COURTS REOPENING COMMITTEE

Appendix B

Jury Management

August 2020

JURY MANAGEMENT WORKING GROUP

- Judge William C. Carpenter, Jr. – Chair
- Judge Colm F. Connolly
- Judge Craig A. Karsnitz
- Judge Jeff Clark
- Judge Paul Wallace
- Judge Carl Danberg
- Jamie McCloskey (DOJ)
- Tim Maguire (DOJ)
- Jason Cohee (DOJ)
- Michael Tipton
- Patrick Collins
- Tom Pedersen
- John Balaguer
- Nancy Chrissinger Cobb
- Tim Lengkeek
- Gil Shelsby
- Misty Seemans (ODS)
- Reneta Green-Streett
- Anthony Capone (ODS)
- Karen Taylor (Superior Court – Sussex)
- Lisa Parker (Superior Court – Kent)
- Andrew Brennan (Superior Court Jury Manager)
- Gayle Lafferty (AOC)
- Sean O'Sullivan (AOC)

JURY MANAGEMENT

When the Reopening Committee made its recommendations in May of 2020, it requested some additional time to develop a plan on how the Courts could summon and select jurors within the limitations that would be in place during Phase Three of the reopening plan. The goal was to develop a plan that would allow the Court to begin jury trials, but would also minimize the risk to jurors, litigants, attorneys and staff as more people enter the courthouses. It was also clear that many of the present methods and facilities used to select juries simply would be unworkable under the pandemic limitations. Each courthouse presented unique issues simply due to the architecture of those buildings and the size of their courtrooms.

To develop a plan, a working group of criminal and civil practitioners, judges, and key staff familiar with the jury process were appointed to review each stage of how juries are selected.

Five subcommittees were formed to study the following areas:

a) Jury Communications

b) How to Manage the Jury Panels

c) Voir Dire

d) Jury Selection

e) Trial

This report has attempted to blend the subcommittees' reports into a single document to create a suggested procedure for the Courts to follow as they select juries. While this study has identified procedures that the Committee believes should be consistently applied to all trials in all counties, it does highlight when that does not appear to be possible due to the limitations of the courthouse. At times, the report will provide alternatives so that individual judges can decide what is best for the trial that they are conducting.

JURY COMMUNICATIONS

Even before the pandemic began, gathering a sufficient pool of individuals willing to serve as jurors was challenging. Today, that challenge has been heightened by fears of contracting the virus, job loss, childcare and school issues and a general concern about one's safety. It is therefore only natural that citizens will be hesitant to serve and the Court must be sensitive to these concerns. This should lead to relaxed requirements for excusal or postponement and an aggressive educational program to reflect the efforts that have been made to ensure jury safety in the courthouse.

JURY COMMUNICATIONS

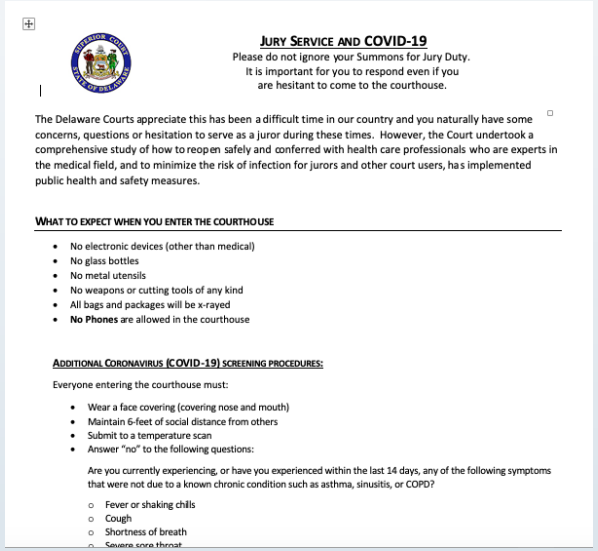
To assist in this process the jury communications subcommittee created three documents that would be sent to the juror either with their summons or as a separate letter. They are:

1) Jury Service and COVID-19 Information Sheet

2) Frequently Asked Questions/Responses about Jury Duty and COVID-19

3) Enhanced Juror Questionnaire

These documents are found in Appendix C.



JURY SERVICE AND COVID-19

Please do not ignore your Summons for Jury Duty.
It is important for you to respond even if you
are hesitant to come to the courthouse.

The Delaware Courts appreciate this has been a difficult time in our country and you naturally have some concerns, questions or hesitation to serve as a juror during these times. However, the Court undertook a comprehensive study of how to reopen safely and conferred with health care professionals who are experts in the medical field, and to minimize the risk of infection for jurors and other court users, has implemented public health and safety measures.

WHAT TO EXPECT WHEN YOU ENTER THE COURTHOUSE

- No electronic devices (other than medical)
- No glass bottles
- No metal utensils
- No weapons or cutting tools of any kind
- All bags and packages will be x-rayed
- **No Phones** are allowed in the courthouse

ADDITIONAL CORONAVIRUS (COVID-19) SCREENING PROCEDURES:

Everyone entering the courthouse must:

- Wear a face covering (covering nose and mouth)
- Maintain 6-feet of social distance from others
- Submit to a temperature scan
- Answer "no" to the following questions:

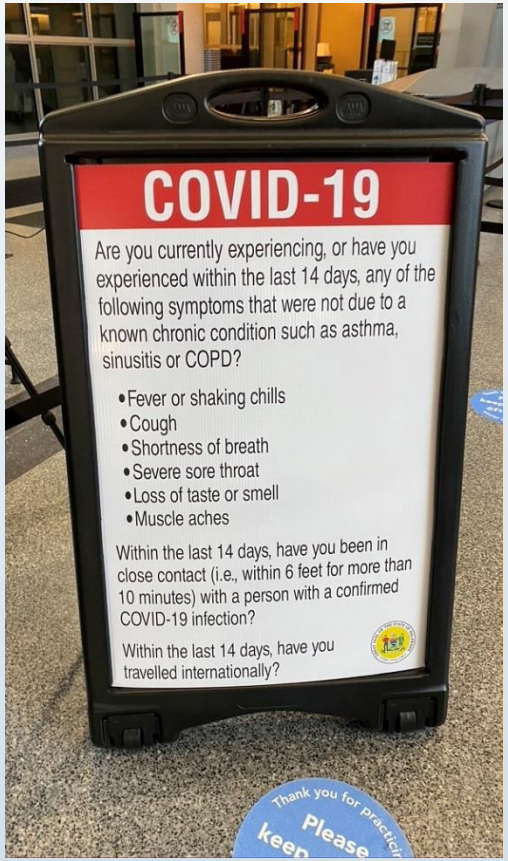
  Are you currently experiencing, or have you experienced within the last 14 days, any of the following symptoms that were not due to a known chronic condition such as asthma, sinusitis, or COPD?

  - Fever or shaking chills
  - Cough
  - Shortness of breath
  - Severe sore throat

JURY COMMUNICATIONS

The information sheet provides basic information about what the jurors will be allowed to bring into the courthouse, outlines the screening procedures that they will confront upon entering the courthouse, and what they can do to help protect the health and well-being of everyone during their service. It also emphasizes the need for the juror to complete the juror questionnaire and how critical that information is if they are requesting an excusal or postponement. The document also provides hyperlinks to both the Court's and the State of Delaware's COVID-19 websites.

The frequently asked questions document provides greater detail in those areas that are most often raised by the jurors as it relates to COVID-19. It is expected that as the jury process begins, more routine questions will arise with staff and the document can be easily expanded.



JURY COMMUNICATIONS

The third document is an **expanded juror questionnaire** that would be mailed out with the summons. It includes COVID-19 specific questions and other common non-case specific reasons for excusal. The intent is to attempt to identify people who cannot serve on the jury and allow decisions to be made up front regarding their jury service before physically coming to the courthouse.

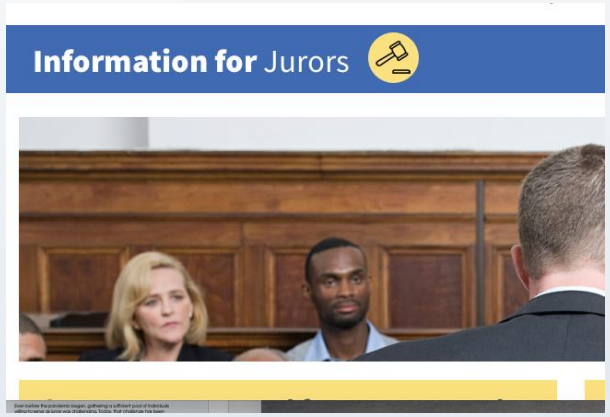
The Committee recommends these three documents be adopted by the Court and be used during Phase Three of the reopening plan.

JURY COMMUNICATIONS

In the past, the Court has given the jury managers in each county significant flexibility and authority to make reasonable and common sense judgments on excusing jurors or delaying their service. The Committee believes this should continue and would now include a review of each expanded questionnaire that is returned by a juror. It is believed that the jury managers should make the initial decision whether the responses to the questionnaire justifies excusal. If there is any uncertainty or confusion, the jury manager can confer with the assigned trial judge or a designated judicial officer assigned in each county to aid in these decisions. The Committee also recommends that, when possible, reports as to the background of those being excused be reviewed to insure a continued cross section of the community is appearing for jury service.

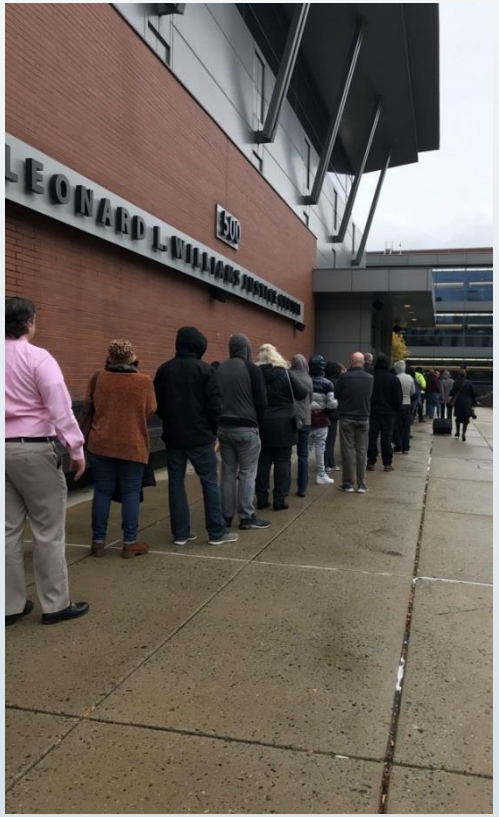
JURY COMMUNICATIONS

Prior to the pandemic, jurors would review an orientation video that would give them basic information about jury selection and the trial. While this is a very informative presentation, it does not include any information about the new screening procedures or safeguards that have been implemented in each courtroom. With the assistance of Delaware's Government Information Center, the Administrative Office of the Courts is developing a new video that will walk the jurors through their service from the time they park or arrive at the courthouse to when they leave for the day. This video would be available on the jury portion of the Court's website so jurors can review it prior to coming to the courthouse. If needed, portions of the video can also be used as a new orientation tool when the jurors report for service.



MANAGING THE PANEL

Even with greater communications to the jury panel and increased safety procedures at the courthouses, it was clear that the prior practice of summoning over 200 jurors and having them report to the courthouse was not only impractical within the limitations imposed as a result of COVID-19, it would expose those jurors and staff to unreasonable and unacceptable risk of infection. As a result, the Committee believes juries should now be summoned for a particular trial, and on days where multiple trials are scheduled, the reporting times should be staggered to limit the number of jurors reporting at any one time. With this decision, the Managing the Panel subcommittee was tasked with determining how we could bring jurors into each courthouse that would minimize the risk of infection and to also suggest case management procedures that would reduce the number of times jurors were summoned for a trial that did not proceed forward.



MANAGING THE PANEL

It is generally agreed by the Committee that the Court and its justice partners have a mutual obligation to manage cases in a manner that will prevent jurors from appearing for trials that don't go forward. While all recognized that the system is not perfect and on occasion a "wasted" panel will occur, as long as COVID-19 infection remains, it should be a rare event. Finally, before setting the subcommittee recommendations, the subcommittee was also asked to determine if non-courthouse sites should be considered for the selection of juries. Their recommendation, with which the Committee agrees, is that this should be considered only if no other alternative is found to be workable. Doing jury selection at an off site location presents difficult logistical and security concerns that are not easily overcome. The courthouses remain the best places to select juries.

MANAGING THE PANEL

The subcommittee recognized that each county and its processes presented unique challenges to -- and advantages for -- COVID-19 jury gathering and management. As a result, the subcommittee conducted onsite walk-throughs at each courthouse with key Court and AOC personnel. The overarching objective was to attempt to minimize all prevalent COVID-19 health and safety hazards, such as unmanaged lines of people, crowded spaces, and unnecessary close interpersonal interactions with others. The goal of each walk-through was to determine how to minimize all of these hazards and to get the juror efficiently to a safe "home base" while he or she is at the courthouse and to move them from that location only when necessary. Since the architecture of each courthouse is different, recommendations were made for each location.

MANAGING THE PANEL - NCC

NEW CASTLE COUNTY COURTHOUSE

The subcommittee determined that it would be possible for 60 jurors to assemble in the jury assembly room and still maintain the six foot social distancing requirement. As a result, they recommended that in New Castle County the jury assembly room continue to be used as the reporting location for jurors and it become their "home base." This has the advantage of allowing jury services to check in the jurors at a location where all the necessary equipment is located and to have any incomplete questionnaires completed and placed in the jury information system. The subcommittee does however recommend a change to the reporting process. Instead of waiting in a serpentine queue to check in at the window of jury services, the jurors would be immediately directed into the jury assembly room to have a seat. Jury service staff would then proceed to individual jurors, who are now six feet apart, to check in and deal with parking or questionnaire issues.

MANAGING THE PANEL -NCC

A tablet or work cart with wireless barcode readers and other tools for check in should be purchased for this process. After the check in process is completed, the normal orientation and judicial welcome could occur. At this point the subcommittee recommended that the jurors remain at jury services and the voir dire questions would be read to them either by a judge in the assembly room or by a video feed from the trial courtroom. This would have the advantage of only those jurors who answered yes to the voir dire questions being taken upstairs to the courtroom for questioning or to use video conferencing between the trial courtroom and a private segregated space at jury services to address a juror's concerns. Once the voir dire is completed, the remaining panel would be brought to their designated courtroom.

MANAGING THE PANEL - NCC

While the subcommittee has recommended the use of the jury assembly room for this initial processing of jurors, the Committee also notes that it could be accomplished in a courtroom adjacent to the trial courtroom. Courtrooms 4B and 8B, as well as the new courtroom on the seventh floor, would provide for sufficient social distancing as long as the whole courtroom is utilized. This would require the check in technology and equipment to be available in the courtrooms, but this does eliminate some movement of jurors as the courtroom would be their home base during voir dire and for the subsequent trial. The use of courtrooms also frees up the jury assembly room to be utilized for the panel summoned for the Court of Common Pleas.

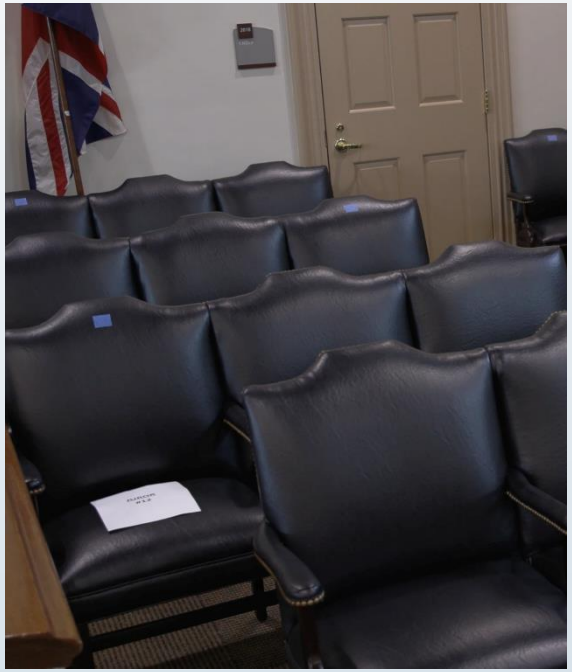
MANAGING THE PANEL - KENT

KENT COUNTY COURTHOUSE

After the subcommittee toured the Kent County courthouse, it appeared that only historical Courtroom One would have sufficient space to hold a jury panel with the required social distancing. (Approximately 45 jurors) The difficulty with using this courtroom is that it is quite a distance from the present secured entrance and would potentially expose jurors as they moved to the courtroom location. To avoid this circuitous route to the courtroom, the subcommittee suggests that the entrance across from Courtroom One be used just for jurors. This would require an additional metal detector and temperature scanner and Capitol security for the limited time it is in use.

MANAGING THE PANEL - KENT

After passing through security and screening, the jury would proceed to Courtroom One and sit in the designated seats. Staff would then proceed to each juror, and the check in and orientation process would be similar to the one in New Castle County. Once the check in process is completed, the jurors would remain in Courtroom One and the voir dire questions for the trial would be read to them. There is insufficient room in Courtroom One to have the judge, attorneys and litigants present for voir dire and continue to have the jury panel maintain social distancing. As such, it is suggested that voir dire could be read to them using remote technology or, if agreed to by counsel, by having only the judge in the courtroom to read the voir dire questions (counsel and litigants could observe remotely).



MANAGING THE PANEL - KENT

If there are jurors that needed to be questioned further, the subcommittee suggested using the Court of Chancery courtroom that is located near Courtroom One. The courtroom is of sufficient size to accommodate everyone in a socially distanced manner and its use would only be for a very limited period of time. Obviously this would require some coordination with the Court of Chancery, and if the courtroom was not available, the follow up voir dire would have to move to another courtroom. It is likely that once the voir dire process is completed, there may be sufficient room in Courtroom One for the judge, counsel and litigants to use that courtroom for jury selection. If not, then the use of technology similar to that outlined for New Castle County for the exercise of peremptory challenges can be utilized.

MANAGING THE PANEL - KENT

While the use of the former Courtroom One entrance has obvious advantages, the Committee recognized there would be additional cost and personnel involved in utilizing this entrance. If the present courthouse entrance is used, the Committee does recommend that efforts be made to separate those entering for jury service from the general public entrance and additional staff be available to direct jurors to the appropriate courtroom. This will minimize the concern of jurors roaming the halls, since getting to the courtroom can be confusing to those not familiar with the courthouse.

Whenever a jury panel is needed by Court of Common Pleas, selection would proceed in a similar fashion.

MANAGING THE PANEL - SUSSEX

SUSSEX COUNTY COURTHOUSE

The Sussex courthouse presently uses a separate entrance for the jury panel and the subcommittee suggests this continue with markers placed on the ground to encourage social distancing. Unfortunately, there is no one contiguous space or room that would accommodate a jury panel of 45-50 people practicing social distancing. As such, the subcommittee suggested that prospective jurors would be divided between two video-linked locations: Court of Common Pleas Courtroom A and the jury services room. Using those two locations, 45-50 jurors could be assembled. The check in and orientation process would be similar to that used in the other two counties and would also require wireless tablets to input the needed information.

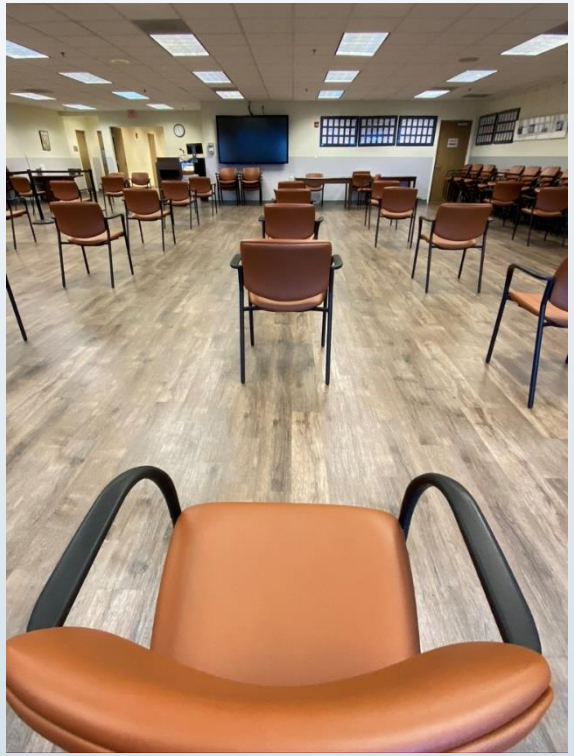
MANAGING THE PANEL - SUSSEX

Voir dire questioning would be streamed to each location with the judge, counsel, litigants and staff located in Superior Court Courtroom One. Any additional screening of jurors that would be required would occur in Courtroom One with the jurors being ushered to the courtroom from their "home" locations. Depending on the number of jurors remaining after voir dire, jury selection could occur in Courtroom One or be done remotely.

The above suggestion was made on the assumption that it is preferable to attempt to gather a sufficient panel to select a jury in a single setting. If the CCP courtroom is unavailable or if the use of two "home" locations is determined to be too difficult to manage, bringing in multiple smaller panels at intervals throughout the day using Courtroom One will need to be considered. If this occurs, using the "capital murder" jury selection process discussed below would appear to make the most sense.

MANAGING THE PANEL

The process of gathering a panel and conducting voir dire generally assumes a typical trial where 35 to 50 jurors are sufficient to select a jury. When there is a trial in which it is anticipated that many jurors will request to be excused or will be excused for cause, the process outlined above may need to be used multiple times. When this occurs, the Committee suggests a separate courtroom or the jury room be used to separate those who have not been excused from a panel while the next panel is being examined so that appropriate social distancing can be maintained.



CALENDAR MANAGEMENT

In an effort to avoid the "no trial" scenario, the Committee is in general agreement that having the final case review (FCR) close to the trial date is the best mechanism to resolve criminal cases in advance of trial. Those that practice in Sussex and Kent counties have found final case review a week before trial is most effective while those that practice in New Castle County felt a two week time period was preferred. Regardless of the timing, it was clear effective use of the final case review process and the active involvement of the Court in personally addressing the defendant was critical to resolving cases. It is also clear that in spite of efforts made at the final case review proceeding, some cases will proceed forward that are likely to resolve before trial. As such, the Committee is recommending that in each county, once a case has proceeded beyond final case review, that some management procedure be in place to have the case reviewed again prior to the trial date.

CALENDAR MANAGEMENT

Whenever possible, cases that have not resolved at FCR should be assigned to a judge to conduct a pretrial conference to resolve issues that may arise during the trial, address last minute issues and if the defendant desires to plea, to schedule the plea before trial. It is also recommended that the Court establish a plea deadline of the Friday before the trial and to hold a trial calendar call on Friday for those cases that are set for the following week in order to establish trial priorities.

CALENDAR MANAGEMENT

Finally, it is suggested that to minimize the times a jury panel is not used for a trial, that each county work with counsel to have a "backup" case on each calendar that can be substituted for a trial case that unexpectedly resolves. These cases would generally not involve civilian witness such as felony DUIs and drug cases in which officers may be placed on stand-by in the event it was to go forward. While the Committee felt no additional management of civil trials was needed, it believes counsel should regularly consider agreeing to a jury of six or proceeding with a bench trial. This would increase the likelihood that a civil trial could proceed forward during a time when criminal cases must be given priority.

JURY SELECTION

As a result of the recommendations previously outlined in this report, at least in the New Castle County and Kent County courthouses, a jury panel of sufficient size will have been created to begin jury selection. Unfortunately, even in these counties, the courtrooms are not large enough for the panel to be seated with social distancing in the audience of the trial courtroom as was the previous practice of the Court. As such, the jury selection subcommittee was tasked with developing recommendations for how to best select a jury when the panel is seated in an adjacent courtroom. In making the recommendation, the subcommittee was asked to assume that technology would be in place to allow the Court and counsel to observe the jurors that were seated in the courtroom next to it. The subcommittee has recommended three non-exclusive methods that can be adopted to fit what the Court believes would be best for each particular trial.

JURY SELECTION

"TWO COURTROOM METHOD"

This method most resembles the present jury selection process. Using the Court's random list, twelve jurors are called and would be brought from the adjacent courtroom and placed in the socially distanced jury box created for the trial. Once seated, the jury selection process would proceed normally. If a juror is stricken by a party, that juror would return to the adjacent courtroom and a new juror who is in the adjacent courtroom would be called from the random list to take their place. This would continue until either all strikes are utilized or the parties are content. The same process would be used for the selection of alternates. To avoid using the old clipboard method, strikes could be communicated electronically to the clerk. While this method has the benefit of familiarity to counsel and the Court, it does require more movement of individual jurors back and forth between courtrooms that would potentially unnecessarily expose them and staff to the virus.

JURY SELECTION

"SIMULTANEOUS STRIKES METHOD"

As the jury panel is assembled in the adjacent courtroom, each juror is given an identification number. Before voir dire begins, a roll call of the panel occurs so that counsel can observe each juror and can connect the juror's name to their number. At this point, voir dire is conducted and those that have concerns are reviewed by the Court. After voir dire is completed and the panel is assembled, counsel is provided a random list of the jury panel with names and assigned numbers and simultaneously each side exercises all of their strikes.

JURY SELECTION

"SIMULTANEOUS STRIKES METHOD"

Those jurors that have been stricken are excused and those remaining are seated as the jury panel and alternates. The jury can be seated starting either at the top or bottom of the list at the discretion of the judge and counsel is advised of the Court's decision before exercising their strikes. This method avoids the movement of jurors between courtrooms until the trial actually begins. Counsel will be able to observe the jury panel using remote technology. After counsel strikes are exercised, each side would exchange their strike sheets in the event counsel believes a Batson challenge is appropriate.

JURY SELECTION

"CAPITAL TRIAL METHOD"

This method is a modified version of the manner in which capital murder trials were conducted in the past. A group of jurors (the size of each panel would depend on the courtroom being used) would be summoned for a particular date and time and held in jury services or a courtroom. The group would have been randomized and each juror would be brought into the courtroom individually to be voir dired by the Court. After questioning by the Court, counsel would be allowed to argue for an excusal for cause.

JURY SELECTION

"CAPITAL TRIAL METHOD"

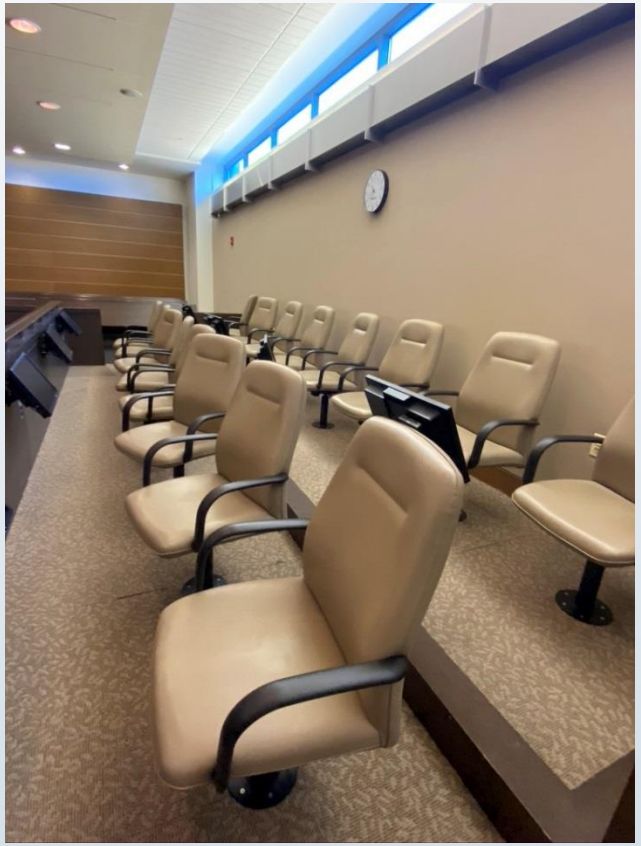
If the juror is not excused, the Court could proceed in one of two methods. They can require counsel to decide whether they will exercise a peremptory challenge for that juror similar to what was done during the capital trials. The process would then continue until a jury of 12 plus alternates had been selected. The other method would be for the juror that had not been excused for cause to be placed in a pool which would grow until the required number needed to select the jury had been reached. At that point, counsel would exercise their challenges using either of the two methods previously described. The capital trial method would be particularly helpful when the courthouse does not have a sufficiently large space to hold a panel of 40 to 50 jurors or for cases in which it is anticipated that many jurors would be excused for cause.

TRIAL

As long as the six foot social distancing requirement remains in place, the jury rooms located by the courtrooms are not large enough to safely handle the jury panel. Therefore, the Committee recommends that each trial use two adjacent courtrooms. One would be for the trial and the other would act as the jury room. These same two courtrooms would have been used for the jury selection set forth above. This will require some modification to the courtroom to be used as the jury room. Courtroom cameras must either be disabled or covered, recording or listening devices must be disabled and legal resources, such as the code books and documents, must be removed. Doors to the jury room courtroom should be locked from the public and the jury should use the hallway behind the courtrooms to enter and exit each day. The facilities in the jury rooms normally assigned to these courtrooms would be used by the jury.

TRIAL

One of the greatest hurdles to safely starting trials again is simply the make up of the jury box. Obviously, sitting 14 people or more in close proximity to each other is unsafe and exposes the whole jury to a potential infection. Placing jurors six feet apart in the jury box would only result in six people seated in the normal 14 seat jury box. This would then require the use of the gallery area to sit the remaining six to eight jurors. This is far from ideal as the witnesses will be further away from the jury, their ability to observe the witnesses' demeanor may be compromised and it raises significant security issues if the trial remains open to the public.



TRIAL

The ideal solution to this issue is to install plexiglass or glass on three sides of each juror which would act as a barrier to the spreading of the virus if one was to cough or speak and would again allow the jury box to be used as it was intended. It also would potentially allow the jurors to remove their mask while in the courtroom. While there is a concern that this may compromise the dignity of the courtroom setting, during these difficult times the safety of the jury and staff must take priority.

Example from Cuyahoga County, Ohio Court of Common Pleas

TRIAL

The Committee believes, if funds can be found, that the installation of plexiglass or glass around each juror should be installed in the jury box of ten courtrooms (four in New Castle County, two in Kent and one in Sussex for Superior Court and one in each county for CCP). If possible, the plexiglass/glass should be of sufficient strength to be attached to the floor of the jury box without additional framing to maintain the courtroom setting as much as possible. It should also be able to be removed if in the future it is no longer needed for protection. If the plexiglass/glass option is not feasible and the gallery area is utilized, the Court should consider closing the courtroom to the public and live stream the proceedings to another area of the courthouse.

TRIAL

This would allow the proceedings to be observed while at the same time providing protection for the jurors who are seated in the gallery area. If the gallery area is used, each trial will need two bailiffs to provide sufficient protection and to monitor the jurors, and additional staff will be needed to monitor the area the proceeding is being streamed to.

TRIAL

The Committee further recommends:

- The courtrooms be reconfigured to ensure counsel tables are at least six feet from the jury box.
- Counsel should question witnesses and give opening and closing arguments from a podium that is socially distanced from the jury and is protected by a plexiglass panel. If the podium is not available, arguments and questioning should be conducted from counsel tables behind a plexiglass partition. If counsel needs to use the electronics on the podiums, they should be masked or be behind plexiglass.

TRIAL

- A plexiglass panel should be placed on the front and sides of the witness so that the witness may remove their mask during their testimony.
- All document and photographic evidence should be converted so that it can be displayed digitally to the jury and can be viewed on designated laptops by the jury in that format during deliberations.
- All evidence that cannot be digitally displayed should be placed in clear plastic bags so it can be handled by the jury without physically touching the object.

TRIAL

- The Court and counsel should limit sidebar conferences to only matters that must be resolved immediately and cannot wait until a break in the proceedings. Sidebar conferences, when necessary, should be conducted in the hallway behind the courtroom or by using the vacant jury room so that social distancing can be maintained.

TRIAL

- Counsel tables that are not going to be used during the trial should be removed from the courtroom to allow for greater area for social distancing. This will be particularly important when the defendant is incarcerated and several guards are located behind counsel table.
- Whenever the judge, witness, counsel or the jury are not behind plexiglass, they should be wearing a mask.

TRIAL

- Jury instructions should be electronically displayed in the courtroom when read to limit the number of copies handled by the jury.
- An area six feet from the jury box should be delineated to assist counsel in remaining a sufficient distance from the jury box.

Example from Cuyahoga County, Ohio Court of Common Pleas

TRIAL

In order to provide some level of comfort, it is recommended that when the trial begins, a bag of supplies (to include hand sanitizer, wipes, a mask, gloves, a small water bottle, juror sticker and a reminder that they should maintain social distancing) be placed in the seat of each juror. It is also recommended, if feasible, that to limit interaction with the public while they are serving, the Court provide lunch to each juror during Phase Three of the reopening plan. If this is not economically feasible, jurors should be allowed to bring food into the courthouse so they do not have to leave the courthouse for lunch.

CONCLUSION

There is no doubt that the beginning of jury trials will increase the risk to staff, lawyers, litigants and jurors as more people enter our courthouses and interact with each other. However, this risk has to be appropriately balanced with the rights of a defendant or party to have their matter timely considered, even during this difficult period in the history of our nation.

CONCLUSION

The Committee believes this plan balances these competing needs in a way that will minimize these risks and allow us to at least begin the journey back to performing one of the Court's critical functions. It will not be easy and no one should believe that the risk of infection has been eliminated by this plan. The plan will cause the Court and the attorneys to interact in a manner never previously considered and will cause discomfort and uncertainty to those who regularly practice before our trial courts. Of course, the decision on when to start jury trials must take into consideration the most current medical advice, which may change over time. It is possible that in the upcoming months the pandemic risk may increase again causing the Court to move back to a prior phase of reopening. If that occurs, the Court and counsel must be prepared to consider alternative ways to resolve pending cases, even if not ideal. The alternatives have now been exhausted and the technology is here to provide a safe and effective method to ensure a fair and timely trial.

APPENDIX C

JURY COMMUNICATION DOCUMENTS

ENHANCED JURY QUESTIONNAIRE

SUPPLEMENTAL QUESTIONNAIRE FOR JURORS
Name: _____
Due to the COVID-19 pandemic, everyone who receives a jury Summons must complete this Supplemental Questionnaire for Jurors in addition to the Jury Qualification Questionnaire that is also enclosed with the Summons. This Questionnaire is intended to help excuse or postpone service for potential jurors who would be unable to serve on a jury. Doctor's notes for medical requests and supervisor's letters for employment requests will not be required during the pandemic. If you have any questions about these forms, please contact Jury Services at [COUNTY-SPECIFIC NUMBER].

1) I WISH TO BE EXCUSED from jury service because of the effects of the COVID-19 pandemic (please check all that apply and explain).

____ I or someone in my household has tested positive for COVID-19 within the past 14 days.

____ I or someone in my household is at high risk of complications from contracting COVID due to age, medical condition (such as: asthma, chronic kidney disease being treated with dialysis, chronic lung disease, diabetes, hemoglobin disorder, liver disease, serious heart condition or severe obesity), or some other characteristic.

____ I or someone in my household is a health care worker, employed or volunteering in a medical setting or other field that has direct contact with people who have been diagnosed with COVID-19.

____ I or someone in my household is employed as a firefighter, police officer, correction officer or first responder.

____ I have childcare or eldercare issues that will make it difficult for me to serve.
____ I am experiencing economic hardship.
____ I am unable or unwilling to follow the Court's established COVID-19 safety guidelines, which include temperature screening at the courthouse entrance, social distancing, required wearing of a mask, and immediately notifying the court if before or during my jury service I experience any of the following symptoms of COVID-19 (when not attributable to a chronic condition such as allergies, sinus condition, or asthma):

Fever or chills
Cough
Shortness of breath or difficulty breathing
Fatigue
Muscle or body aches
Headache
New loss of taste or smell
Sore throat
Congestion or runny nose
Nausea
Vomiting
Diarrhea

Please explain in detail below any request for excusal in Part 1, above, related to the COVID-19 pandemic.

_____

_____

2) I WISH TO BE AUTOMATICALLY EXCUSED FROM JURY SERVICE because:

____ I am a woman who is currently responsible for breastfeeding a child.

3) I WISH TO HAVE MY JURY SERVICE POSTPONED for reasons not related to the COVID-19 pandemic (please check all that apply and explain).

____ I have a medical procedure/appointment that would prevent me from serving during the service period. Please provide the date(s) of your unavailability due to this procedure/appointment: _____

____ I have an important commitment that would prevent me from serving during the service period. Please explain and give the date(s) of your unavailability due to this commitment: _____

_____

____ I have prepaid travel plans during the service period, and my money cannot be refunded (please enclose supporting documentation).

When did you make the reservation? _____

When are you leaving? _____

When are you returning? _____

When will you be available for jury service after your travel? _____

4) If there is anything else the Court should know that would impact your ability to serve as a fair and impartial juror, please explain:

_____

_____

IMPORTANT: If you have requested to be excused or postponed, you must still appear for jury selection on the date you are instructed unless you receive notice that your request for postponement or excusal has been granted.
I declare the responses given are true to the best of my knowledge and acknowledge that a false statement herein is punishable by a fine of not more than $100 or imprisonment of not more than 3 days or both as provided in 10 Del. C. §4516.

_____

Signature Date

For more information on Delaware's Response to the Coronavirus Disease (COVID-19) please refer to the information on the Court's website at https://courts.delaware.gov/aoc/covid-19. Frequently Asked Questions for jurors can be found at https://de.gov/juryfaq.

JURY SERVICE and COVID-19 INFORMATION SHEET

JURY SERVICE AND COVID-19

Please do not ignore your Summons for Jury Duty.
It is important for you to respond even if you
are hesitant to come to the courthouse.

The Delaware Courts appreciate this has been a difficult time in our country and you naturally have some concerns, questions or hesitation to serve as a juror during these times. However, the Court undertook a comprehensive study of how to reopen safely and conferred with health care professionals who are experts in the medical field, and to minimize the risk of infection for jurors and other court users, has implemented public health and safety measures.

WHAT TO EXPECT WHEN YOU ENTER THE COURTHOUSE

- No electronic devices (other than medical)
- No glass bottles
- No metal utensils
- No weapons or cutting tools of any kind
- All bags and packages will be x-rayed
- **No Phones** are allowed in the courthouse

ADDITIONAL CORONAVIRUS (COVID-19) SCREENING PROCEDURES:

Everyone entering the courthouse must:

- Wear a face covering (covering nose and mouth)
- Maintain 6-feet of social distance from others
- Submit to a temperature scan
- Answer "no" to the following questions:

Are you currently experiencing, or have you experienced within the last 14 days, any of the following symptoms that were not due to a known chronic condition such as asthma, sinusitis, or COPD?

- Fever or shaking chills
- Cough
- Shortness of breath
- Severe sore throat
- Loss of taste or smell
- Muscle aches

Within the last 14 days, have you:

- Been in close contact with (i.e. within 6 feet for more than 10 minutes) with a person with a confirmed COVID-19 infection?
- Traveled internationally?

If your response to any of these questions is yes or you have a fever exceeding 100 degrees, additional testing and questioning will occur before you will be admitted.

Precautions are being taken to protect the health and wellness of everyone entering the courthouse. Your cooperation is most appreciated. Please:

- Follow the directional arrows as marked throughout the courthouse
- Limit the number of people in an elevator (signs indicating maximum capacity are posted)
- Use touchless hand sanitizer stations that are available throughout the courthouse. **You may also bring your own hand sanitizer if you wish.**
- **Please wear your mask at all times as you move around the courthouse.**

For more information on Delaware's Response to the Coronavirus Disease (COVID-19) please refer to the information on the Court's website at https://courts.delaware.gov/aoc/covid-19, and for more information on the state's response to COVID-19 please visit: https://coronavirous.delaware.gov

Jury Trials

Jury Trials are fundamental to our system of justice and an individual's constitutional right to a jury trial does not end during a pandemic. You play a critical role in ensuring that the court can continue its obligations under the law and ensure justice is available to everyone.
We appreciate your willingness to serve, but if you have any concerns about serving as a juror due to COVID-19, you MUST complete the Juror Qualification Questionnaire either online at https://courts.delaware.gov/juror or complete and sign the questionnaire form and return it to us in the envelope provided. You must complete the form before the Court will consider any request you may have about your service. If you do not complete the form, you will be required to report for jury duty as scheduled.

To request an excusal or postponement of your jury service, you must provide detailed information regarding the reason why you are unable to serve as a juror at this time. Information regarding the documentation requirements to support some particular request for excusal or postponement is on the reverse side of your Summons for Jury Duty.
The Court will review your request and if your request is granted, a confirmation notice will be mailed to you advising you of your new jury reporting date or confirming your excusal.

If you still have questions regarding your jury service, you can:
Visit our FAQ page on our website: https://courts.delaware.gov/aoc/covid-19

Contact Jury Services for your county:

New Castle County
Email: jurynewcastle@delaware.gov
Phone: 302-255-0824

Kent County
Email: jurykent@delaware.gov
Phone: 302-735-1900 Press 1,
Ext. 58021

Sussex County
Email: jurysussex@delaware.gov
Phone: 302-855-0755 Press 5

FREQUENTLY ASKED QUESTIONS

FREQUENTLY ASKED QUESTIONS ABOUT JURY DUTY AND COVID-19

Q I AM AN ESSENTIAL WORKER IN THE HEALTHCARE FIELD, HOW CAN I BE EXCUSED?

A YOU MAY REQUEST AN EXCUSAL BY COMPLETING THE QUESTIONNAIRE AND INCLUDING A LETTER FROM YOUR EMPLOYER CONFIRMING THE URGENT NEED FOR YOU TO REMAIN ON THE JOB. THANK YOU FOR SERVING OUR COMMUNITY.

Q MY CHILD'S SCHOOL / DAYCARE IS CLOSED; I HAVE NO ONE TO WATCH HIM. CAN I BRING HIM WITH ME?

A DELAWARE'S COURTHOUSES DO NOT PROVIDE ANY TYPE OF PLAY AREA OR DAYCARE SERVICES. THE COURT DOES NOT ENCOURAGE ANYONE TO LEAVE A SMALL CHILD UNATTENDED. PLEASE COMPLETE THE QUESTIONNAIRE AND REQUEST AN EXCUSAL FROM JURY DUTY AT THIS TIME. YOUR EXCUSAL REQUEST SHOULD EXPLAIN YOUR CIRCUMSTANCES.

Q I LIVE WITH, OR AM A CAREGIVER FOR, A FAMILY MEMBER WHO IS CONSIDERED A HIGH RISK. CAN I BE EXCUSED?

A YOU MAY REQUEST AN EXCUSAL BY COMPLETING THE QUESTIONNAIRE AND REQUESTING AN EXCUSAL. YOUR REQUEST SHOULD DESCRIBE THE CIRCUMSTANCES THAT MAKE IT DIFFICULT FOR YOU TO SERVE JURY DUTY AT THIS TIME.

Q WHY CAN'T THE COURTS JUST USE VOLUNTEERS AS JURORS?

A THE COURT IS UNABLE TO ACCEPT VOLUNTEER JURORS BECAUSE, BY DELAWARE LAW, JURORS' NAMES MUST BE RANDOMLY SELECTED FROM THE MOTOR VEHICLE, VOTER REGISTRATION AND STATE ID LISTS. ADDITIONALLY, DELAWARE LAW MANDATES THAT THE COURT'S JURORS BE A REPRESENTATION OF THE COMMUNITY IN WHICH THEY LIVE.

Q I JUST RETURNED TO WORK AFTER A LENGTHY COVID-19 RELATED SHUTDOWN. I CANNOT REALLY ASK FOR TIME OFF RIGHT NOW. CAN I DO JURY DUTY NEXT YEAR INSTEAD?

A YOU MAY REQUEST AN EXCUSAL BY COMPLETING THE QUESTIONNAIRE. YOUR REQUEST SHOULD DESCRIBE THE CIRCUMSTANCES THAT MAKE IT DIFFICULT FOR YOU TO SERVE JURY DUTY AT THIS TIME. WE CAN RESCHEDULE YOUR JURY DUTY FOR A LATER DATE.

Q I AM VERY BACKED UP ON MY BILLS DUE TO NOT WORKING DURING COVID-19 QUARANTINE. I NEED TO GO TO WORK.

A THE COURT DOES NOT WANT JURY DUTY TO CREATE A FINANCIAL HARDSHIP FOR ANYONE. YOU MAY REQUEST AN EXCUSAL BY COMPLETING THE QUESTIONNAIRE AND INCLUDING A LETTER FROM YOUR EMPLOYER THAT CONFIRMS THAT YOU DO NOT HAVE PAID-TIME-OFF FOR JURY DUTY.

Q I AM AFRAID OF BEING EXPOSED TO THE CORONA VIRUS AND TAKING IT HOME TO MY KIDS. DO I REALLY HAVE TO COME IN?

A THE COURT RECOGNIZES THAT NOT EVERYONE IS COMFORTABLE GOING INTO PUBLIC PLACES AT THIS TIME. IF REPORTING FOR JURY DUTY WILL CAUSE YOU SEVERE ANXIETY, PLEASE REQUEST AN EXCUSAL BY COMPLETING THE QUESTIONNAIRE AND EXPLAIN YOUR CIRCUMSTANCES.

Q WEARING A FACE MASK FOR ANY LENGTH OF TIME MAKES ME FEEL CLAUSTROPHOBIC. WILL I BE ABLE TO LOWER MY MASK IF THERE IS NO ONE WITHIN SIX FEET OF ME?

A THE CURRENT GUIDELINES REQUIRE THAT EVERYONE IN THE COURTHOUSE WEAR A FACE COVERING AND MAINTAIN A 6 FOOT SPACING FROM OTHERS. IF YOU ARE UNABLE TO WEAR A FACE COVERING FOR THE ENTIRE TIME YOU ARE AT THE COURTHOUSE, YOU SHOULD ASK TO BE EXCUSED OR RESCHEDULED. PLEASE PUT YOUR REQUEST IN WRITING AND SIMPLY EXPLAIN THE REASON WHY YOU ARE UNABLE TO SERVE WHILE THE COVID-19 RELATED RESTRICTIONS ARE IN PLACE.

Q CAN I SERVE AS A JUROR IF I HAVE TESTED POSITIVE FOR COVID-19 IN THE PAST?

A YES. AS LONG AS IT HAS BEEN 14 DAYS SINCE YOU TESTED POSITIVE AND ARE HAVING NO SYMPTOMS, YOU CAN SERVE.