloves, handing the note or notepad to the center of the table, and the recipient will then reach out and gather the note or notebook to his/her seating area. Where necessary, the Judge may recess the trial to allow counsel and client to speak in the adjacent jury room.

e. Deliberations:

- i. Multiple locations have been identified as able to accommodate deliberations and have been clearly marked to accommodate social distancing. These three locations offer access to a restroom without interaction with the public.
  - 1. Multi-purpose room
  - 2. Grand Jury Room
  - 3. Courtroom currently holding the trial and everyone else exits



- ii. Meals provided during deliberations meals sealed in individual packaging, and handed out by bailiffs while wearing appropriate PPE.
  - iii. Bottled water will be given to avoid touching the same dispensers.
- f. Exhibits
- i. Parties should “meet and confer” about exhibits and stipulate if possible, otherwise the Court will need to consider a pre-trial hearing to pre-admit exhibits.
  - ii. Counsel are directed to communicate and agree to a set of “stipulated exhibits”.
  - iii. These exhibits should be emailed or scanned to the Judge’s TCAA to accept as stipulated and placed in a notebook.
  - iv. Exhibits that are not stipulated to should be separately submitted to the Court (electronically as much as possible) three (3) business days before trial as “proposed”. Where there are a significant number of proposed exhibits, counsel should ask for a pretrial hearing to determine admissibility.
  - v. Original documents may not be submitted to the jury if an agreed and electronically produced copy is sufficient. This same process should follow with other documents such as proposed jury instructions and stipulated jury instructions.
  - vi. Copies of exhibits should be exchanged between counsel prior to trial.
  - vii. During trial, rather than hand out copies, counsel should only use the Elmo to show the jury any exhibit.
  - viii. No exhibit books for the jury to use during trial will be accepted from the outside, unless counsel submits a notebook 14 days in advance of trial. One exhibit will be sent to the jury room for using during deliberations. This one exhibit book will be prepared in advance and “sanitized” prior to being sent to the jury room. If the jury request additional exhibit books, copies will be made and provided by staff.
  - ix. Gloves will be worn by bailiffs when exchanging documents with counsel or handing anything to the jurors. Gloves are not a substitution for hand washing and sanitizer use.
- g. Witnesses
- i. To control the number of persons within the courthouse and courtrooms, witness shall be called on an “as needed” basis.
  - ii. For example, counsel should not call their 5 morning witnesses at 8:00 a.m.; the witnesses should be staggered and requested to come in close to the time the prior witness is expected to finish.
  - iii. The witness box will be cleaned between each witness.
- h. Bench Conferences
- i. Bench conferences with need to occur in an adjacent room. A wireless mic that feeds directly to the court’s FTR will be used so that a record is made.
  - ii. If a court reported is utilized, the court reporter can transfer her/his equipment into the adjacent room.
  - iii. Since multiple bench conferences will take an inordinate amount of time from the trial, Judges will limit bench conferences to “necessary” requests that cannot be avoided.

i. Public and Press Viewing

- i. Most courtrooms will accommodate some number of the Public. Where a case is high profile, the Presiding Judge is to set up arrangements so that the Public (and Press) can view the trial from a separate viewing area through video access. These arrangements should be made at least a week prior to trial, and announcements should be posted outside the Courtroom doors to direct the Public and Press to which courtroom or viewing room they can go to watch the trial by video. The Press will still need written approval from the Chief Judge to bring in cameras or to do a “live feed” with video equipment in the courtroom where the trial is being held.
- ii. Victims will be allowed to attend trial in person unless circumstances such as disruptions or space limitations would compel their viewing the trial through a separate video feed with the Public. Staff personnel will be stationed outside any separate viewing area to insure that potential witness do not enter. Where there is a likelihood that a particular trial would not have any public interest in viewing, the presiding Judge may invite the Public to attend via Google Meet with the sound to the courtroom muted. Advance posting or notice on the Court’s website would be provided to the public with a Google Meet pin number, once it is determined that a specific case will proceed to trial.

j. Mock Selection

- i. A mock jury selection/trial is scheduled on June 17<sup>th</sup> to orient all district court staff on their role in selection and secure that the flow and plan is functional as well as no minor details have been missed. Private attorneys, the District Attorney and Public Defender have been invited to attend and provide input. A mock jury selection/trial was held in magistrate court on May 28, 2020. Adjustments are made to the transitional plan where appropriate based on the mock jury trial results.

k. Recesses

- i. If the jury is released to a separate room during recess, two court staff members may be assigned to assist the Jury at each recess location outside of the courtroom that is still within the secured areas of the courthouse.
- ii. Any juror requesting the use of a public restroom will need to be escorted by a bailiff who will ensure that the public restroom is cleared before the juror(s) enter. The bailiff will remain at the entry door during the time the juror uses the restroom to ensure no one else enters the restroom. Upon completion, the juror will be escorted back to the jury assembly room by the bailiff. Alternatively, if there is an adjacent courtroom that is empty, the juror will be escorted to that courtroom’s jury room(secured area) to use that restroom.
- iii. Jurors in the Grand Jury room (secured area) have two restrooms that are accessible from within.

l. Calendaring

- i. Two weeks before each trial or trial docket each judge/TCAA will have review their calendar and confirm with the calendar paralegal (Melody Longwill) that the trial dates or dockets are firm including whether it is a 6 or 12-person jury trial. Melody will maintain a master calendar and will calendar the following:

1. Courtrooms: it is the judge's/TCAA's responsibility to reserve a courtroom for a 12-person jury by coordinating with the resident judge for the use of his/her courtroom. This would include a "switch out" with the resident judge's courtroom for the period of the trial. Once confirmed, the trial jury TCAA will inform Melody who will calendar the trial for the appropriate courtroom, including any switch outs.
2. Jury Rooms/Deliberations: the use of any other room as a jury room will also be calendared with Melody. This would include the use of the Grand Jury room, or other alternative room, if necessary.
3. Any conflicts in calendaring or the use of physical space will be worked out between the respective judges and Melody. If the conflict persists, it will be directed to the CEO and Chief Judge for resolution.

m. Backup Docket

- i. The criminal dockets in the Third operate on trailing jury dockets. A number of cases are called to the docket, those that are ready will proceed in a numbered order. If case #1 is plead out, than case #2 proceeds to trial. If case #2 announces that it must be continued for some unavoidable reason, than case #3 proceeds to trial. This process is continued for all criminal trials that are ready for trial.
- ii. The civil jury trials are set on a docket date 35 days before trial. If a civil case settles prior to trial, TCAA's will fill the jury trial dates that have been vacated with hearings in other cases. There is a backlog of hearings that can be accommodate, often with only 1 days' notice.

n. Security

- i. The sheriff's office onsite security is always involved with all scheduling and staffs appropriately for in-custody and out of custody in-person appearances. This will continue upon resumption of jury trials. A minimum of 2 deputies are in the courtroom during criminal trials.

o. Miscellaneous Considerations

- i. In-custody defendants will not be moved into any non-secured areas of the courthouse other than the assigned courtroom.
- ii. Physical setup of each courtroom has been rearranged to guarantee social distancing and that jurors cannot see notes or computers on attorney's desks.
- iii. Each juror movement within the courthouse should be minimized to within their perspective jury room and restroom. Juror movement onto the "green mile" should be prohibited unless the jurors are arriving, departing or during an emergency occurrence.
- iv. All juror should be escorted by the bailiff at all times, especially within the secured areas.
- v. Transport Orders should only be completed for cases that are essential for in-person appearances.
- vi. Consolidation with magistrate court on sharing trial resources. The district court already shares its jury division with magistrate court, including staff to attend to magistrate jury trial. This setup will continue through and beyond the COVID period.

In addition to sharing jury division staff, the district court and magistrate court exchange clerk staff where assistance is needed. Where necessary, the district court will make available its courtrooms and/or equipment for use by magistrate court.

p. Interpreters:

- i. The TCAA for the responsible Judge will contact the Interpreter's office to arrange for the presence of interpreters at trial. If not appearing remotely, the Interpreters shall remain 6 feet from all participants in the courtroom including the person requiring the services. Consideration will also be given for NES jurors, witness, or family members will be in attendance at trial and may need interpreter services. Staff will be responsible for disinfecting equipment belonging to the district court, and Interpreters will disinfect, install and retrieve their own personal interpreter equipment.

#### **4. All Other Hearings**

- a. Hearings for in-person and remotely will be conducted in accordance to the Supreme Court Order.
- b. Any in-person hearings will require approval from the Chief Judge as outlined previously in this document.
- c. These hearings will be conducted on a staggered schedule instead of a trailing docket.
- d. The Court Clerk's Office will keep the Domestic Violence Special Commissioner's schedule up-to-date in Odyssey so that the bailiffs, Court Security, monitors, and other necessary staff are fully aware, apprised and informed of any potential conflicts concerning the Hearing Room B.
- e. Only two trials can be heard during the same period.

#### **5. Resources**

- a. With certain accommodations and adjustments, the Third Judicial Court has all of the resources necessary to fully implement this plan.
- b. Supplies for cleaning, sanitizing and PPE have been currently provided through AOC and the ERT. Future supplies are the responsibility of this court.

#### **6. Other Topics**

- a. The Third Judicial Court has and will continue to post information on the website.
- b. Media and public information. We will develop Press Releases that will be distributed to local media outlets, email blasts to the CJCC, State Bar, local professional social media sites and use of the AOC Communications team for press relations. When orders, plans or directives require public dissemination, we will additional post the matter on the Third Judicial District website.
- c. Magistrate Court is using the same process for selecting jurors. They are running a selection every day until they can clear their backlog and cannot share space or jury pool. The Court Manager has full control of the schedule to meet all requirements of number of

persons in the room while maintaining social distancing. Magistrate Court will submit a separate transitional plan.

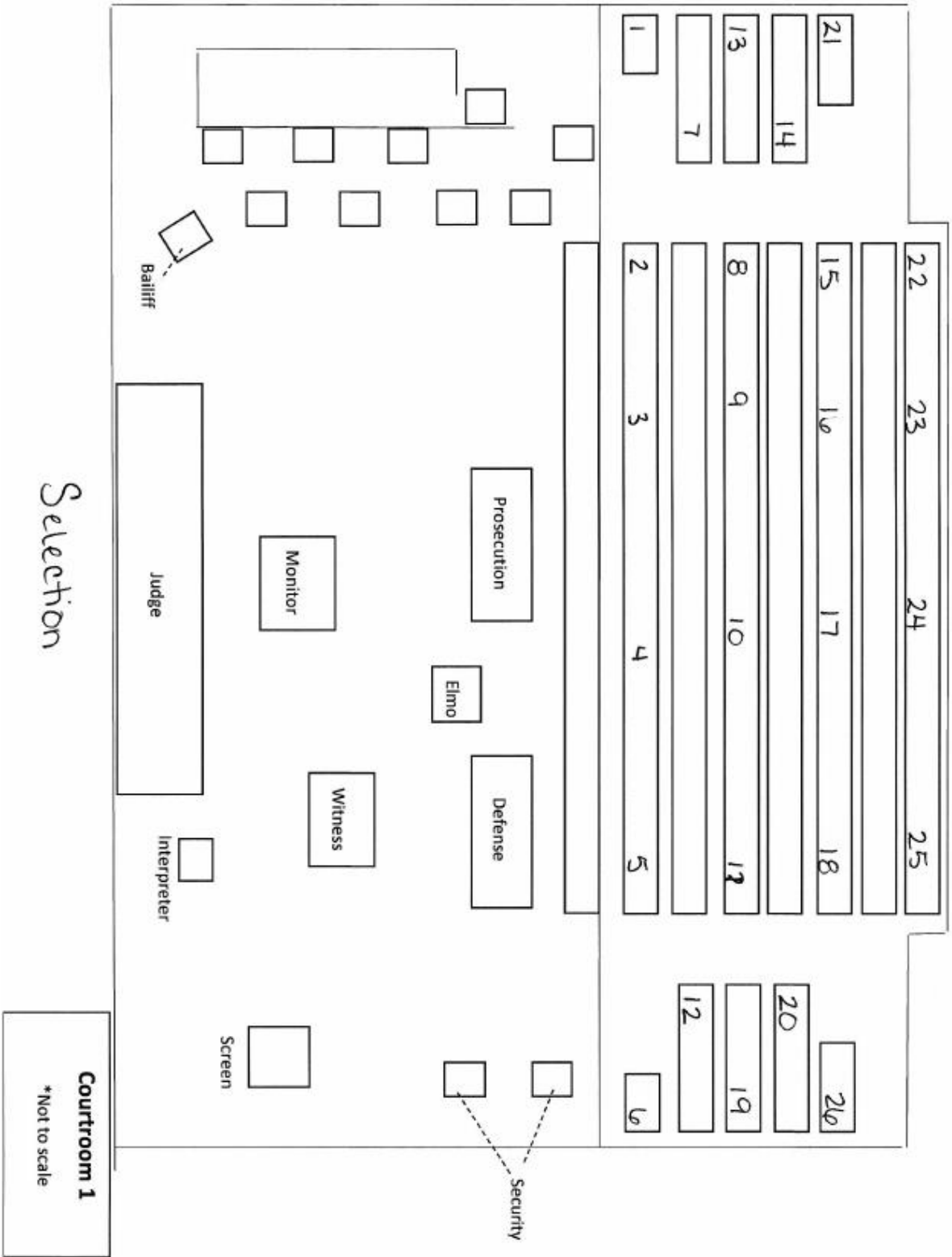
- d. Personnel limitations affecting trials: Currently, the Bailiff staff consists of 5 FTEs. Given the necessary adjustments for the COVID period regarding jury empaneling, courtroom spacing requirements, and other on-going matters that will require the use of Bailiffs (such as Domestic Violence, Abuse and Neglect, Arraignments, etc.), the Third Judicial District anticipates that only two (2) jury trials can take place at any one time. Criminal jury trials will need to be given priority. Each criminal jury trial will necessitate at least two (2) Bailiffs. Every effort will be made to obtain Contract Bailiffs to assist with other proceedings. For the months of July and August, if there are two criminal trials taking place in the same week, no other civil jury trials can be scheduled for that week. For any civil jury trial already set, the trial setting will need to be vacated. Civil jury trials can proceed if Contract Bailiffs are obtained, or if the responsible Judge makes adequate arrangements to obtain qualified court staff to serve as Bailiffs.
- e. Grand Jury
  - i. The court's current grand jury room is being utilized for a 12 man jury trial deliberation room. The court cannot utilize for holding grand jury hearing due to a lack of space to accommodate the 14 members, a monitor, DA or case agent (a minimum of 17 persons). This has created a need for a different location for grand jury hearings during COVID-19 restrictions.
  - ii. Location:
    1. To resume grand jury, Courtroom 8 will be utilized. Doing so would allow for the court to be able to control the people entering the building, ensure the security of the "target", allow for in custody "targets" to appear and detention/security officers to hold until "target" testimony.
    2. Courtroom 8 has been measured and marked and can accommodate, 12 jury members, a monitor, DA, defense attorney, witness and "target". This courtroom has a restroom that can be utilized by the grand jury members as long as there is not an in-custody "target, otherwise they will need to utilize the public restroom (this has been done in the past).
    3. There is a small conference room attached to Courtroom 8 that could be utilized by the DA assistance that would normally accompany them to grand jury. Additionally, Jury Assembly Room 2 and the seating area outside of Courtroom 7 and 8 will be using for waiting witnesses and/or out-of-custody "targets". The appearance of witnesses is rare, it is usually the case officers that appear. These cases presented are staggered every 15-30 minutes. While there is DV hearings held on Fridays, as well, those are held remotely 95% of the time. Those appearing in person for DV are sat in a designated waiting area separate from where witnesses or case officers would wait. Social distancing can be strictly maintained even with grand jury resumption and would not create any congestion within the areas of Courtroom 8 or the hearing rooms.
  - iii. Scheduling:
    1. This would be best to hold Grand Jury due to the limited hearings held on Fridays. Judge Jacquez will utilize a different courtroom on Fridays to accommodate the continuation of Grand Jury.

2. Based on the calendar of summoning, orientation will be held on March 26<sup>th</sup>.
- iv. Orientation for potential grand jury members:
  1. Orientation would need to summons approximately 700 potential jurors. Of the 700 summons sent a significant number result in non-appearance due to: death, no longer a County resident, non-residents, currently on probation/parole, age excusals, medical excusals, or undeliverable mail. This number may yield 160 persons to be able to appear for orientation/selection. As a result on just failure to appears, it is likely that we would only garner 100 of the 160 potential. In order to adhere to restrictions currently in place, we would need to do waves of 26 persons in Courtroom 1. Up to 4 waves will be held to select the required 30 grand jurors. We will need to select 30 grand jury members for a three-month service. In the event that the 30 are selected from the first 2 or 3 waves, several staff members will assist the jury division with calling the remaining waves to cancel them.
  2. Additionally, since orientation is scheduled on March 26, other judges will need to not utilize Courtroom 1 for their jury selection or trial. While zoom has been utilized in other locations, due to many of those summoned are in areas that internet access is either limited or non-existent it is not a viable platform for our court's use.
- v. Cleaning:
  1. During orientation and selection, the courtroom will be sprayed down between waves. The microphones used for questions/comments from potential jurors will have covers that are changed between each person.
  2. When grand jury hearings are conducted, the witness stand will disinfected between each person's testimony. Door handles and commonly touched surfaces will be wiped down at least every 2 hours, if not more often. Cleaning supplies, well as, hand sanitizer and masks will be available within the courtroom. The County will spray the room down during the lunch hour and before 7 A.M. the following Monday to ensure proper sanitizing. We can also arrange to have electro-static disinfecting completed at least monthly. Upon Judge Schultz's return to the courthouse, we will ensure that the courtroom is electro-statically (on top of the routine cleaning protocols) disinfecting the day prior to ease any concerns.
- vi. Food & Drinks:
  1. No food will be allowed or brought in for lunch or dinner, this will ensure that jury members are not removing their masks for an extended period of time. Bottled water will be allowed and provided either by a bailiff or judicial specialist. Coffee will not be provided. It is imperative that the DA adhere to a stick schedule allowing for a lunch break and ending no later than 5 P.M. on these days.
- vii. Staffing:
  1. During orientation days, judges will need to limit the number of situations that would require at least a bailiff. A minimum of 3 bailiffs are needing during the orientation/selection process. If this is not possible, other staff will need to be designated to assist with check-in and seating.
  2. Also, coordination of other judges dockets will need to occur to ensure that we have a monitor/reporter to cover all the responsibilities. The "docket manager" will require that some judges adjust their schedules to ensure availability of staff for each docket.
- viii. Process:

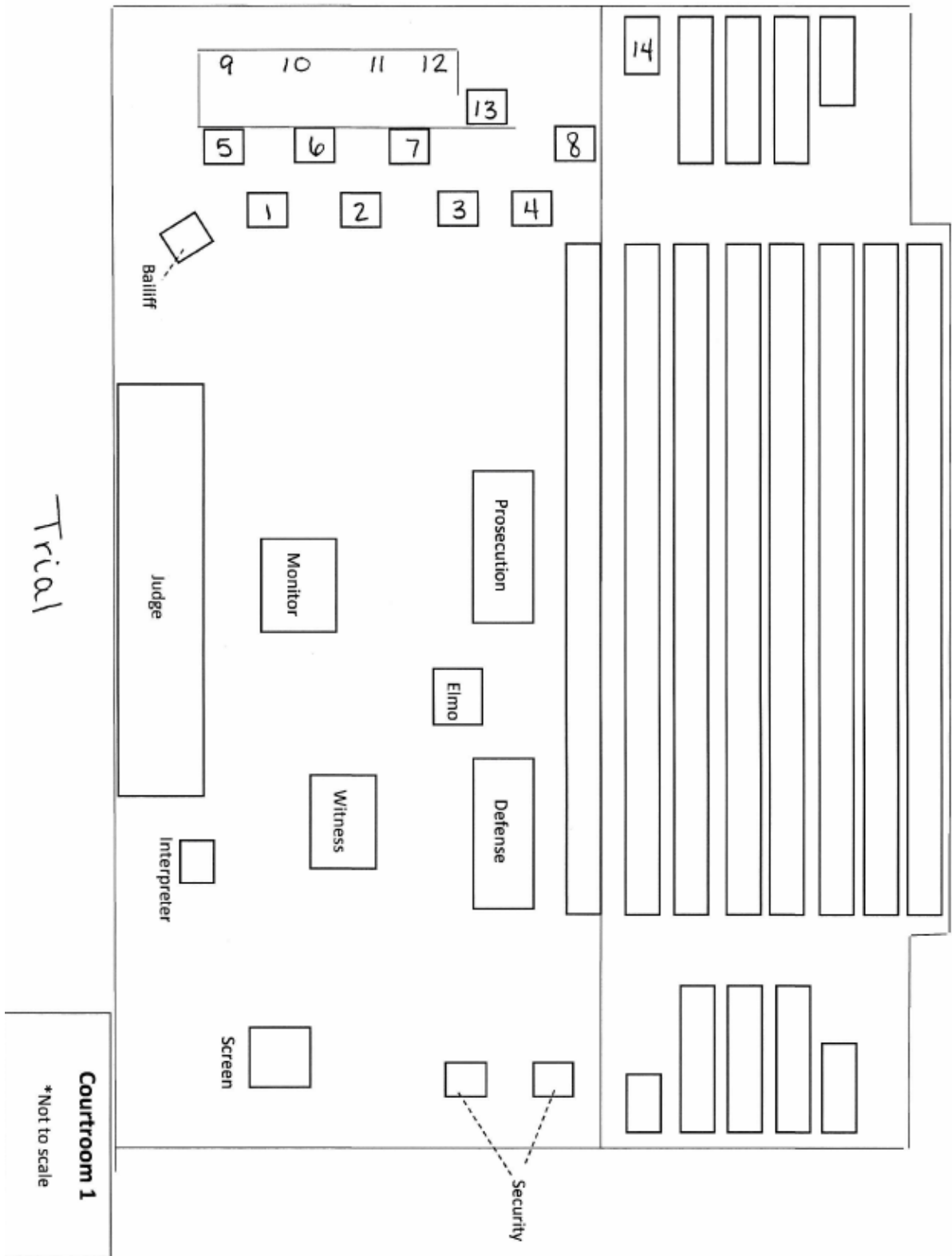
1. The day before Grand Jury Day, the jury division will contact the jurors and ask the screening questions, this will help assess if an alternate needs to be brought in the next day. An online screening tool will be available for jurors (with internet access) to complete the day before, thus giving us some time to call in an alternate. Not all jurors may have this access depending on the technology they have at home but may reduce the number of phone calls completed.
  2. The day of Grand Jury Day, jurors will, again, be asked the screening. They will proceed through security check consisting of the walk-thru metal detection and items through x-ray. They will then be directed to Courtroom 8 and given their assigned seat.
  3. In the event that a juror calls in that morning or doesn't show up, the Jury Division will call in an alternate.
  4. If a juror has a question of the witness, they will ask the question out loud then the foreperson will repeat it into the microphone so the FTR system is able to pick it up with clarity.
  5. The attached schematic shows where each person involved in this process will need to be seated. The foreperson will sit at one table with the remaining jurors in the gallery benches and marked chairs. The defense will be at the other table. The DA will be at the lecture when presenting and then in the TCAA seat when not presenting. The court monitor will be in their normal position. The witness will be in the witness box and the "target" will be in the jury box.
  6. After testimonies, everyone except the jurors will exit the room and retire to the sitting area, small conference room, or Jury Assembly Room 2 all while maintaining social distancing. One person will be designated to wait for the knock outside the courtroom.
- ix. Interpreters:
1. In the event that there is a NES juror, an interpreter will be needed. This will need to be an in-person translation event.
- x. Considerations:
1. While virtual appearances have been occurring often with most hearing, it is in the best interest of the integrity of the hearing to prohibit any remote appearances.
  2. Due to Prelims being heard on Fridays at Magistrate court, there may be a scheduling issue for in-custody "target" appearances and the availability of court monitors to cover both. The District Attorney's office will be advised to split of 3<sup>rd</sup> and 4<sup>th</sup> Felonies being under a prelim and 1<sup>st</sup> and 2<sup>nd</sup> Felonies under grand jury. While we understand the importance of limiting the number of persons within the building. For the purpose of Grand Jury, transportation of in-custody "targets" to the courthouse for their testimony will be allowed.
- f. Drug court.
- i. all Surveillance Officer have been fully vaccinated for Covid-19
  - ii. Home Visits: Surveillance to resume in-home visits and perform observed urinalysis specimens, considered the gold standard for drug testing in Drug Courts. The following will be the safety protocol for conducting visits. Surveillance Officers will:
    1. Ride at a maximum of two officers per vehicle to conduct home visits always adhering to the 6 foot distancing including in the vehicle;

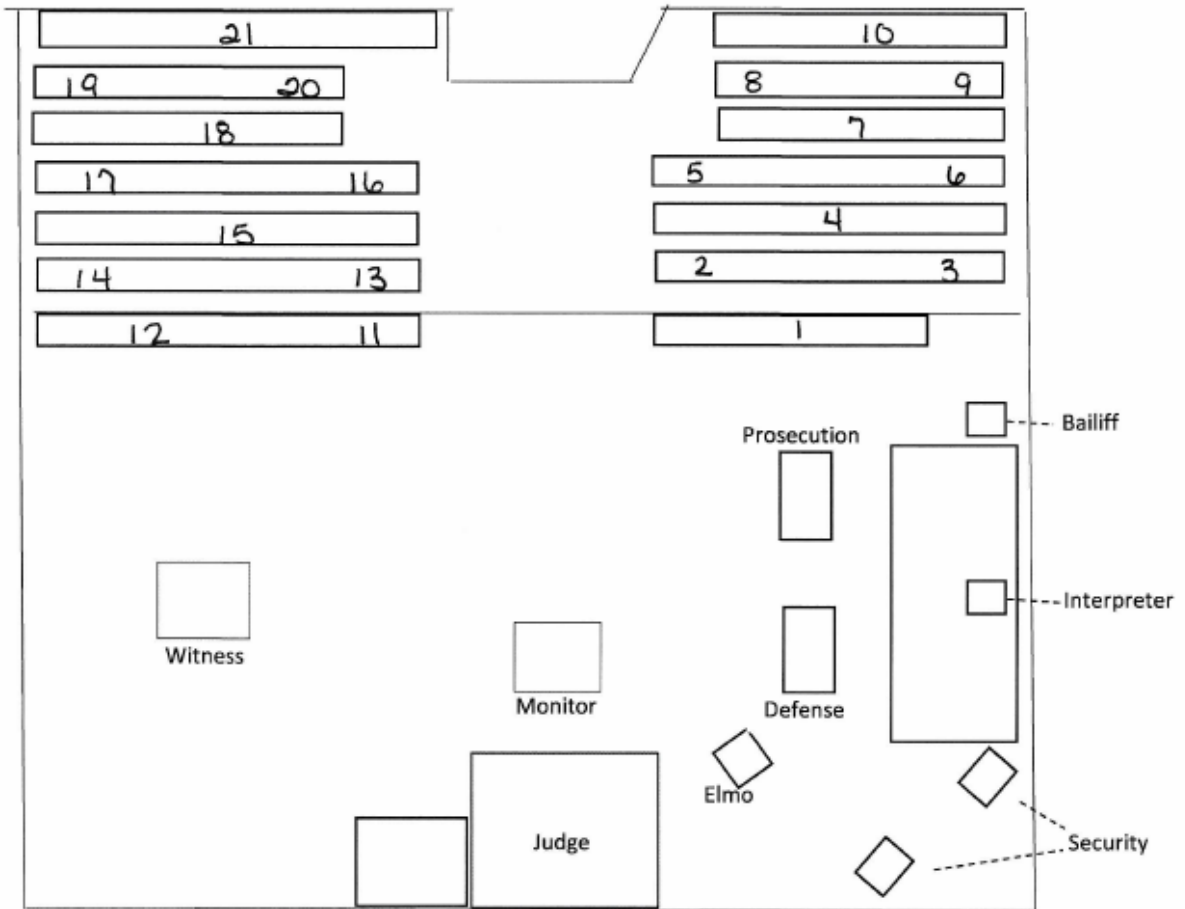
2. Have testing documents prefilled and ready for the client and officer to sign, immediately upon collecting the urinalysis, with the intent of shortening the time inside of a client's home;
  3. Call the client prior to the visit to advise him/her of the visit with intent to collect a urinalysis;
  4. Ask the Public Screening questions as provided by the Supreme Court ERT;
  5. Instruct the client to drink a glass of water in preparation for the test and proceed to the home, if the participant passes the screening questions. (If the client does not pass the screening questions, surveillance will recommend that the client receive Covid-19 testing and will not proceed to the home until receiving further direction from the program manager);
  6. Upon arrival at the participant's home, place a new pair of disposable gloves on;
  7. Place a double mask in accordance to the FAQs as set forth by the Supreme Court;
  8. Swiftly, but efficiently observe and collect the urine specimen;
  9. Obtain signatures for chain of custody requirements;
  10. Exit the home and immediately remove the disposable gloves, placing them in a sealable disposable bag;
  11. Use sanitizing products on hands and on all other touched surfaces within the vehicle.
- iii. If there is a concern from a report regarding potential for Covid-19 exposure, the Surveillance Officers will provide the client with a Sweat Patch testing device and will provide verbal instructions and will observe the placement of the Sweat Patch by the client while maintaining a minimum social distance of six feet.
- iv. Saliva test may be used on occasion, when a client is unable to provide a urine specimen or as additional testing. Surveillance Officers will use the same procedure as noted above for collecting saliva specimens.
- v. Due to the nature of breath-analysis, the Drug Court programs will refrain from using this type of testing until all Covid-19 restrictions have been lifted.
- vi. Court Sessions
1. In-person session will resume with five participants in the courtroom at one time.
  2. All participants will be seated throughout the courtroom to ensure social distancing.
  3. Juvenile Drug Court sessions will bring two participants and their parent/s in at one time.
  4. All other participants will be asked to wait in their vehicle until the assigned Surveillance Officer escorts the participant into and out of the courthouse.
  5. Facemasks and gloves have been purchased and will be assigned to all participants for their use when attending in person.
  6. Participants will be asked to double-mask.
  7. Participants who are sick or under quarantine will participate via Google Meets.
- g. Employee illness. In order to avoid infection, each supervisor will monitor their staff daily for visible signs of illness. Staff is aware of the protocol for experiencing COVID symptoms (self and family), including the necessary quarantine for out of state travel. Telework will only be allowed as approved by the Administrative Authority and copy of the form has been sent to Chief Justice Vigil through the ERT.



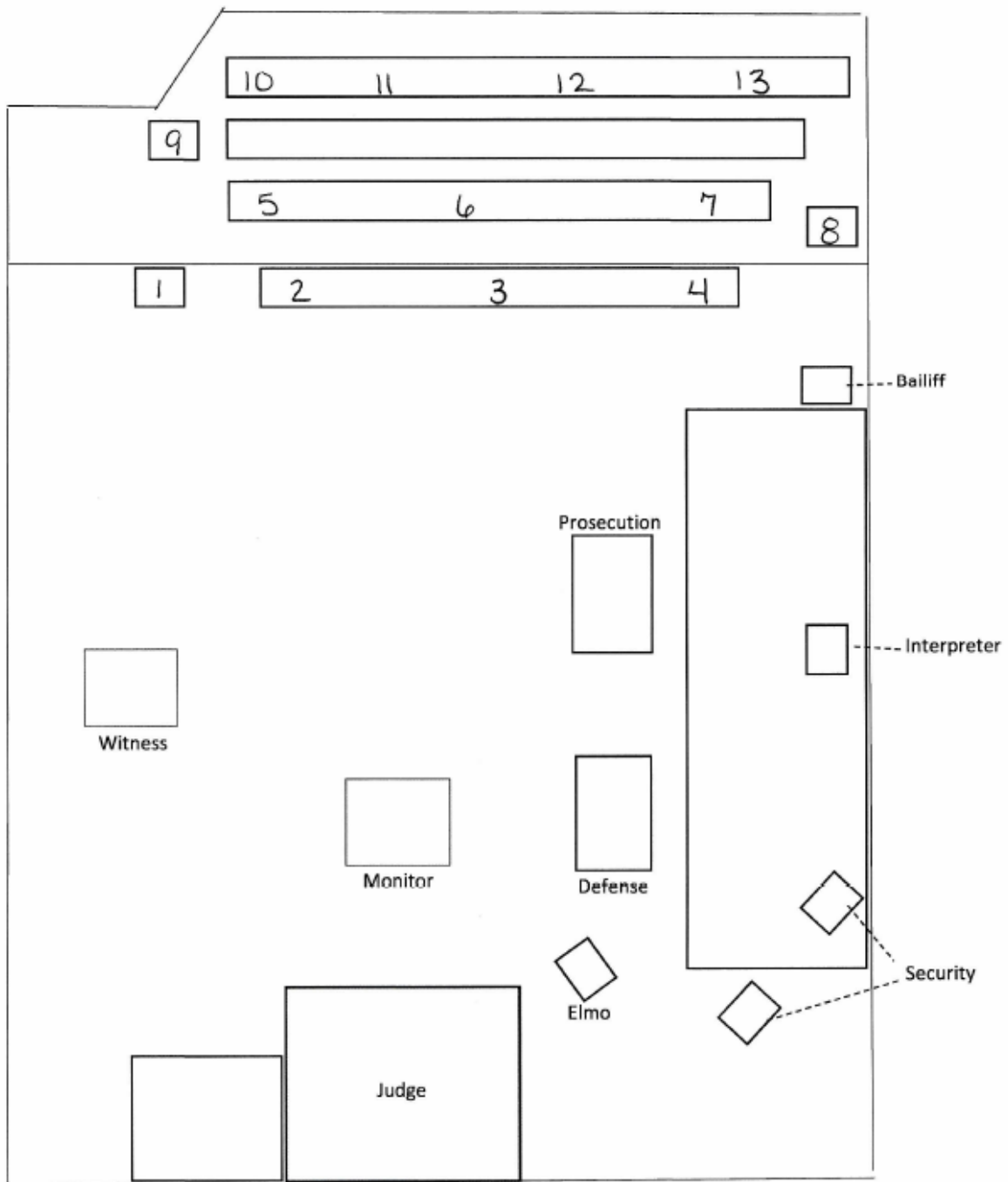


Selection

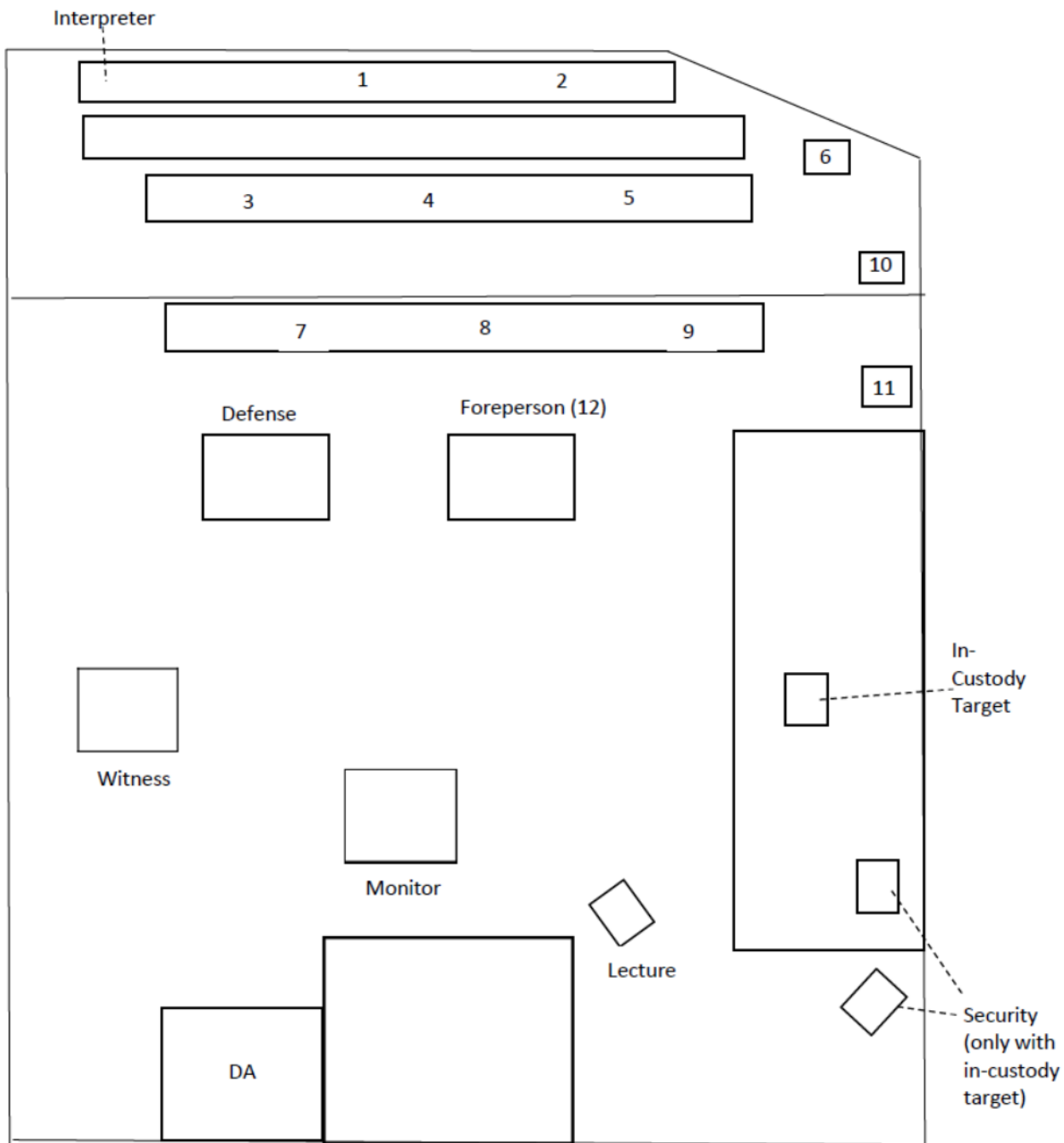




**Courtroom 6**  
\*not to scale



**Courtroom 7**  
\*not to scale



**Courtroom 8**  
\*not to scale

All positions within the room will  
maintain social distances