

**Operating Plan, Procedures and Practices for Jury Trials and Other In-Person Court Proceedings during the 2020 Public Health Emergency and Pandemic-COVID-19 Pursuant to Wisconsin Supreme Court Orders of May 22<sup>nd</sup>, 2020**

Effective Date: \_\_\_\_\_

The Circuit Court for Jefferson County  
Jefferson County Courthouse  
311 S. Center Avenue  
Jefferson, WI 53549

Submitted by:  
Hon. Bennett J. Brantmeier

**I**

**PURPOSE**

To establish practices to ensure the rights of all parties and the public who come before the court, while recognizing the extraordinary public health concerns regarding the COVID-19 pandemic. The court will develop practices designed to attempt to avoid exposure and infection of jurors, litigants, attorneys, witnesses and court staff through interpersonal contact in a jury trial or other court setting. These procedures and practices are developed recognizing all constitutional and statutory protections to the litigants and interested parties as well as the public's right to access. While exercising discretion, it is not possible to ensure absolute safety, but reasonable and necessary steps can be taken to protect the health of all participants within the physical limitations the courthouse building and resource allocation available to the court and county. It is the intent of these procedures to instill public confidence in the Jefferson County Court System while providing for the public's safety. Furthermore, if deemed necessary, these policies will be strictly enforced by the Circuit Court to the full extent of its authority to reduce risk and promote the safety of all those who access the court system.

## II PLANNING SUBCOMMITTEE

On May 19, 2020, Presiding Judge William F. Hue entered an order “COVID-19 Circuit Court Operating Plan for Jefferson County” with “Addendum: Jury Trial & Operating Plan” (hereinafter “COVID-19 Order”) which established a committee of county stakeholders as follows:

- Judge Bennett J. Brantmeier (chair)
- Clerk of Courts
- County Administrator
- District Attorney (Designee)
- Public Defender (Designee)
- Sheriff (Designee)
- Corporation Counsel (Designee)
- Emergency Management/County Health (Designee)
- Maintenance Supervisor (Designee)

The purpose of the Stakeholder Committee formation created by Presiding Judge Hue was to further expand upon the Operational Plan by developing policies, protocols and to ensure communication regarding the safe resumption of in-person proceedings and jury trials in Jefferson County Circuit Courts. The Stakeholder Committee met via Zoom on Wednesday, May 27, 2020 and began the process of establishing policies and implementing the Supreme Court Order, entered May 22, 2020, to refine an operation plan for the safe resumption of in-person proceedings and jury trials for the review and approval of Presiding Judge William F. Hue and 3<sup>rd</sup> Judicial District Chief Judge Jennifer R. Dorow. The Stakeholder Committee continues to meet each Wednesday at 11:00 a.m. via Zoom to refine the Plan.

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## III

### PRESS RELEASES / JURY TRIALS

A press release shall be developed and sent to the official newspaper, county web pages, social media and other public sources to inform the public that in-person appearances and Jury Trials will be held during the COVID-19 Emergency and what steps and procedures are being implemented to address safety. The press release is intended to inform the citizens of the measures taken for public safety and to instill public confidence in the Jefferson County Court System.

## IV

### JURY DEFERRAL POLICY

Prospective ~~Juries~~ **Jurors** have always requested to be excused from jury service. The Circuit Courts have always made efforts to reasonably accommodate requests. Now, it is anticipated juror deferral request will include specific COVID-19 related issues. While recognizing a litigant's right to a jury of his/her peers, it will be the policy of the Circuit Courts to grant reasonable deferments or excusals if a summoned juror provides information that reasonably relates to the juror's underlying medical condition. Furthermore, summoned jurors who have a temperature greater than 100.0°F or otherwise experiencing COVID-19 symptoms will be ~~excused~~ **released for the day (with pay for reporting?)** before jury ~~service~~ **selection** begins ~~and given an alternate date to appear for their civic duty~~ **for the day and the balance of their service deferred.**

## V

### JURY ASSEMBLY

*(Clerk Hamre to provide)* (See "JUROR REPORTING" below)

VI

**JUROR SUMMONS AND INFORMATION  
PRIOR TO JURY SERVICE**

It is anticipated that summoned jurors will have more and varied questions and concerns about serving on a jury during this public health emergency. Requests to be excused may increase. It may be necessary to summons more prospective jurors than in the past to make sure there are enough to select a jury. Also, additional information will be provided with the jury summons, such as availability of court provided personal protective equipment (note\*: Addendum states, “masks, face guards, gloves, individual hand sanitizer in courtrooms and jury deliberation rooms), location of jury assembly, and what procedures are being taken to reduce exposure to COVID-19 while serving on a jury.

VII

**JUROR INFORMATION**

In conjunction with the summons, a letter will be sent to jurors explaining the precautions and planning that has occurred and remind citizens of their civic duty even during these difficult times **along with an additional form related to vulnerable population status**. Jurors will also be informed where to report and enter the courthouse to minimize contact and adhere to social distancing. Consistent with the “COVID-19 Circuit Court Operating Plan for Jefferson County and Addendum of May 19, 2020,” the following policy shall be applied uniformly regarding deferral and excusal of jurors due to the pandemic:

- 1) **A form will be sent with q**uestions will be asked to determine if jury meets definition of “vulnerable population”
  - a. Over 65?
  - b. Have a serious health condition
    1. High blood pressure

2. Chronic lung disease
  3. Diabetes
  4. Obesity
  5. Asthma
  6. Compromised immune system
- c. Further, that additional questions be asked relating to what accommodations are being requested by the juror (acknowledge “vulnerable population status but am comfortable serving given the protective measure described, excused, deferred, other.) This will likely allow the Court the ability to address the mass majority of the requests prior to the morning of trial.

Issues raised on the morning of trial will be addressed by the ~~The~~ Judge assigned to jury selection/monitoring will decide whether the juror can be excused, re-assigned to a later service date or accommodation can be made for the safety of the prospective juror.

## VIII JUROR REPORTING

Jury Assembly will vary depending on the number of jurors that need to be called per case.

- In 12-person (or larger) jury trials, both Jury Deliberation Rooms may be used in addition to the courtroom.
- In 6-person jury trial cases, jury assembly will occur in the courtroom with a single jury deliberation room used as needed.

Social distancing of at least 6 feet will be implemented and marked where ever possible.

Plexiglass will only be installed if social distancing cannot otherwise be accomplished and will include a “cut out” to allow exchange of documents.

~~(?) Picking 18 (20) for voir dire having them report to jury assembly.~~

~~(?) Remaining jurors after reporting to Door 5 be directed to main entrance (screened) and sent to County Board Room and be via video.~~

## VOIR DIRE

- Capacity of courtroom?
- Conducting voir dire virtually in full or in part.
- Utilizing in-person and virtual voir dire simultaneously
- Broadcast jury selection and limit or eliminate spectators in the courtroom.
- Give priority to “strikes for cause” based on juror health and safety concerns.

## IX

### JURY TRIALS

The Court will inquire of the parties to any jury trial if a six person jury could be utilized to help assure social spacing and allow for other health precautions to be implemented more easily. However, a six person jury will only be allowed, unless otherwise authorized by statute, if all of the parties consent on the record. **Six person trials by agreement will proceed to traditional (in-court) jury selection rather than paper picks. In non-criminal cases, the Court will also determine in advance of trial, any parties with aligned interests along with the number and division of strikes.**

In recognition of the physical layout of the building and the requirements of the Supreme Court Order entered May 22, 2020, all Jury Trials will be held in the Branch 1 courtroom until further order of the Court. Jurors will be directed to enter the courthouse at Entry “5”. Consistent with the “COVID-19 Order”, ~~the Sheriff designee (Bailiff) (Health Professional?)~~ **Public Health Staff or COC Staff** will use an infrared thermometer to determine if their temperature exceeds or equals 100.0°F and will ask each juror if they are feeling feverish, have a cough, shortness of breath, or difficulty breathing, or have been in close contact with a person who is confirmed to have COVID-19. If a juror’s temperature exceeds 100.0°F or they answer yes to any questions, they will be denied entrance and ~~given the phone number of the Judicial~~

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~~Assistant for the assigned Judge and directed to call before leaving the parking lot~~ the Jury Clerk managing the case will collect/verify the address and mileage information needed to properly pay the juror for reporting and address future service consistent with the directions provided by the Courts.

Those jurors who are admitted into the building will proceed through screening with a Sheriff designee (Bailiff) and shall be required to wear a face covering during the duration of their service. Jurors will ~~shall~~ be allowed to wear (\*Will the requirements be standard regardless of the hearing type -) any non-descriptive face covering (no writing or inappropriate symbols) they have or be ~~offered~~ provided/given a face covering provided by the County. If a juror is wearing a face covering with writing, letters, or symbols, they will be asked to remove it and be provided an alternate clean face covering. The juror shall be informed that he/she has the right to speak to the Judge on their First Amendment Right to freedom of expression when they are asked to remove the face covering. The Judge will then balance that right against the litigant's right to a fair and impartial jury and whether the juror's right to expression is outweighed. Those jurors will then be directed to ~~the jury assembly room and instructed to social distance~~ proceed to one of the pre-marked, socially distanced chairs. The location(s) will depend on the volume of jurors called on the case.

Note – This process will be far more staff and equipment intensive.

- A Health Screen station will need to be staffed.
- A 2<sup>nd</sup> security station will need to be staffed.
- Staffing will be needed in each location (deliberation room) used.
- A mondo pad will be needed in each location (deliberation room) used.

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- Using Door #5 and the courtroom and jury deliberation rooms to assemble will allow the jurors to only be confined to a small portion of the building and only exposed

(Clerk Hamre)

The Branch 1 courtroom will have a posted limited capacity of 32 persons, including staff. Have clearly marked spaces six feet apart for all jurors, counsel tables and witness stand will be positioned to ensure each juror has adequate sight lines to the witness stand and can hear and see all proceedings. Specifically:

- a) A total of four jurors shall be set in the juror box six feet apart. (Other chairs will be removed or taped).
- b) The first row of the gallery will be ~~five~~ three additional jurors six feet apart. (Tape will mark jurors' locations.)
- c) The second row on the longer side, two additional jurors.
- d) The third row of the gallery will be staggered with the remaining jurors six feet apart in the rows and from those seated in the first row. The third row of the gallery on the shorter side, on juror.
- e) The last row in the gallery, five jurors.
- f) The balance of the additional juror chairs needed will be added in the well. Each space will be six feet apart after counsel tables are moved.
- g) During the jury selection (depending on the number of jurors needed in the venire,) the Court Reporter may be placed in the witness stand to assist with spacing issues and the reporter station moved.



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- h) During jury selection, (depending on the number of jurors needed in the Voir dire,) the bailiff could either sit next to the clerk with plexiglass or on the floor between the end of the clerk's station and the bar.
- i) To reduce the number of occupants in the courtroom during jury selection:
  - a. Parties that wish to visually introduce testifying witnesses and/or victims during the jury selection process will be required to do so by Zoom or using pictures on the Elmo system.
  - b. Spectators will be able to observe via livestream.
- j) The witness stand will be plexiglassed to allow the witness to testify without a face covering so the fact finder can observe and hear the testimony.
- k) Chairs at each counsel table will be spaced six feet apart. (Plexiglass?)
- l) Due to capacity issues, video accommodations will be given for the public view of the proceedings.
- m) \*\*These plans will accommodate 6 person trials and most 3 and 4 strike cases with two parties – WITHOUT CARRYING AN ALTERNATE and in some cases, removing the reporters station.
- n) \*\*The more parties on the case, the more seats needs and potentially more strikes. To do a case with a box of 21 and 9 strikes; 4 staff and 7 parties – the courtroom would be at 32. This would require smaller tables, additional Plexiglas and some security concerns about having tables very close to the court and staff. This scenario also assumes that at least 2 parties are aligned for strikes. At this point, I don't have a plan for 35 in the courtroom absent significant number of plexiglass barriers.

- o) As much as I don't want to consider it, doing jury picks at an alternate location for cases with a total number above 32 may be necessary.

### JURY DELIBERATIONS/BREAKS

Understanding that each jury deliberation room can reconfigured to sit 9 socially distanced jurors.

- Breaks in 6 person trials will be held in the Br. 1 jury deliberation room.
- Breaks in 12 person trials will be held using the Br. 1 and Br. 3 jury deliberation rooms.
- Because of the physical limitations of the jury deliberations rooms, jury deliberation will need to occur in the courtroom with secure and open access to the jury deliberation room(s) for bathroom facilities.

~~—The jury deliberation room shall be reconfigured to social distance the jurors by removing tables and spacing clearly marked seats a minimum of six feet apart. Reasonable efforts shall be made throughout a jury trial to accommodate social distancing between jurors. The Branch 3 juror room will be made available for dividing jurors during breaks as needed.~~

### X

### GENERAL IN-PERSON COURT

The Jefferson County Courts will be opening \_\_\_\_\_, 2020, for regular operation. All Judges will use all reasonable efforts to conduct proceedings remotely. For consistency throughout the branches, each Court will hold non-essential in-person court hearings virtually utilizing Zoom or other technology to effectuate smooth operations and protect the safety of the users of the court as well as the employees that run the court. **(SHOULD THIS LINE BE IN THE JURY PART?)** All persons who are present in courtrooms, jury rooms and

other court-related confined spaces, including Judges and staff, when in-person hearings are held, shall wear a face covering, unless a Judge specifically determines on the record that it is necessary for a witness not to wear a face covering during the witness's testimony in order for the Judge or jury to weigh the witness's credibility (Plexiglass for all witness stands?). Notice regarding face coverings and its enforcement by the Judges of the Circuit Court shall be posted at the entrance of each courtroom, jury room and court-related confined spaces.

Additionally, notice of the availability of hand sanitizer and disinfecting wipes/sprays in court-related areas of the courthouse will be posted at the entrance of each courtroom, jury room, and court-related confined space. In addition to wearing face coverings, all Judges and Court Staff are required to practice social distancing, and practice appropriate hand hygiene recommendations at all times.

## XI

### **COURTROOM CLEANING AND DISINFECTING**

Each Judge, Clerk, Court Reporter and Bailiff will wipe down their respective stations after each court appearance when rotating out of that station. Each Attorney or pro-se litigant will be directed to wipe down the counsel table and microphone before leaving the courtroom. The Jefferson County Maintenance Department will clean and disinfect the courtroom and all spaces used for jury trials and court proceedings daily.

**Microphones will be adapted to be cleanable between hearings.**

## XII

### **ENTRY TO COURTHOUSE**

A sign shall be placed outside the courthouse main entrance that advises an individual of the following:

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- 1) If you are experiencing a fever or other signs of COVID-19 type symptoms, DO NOT ENTER BUILDING. Please call (920) 674-7150.
- 2) For everyone's safety, it is recommended that children and non-essential individuals not enter the building and the Bailiff may in the exercise of their discretion refuse entry for the general protection of all of the courthouse.
- 3) A face covering shall be worn on these premises. (? Not required by S.C. order)
- 4) Social distancing is required at all times.

The Sheriff (Bailiff) shall ask: (Do we temp check as well?) If they have any health issues, fever or other COVID-19 type symptoms: cough, shortness of breath, difficulty breathing. Have they been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be refused admittance to the court building and directed to contact the Clerk's Office (920) 674-7150 prior to leaving parking lot. If required to appear in Court, the appropriate Court office will be immediately notified by the Bailiff.

The Bailiff will determine the necessity of any additional individuals that are with the primary visitor. If the person is present for a court proceeding, additional individuals will be allowed entrance, recognizing and assuming the hearing is open to the public. If the individual is present for filing papers or other non-court related matters, the Bailiff will make reasonable efforts to limit the number of individuals accompanying the visitor.

Every individual (including State and County employees) shall wear a face covering while in the courthouse. An individual without a face covering will be provided one upon passing screening and entering building.

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Notice of the face covering requirement along with the locations of hand sanitizer and disinfecting wipes/sprays will be posted at the entrance of the courthouse as well as each courtroom, jury room, and court related confined spaces. This requirement as well as social distancing will be enforced by the Bailiffs and Judges of the Circuit Court.

Safety screening will be conducted to limit both Bailiff and visitor contact. All screening equipment will be disinfected on a regular basis at intervals that are consistent with the level of use. Disinfecting supplies will be available at the security station for this purpose. Periodic cleaning will be conducted by Bailiffs. The security station will be cleaned and disinfected (twice?) daily by maintenance staff. (What is plan for cleaning/disinfecting courthouse? Let's be consistent.)

## XIII

### PROCEDURE FOR MONITORING HEALTH OF JUDGES AND COURT STAFF

#### **Social Distancing**

All persons permitted into the courthouse not from the same household will be required to maintain social distancing of at least six feet. Only one individual will be permitted in an elevator at a time unless from the same household. Each restroom shall be reviewed and posted for capacity limits on its door. All breakrooms and public common areas will be closed to the public.

#### **Hygiene**

Hand sanitizer dispensers have been placed at entrances, outside of elevators on each floor, outside of each courtroom and bathrooms. Disinfectant wipes or sprays have been placed near the entry of each courtroom, at counsel tables, witness stand, Judges' benches and in hallways.

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## **Inmates**

Inmates being transported from the jail to court will be screened for symptoms of COVID-19 and have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 99.6°F will not be transported to the court building. All screening staff will be provided personal protective equipment as determined by their supervisors. If an inmate is denied access (failing screen), Bailiff shall promptly notify the appropriate court.

## **Clerk's and County Offices**

Plexiglass will be installed in all County offices where social distancing of six feet cannot be accomplished. Lines or marks will be placed on the common areas of the offices six feet apart. In times of heavy use, staff will employ measures to keep the public (non-members of same household) socially distant from one another to avoid congestion.

The common areas, including countertops, will be cleaned and disinfected by maintenance at least twice per day and more frequently in heavier traffic. (Again, what is the plan?)

## **Hallways**

All chairs will be six feet apart and benches marked allowing for seating six feet apart. All hallways will be marked on the floor with six foot delineated markings. All hallways and common areas will have signs that advise users of the need to maintain social distance at all times while using the courthouse.

## **XIV**

### **PUBLIC ACCESS**

The public has a right to view open public court that are not otherwise closed or confidential according to law. All courtrooms have space limitations and the public does not

have the right to enter the courtroom if the number of people in the courtroom exceeds safety limits, fire codes or other legal restrictions. Safety concerns during the COVID-19 pandemic also apply and it is necessary to limit the number of people in the courtroom to view proceedings. The Courts will take steps to allow the public to view courtroom proceedings via live stream video. Any public access by live stream shall be controlled by the Court and reasonable public access to hear and see will be allowed during all on-the-record proceedings.

**XV**

**PRIORITIZATION OF JURY TRIALS**

All four Judges will attempt to prioritize jury trials during the COVID-19 Public Health Emergency to avoid overuse of a jury pool and available facilities. The Court will take into consideration the nature of the cases, the extent to which the cases involve liberty interests, cases with time limitations, victim’s rights and input, and the length of time a case has been pending.

I have conferred with Circuit Court Judges with courtrooms in the courthouse regarding this Operating Plan/Policy. In developing the Plan, County Stakeholders have been consulted as identified in Section II above.

I approve this Operational Plan.

\_\_\_\_\_
Date

\_\_\_\_\_
Hon. William F. Hue
Presiding Judge

I approve this Operational Plan.

\_\_\_\_\_
Date

\_\_\_\_\_
Hon. Jennifer R. Dorow
Chief Judge, Third Judicial District