

**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 22nd, 2020
Including Amendment 1 as approved on October 7th, 2020**

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, June 3, 2020 and June 10, 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 3rd Judicial District Chief Judge Jennifer R. Dorow. The Stakeholder Committee will continue to meet as needed to refine the implementation of this plan.

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 Pandemic 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. Additionally, the approved Plan will be posted on the Jefferson County website along with any instructional information and expectations for the public.

IV
JURY DEFERRAL POLICY

Prospective 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 released for the day with pay for reporting before jury selection begins for the day and the balance of their service deferred.

V
**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, location of jury assembly, and what procedures are being taken to reduce exposure to COVID-19 while serving on a jury.

VI 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 questionnaire will be sent to determine if the potential juror meets the 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, or other like chronic respiratory condition
 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 or Jury Duty Judge the ability to address the mass majority of the requests prior to the morning of trial.

- d. Prospective jurors will be informed that all of their answers to the COVID-19 questions will be kept confidential.

Issues raised on the morning of trial will be addressed by the Judge assigned to jury selection/monitoring 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.

VII 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. Additional space/rooms may be used to allow for social distancing.
- 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 wherever possible.

Plexiglass, tempered glass or similar clear barriers will be installed if social distancing cannot otherwise be accomplished and will include a “cut out” to allow exchange of documents.

Additional barriers may be added at the discretion of the Judges in an effort to relieve anxiety and to help jurors and others feel more comfortable and safe.

VIII 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 distancing 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 to minimize, if possible, the number of summoned jurors. The jury clerk may adjust the number of summoned jurors based upon non-show rate, pending accommodation requests and historical data.

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", Public Health Staff or Clerk of Court Staff will use an infrared thermometer to determine if their temperature exceeds or equals 100.0°F and will determine with 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, 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. If inclement weather necessitates, the Court may alter the location of jurors entering building, assembly and deliberations.

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 be allowed to wear any non-descriptive face covering (no writing or symbols). If a juror is wearing a face covering with writing, letters, or symbols, they will be required to remove it and be provided an alternate clean face covering provided by the county. 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 required to remove the face covering. The Judge will then balance the prospective juror's right against the litigant's right to a fair and impartial jury, potential intimidation of the jury and other constitutional interests. Those jurors will then be directed to proceed to one of the pre-marked, socially distanced chairs. The location(s) will depend on the volume of jurors called on the case and the space/room being used.

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. Plexiglass and/or tempered glass or other clear barrier will be used where the six foot social distancing cannot be met. Additional barriers may be added at the discretion of the Judges in an effort to help jurors and others relieve anxiety, feel more comfortable and safe. At a minimum, the barrier shall be installed at the witness stand, counsel tables and on the bar. The Branch 3 courtroom may be outfitted for Jury Trials similar to Branch 1.

During the jury selection (depending on the number of jurors needed in the voir dire,):

- a) The Court Reporter may be placed in the witness stand to assist with spacing issues and the reporter station moved.
- b) The bailiff could either sit next to the clerk with a barrier or on the floor between the end of the clerk's station and the bar, a minimum of six feet from any other person.
(Note – the Bailiff will be positioned as close to the jurors as possible depending on size of jury panel.)
- c) To reduce the number of occupants in the courtroom during jury selection:

1. 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.
 2. Spectators will be able to observe via livestream.
- d) The witness stand will have a barrier to allow the witness to testify without a face covering so the fact finder can observe and hear the testimony.
 - e) Chairs at each counsel table will be spaced six feet apart and have a barrier.
 - f) Again, due to capacity issues, video accommodations will be given for the public view of the proceedings.
 - g) Voir dire may need to be moved to a larger room (County Board Room/basement) in cases that require a large jury pool.
 - h) All four courtrooms will have barriers on counsel tables and witness stands.

JURY DELIBERATIONS/BREAKS

Each jury deliberation room may be reconfigured to socially distance jurors.

- Breaks in 6 person trials will be held in the Branch 1 jury deliberation room.
- Breaks in 12 person trials may be held using the Branch 1 and Branch 3 jury deliberation rooms.
- Jurors may be able to adjourn outside, during breaks, if allowed by bailiffs, to social distance and remove face coverings when outside.
- Because of the physical limitations of the jury deliberations rooms, jury deliberation may need to occur in a courtroom with secure and open access to the jury deliberation room(s) for bathroom facilities. Jurors will be directed to maintain social distancing, wear face coverings and use disinfecting spray and wipes liberally when on breaks and deliberating.

IX GENERAL IN-PERSON COURT

The Jefferson County Courts will begin in-person appearances no sooner than July 1, 2020. All Court Officials 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. All persons who are present in courtrooms, hearing rooms, jury rooms and other court-related confined spaces, including Court Officials and staff, when in-person hearings are held, shall wear a face covering, unless a Court Official 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 Court Official or jury to weigh the witness's credibility. Notice regarding face coverings and its enforcement by the Court Officials of the Circuit Court shall be posted at the entrance of each courtroom, hearing room, 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 Court Officials and Court Staff are required to practice social distancing, and practice appropriate hand hygiene recommendations at all times. The notice of in-person hearings from the Court will inform participants as follows:

“This hearing requires in-person appearances. When entering a courtroom and court-related areas within the building, a face covering must be worn. Please review and follow all posted COVID-19 related guidelines.”

X

COURTROOM CLEANING AND DISINFECTING

Each Court Official, 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.

XI

ENTRY TO COURTHOUSE

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

- 1) If you are experiencing a fever or other signs of COVID-19 type symptoms, DO NOT ENTER BUILDING. Please call (920) 674-7150 if you are here for a court hearing.
- 2) For everyone's safety, it is recommended that children and non-essential individuals not enter the courthouse.
- 3) It is recommended that a face covering be worn when on the courthouse premises. If attending a court proceeding in a courtroom or hearing room, a face covering is required.
- 4) Social distancing is required at all times.

Upon entry, the Sheriff (Bailiff) shall ask: 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 County office or if court appearance the Clerk's Office (920) 674-7150 prior to leaving parking lot.

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 will be encouraged to wear a face covering while in the courthouse. An individual without a face covering and requesting one will be provided one upon passing screening and entering building by the bailiff.

Notice of the face covering availability 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, hearing room, jury room, and court related confined spaces. The social distancing requirement will be enforced by the Bailiffs and Court Official 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 daily by maintenance staff.

XII

PROCEDURE FOR MONITORING HEALTH OF COURT OFFICIALS 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.

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, Court Officials' benches and in hallways. For security reasons and the safety of courtroom users, wipes and sprays will be made available, but may be kept in a secure location. Notice of the availability of disinfectant wipes and sprays shall be posted.

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 100.0°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), the Bailiff shall promptly notify the appropriate court. All inmates shall be provided and wear a face covering when being transported and in court.

Clerk's and County Offices

Clear barriers 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. Only one member of public/or one family group will be allowed in a county office at a time. The county offices may accommodate more than one person/family unit at a time if social distancing is practiced.

The common areas, including countertops, will be cleaned and disinfected by maintenance daily and more frequently in heavier traffic.

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. Hallways, stairways, elevators and all common areas will be cleaned and disinfected daily by maintenance staff.

XIII

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 public 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 public proceedings.

XIV

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.

The March 15, 2020, Emergency Order is superseded by the adoption of this Operational Order. The Stakeholders Committee members shall remain intact and at the discretion of the Chair a meeting called as issues arise during the implementation of this plan.

Original Plan recommended for approval by the Jefferson County Stakeholders Committee on June 17, 2020 with Amendment 1 recommended on October 7, 2020.

10-22-20
Date



Hon. Bennett J. Brantmeier
Chair, Jefferson County Stakeholders Committee

I approve this Operational Plan.

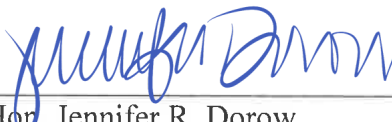
10-22-2020
Date



Hon. William F. Hue
Presiding Judge

I approve this Operational Plan.

October 22, 2020
Date



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