



COURTS REOPENING COMMITTEE



INTERIM REPORT
May 2020



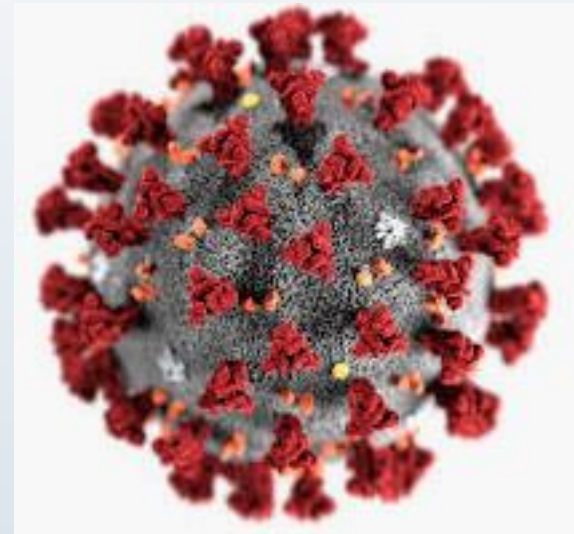


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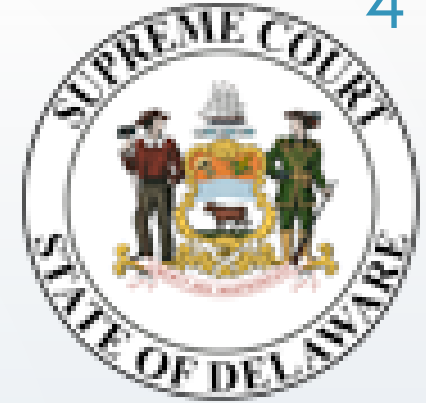
- Judge William C. Carpenter, Jr. – Superior Court, New Castle County
Chair
- Judge Jeffrey J. Clark – Superior Court, Kent County
- Judge Craig A. Karsnitz – Superior Court, Sussex County
- Judge Eric M. Davis – Superior Court, New Castle County
- Judge Carl Danberg – Court of Common Pleas, New Castle County
- Judge Anne Reigle – Court of Common Pleas, Kent County
- Judge Kenneth Clark – Court of Common Pleas, Sussex County
- Judge Janell Ostroski – Family Court, New Castle County
- Chancellor Andre Bouchard – Court of Chancery
- Gayle Lafferty - Administrative Office of the Courts
- Judge Sean McCormick – Justice of the Peace Court
- AJ Roop – Department of Justice
- Kevin O'Connell – Office of Defense Services
- Gerry Spadaccini – Office of Defense Services
- Susan Judge – Court of Chancery
- Commissioner Claire DeMatteis – Department of Correction
- Chief Shane Troxler – Department of Correction
- Warden Dana Metzger – Department of Correction
- Chief Michael Hertzfeld – Capitol Police
- Kenneth Kelemen – Administrative Office of the Courts
- Dr. Alfred E. Bacon, III - Infectious Disease Associates, PA
- Karlis Johnson – Supreme Court

INTRODUCTION

In the early part of 2020, the COVID-19 pandemic began affecting the United States and since late February has led to the death of over 93,000 individuals. This represents more than all who died in the Vietnam war and thirty times more than those who lost their lives on September 11, 2001. The first reported case of COVID-19 in Delaware occurred on March 11, 2020 and since that time more than 8,000 individuals in the state have tested positive for COVID-19 and over 300 Delawareans have died from the disease. On March 12, 2020 Governor John Carney declared a State of Emergency and the following day closed schools throughout the state. On March 22, 2020 the Governor issued a shelter in place order and closed all non-essential businesses.



On March 13, 2020, in response to the COVID-19 pandemic and the State of Emergency declared by Governor John Carney, Chief Justice Collins J. Seitz, Jr. declared a judicial emergency under the authority of 10 *Del. C.* § 2004 to become effective on March 16, 2020. Ten days later, on March 23, 2020, courthouses statewide were closed to the public with only emergency and essential matters being handled by the courts. The judicial emergency was continued on April 14, 2020 and then again on May 14, 2020.



On April 27, 2020, to assist in the planning necessary to reopen the courthouses, the Chief Justice created the Courts Reopening Committee. The Committee was asked to develop criteria for courts to safely transition the opening of the courthouses in a manner that would minimize the risk of COVID-19 to staff and the public. The Committee met throughout April and May and developed a four phase approach to reopening the courthouses. In the development of the plan, the Committee created several overriding principles to guide its decisions.

Guiding principles:

- Phasing decisions were to be based upon and controlled by medical information and advice received from medical professionals
- Decisions would be made to mitigate the risk of infection to the employees and visitors to the courthouse
- Minimize courthouse traffic during each phase by increasing reliance on technology to handle court calendars
- Limit the transportation of incarcerated individuals to the courthouses by increasing the capability of remote appearances
- Develop a coordinated statewide plan with a degree of flexibility in recognition of the structural differences at each courthouse

This document is the framework that has been established by the Committee to provide guidance to the courts as they reopen the courthouses to the public. The Committee recognizes that the threat of COVID-19 continues and the advice from the public health community continues to evolve as more information about the pandemic is developed. Therefore, this is an Interim Report intended to be adjusted as new information on the spread and treatments for the virus are discovered.





PHASING DETERMINATION

- The Committee was guided in its determination of the phasing protocol by information provided by the Center for Disease Control (CDC), the President's "Opening up America Again" documents and the phasing plan developed by Governor Carney. The Committee was also fortunate to have the guidance and advice of Dr. Alfred E. Bacon III, an infectious disease physician with Christiana Care.
- The Committee recommends that once the Governor has implemented Phase One of his plan and the necessary screening equipment and training in the courthouses has occurred, that the Courts would proceed to Phase One of the plan set forth below. If no unforeseen issues develop during this phase and safety procedures are well established and in place, then the Courts would move to Phase Two relatively quickly.

PHASING DETERMINATION

- The reopening plan was specifically created without dates or a timetable. The decision as to when it is appropriate to move from one phase to the next, or to return to a previous phase, will be the decision of the Chief Justice. The Committee recommends that these decisions be made in consultation with Dr. Bacon and in coordination with the phasing decisions of the Governor. For planning purposes, once a decision is made to move to another phase, sufficient lead time will be necessary to ensure a smooth transition.





PHASE ONE

- Phase One has been created to allow for a “soft” reopening of the courthouse facilities. This will allow the Courts to test the screening procedures at the entrance to each courthouse and determine whether further testing or training is necessary. Thus, in Phase One, only attorneys, bail bondsmen, private individuals posting bail, data miners and the media will be given access to the courthouse with social distancing and face coverings requirements. This will allow some proceedings that were performed remotely or not at all under the emergency orders to be conducted in the courthouse again. To assist with these additional court proceedings, a small increase of court staff will be allowed at the courthouse. However, whenever possible, the use of Skype or Zoom or other technology should continue.



PHASE ONE

10



- PARAMETERS:
 - COURTHOUSE CLOSED TO THE PUBLIC BUT OPEN TO ATTORNEYS WITH 6 FOOT SOCIAL DISTANCING AND NO MORE THAN 10 INDIVIDUALS IN A COURTROOM OR COURTROOM RELATED PUBLIC AREAS
 - ALL NON-COURTROOM RELATED PUBLIC AREAS CLOSED
 - DATA MINERS, BAIL BONDSMEN OR INDIVIDUALS POSTING BAIL AND MEDIA ALLOWED IN COURTHOUSE WITH TIME RESTRICTIONS OR BY APPOINTMENT
 - INCREASE STAFF TO NO MORE THAN 25%

EVENTS UNDER PHASE ONE

11



- SUPREME COURT ORAL ARGUMENTS AT DOVER COURTHOUSE
- COURT OF CHANCERY HEARINGS
- ROUTINE CRIMINAL MOTIONS IN SUPERIOR COURT, CCP AND FAMILY COURT THAT DO NOT REQUIRE THE PRESENCE OF THE DEFENDANT OR ARE CONDUCTED BY VIDEO
- PLEA BY APPOINTMENT OF INCARCERATED DEFENDANTS BY VIDEO
- VIOLATION OF PROBATION HEARINGS OF INCARCERATED DEFENDANTS BY VIDEO
- SENTENCING OF INCARCERATED DEFENDANTS BY VIDEO
- PRELIMINARY HEARINGS OF INCARCERATED DEFENDANTS BY VIDEO

EVENTS UNDER PHASE ONE

12



- CAPIAS/BAIL REVIEW/ARRAIGNMENTS FOR INCARCERATED DEFENDANTS BY VIDEO
- ATTORNEY-ONLY CONFERENCES AND HEARINGS IN CIVIL CASES
- CIVIL PRE-TRIAL CONFERENCES
- INVOLUNTARY OUTPATIENT HEARINGS BY VIDEO
- FAMILY COURT PFA HEARINGS BY VIDEO
- FAMILY COURT CIVIL TRIALS BY VIDEO
- FAMILY COURT MEDIATIONS AND ARBITRATIONS BY VIDEO
- FAMILY COURT ARRAIGNMENTS AND VOPS BY VIDEO



PHASE TWO

- Phase Two is designed to open the courthouses to the public while at the same time maintain precautions to limit potential virus exposure. Courtrooms will be limited to no more than 10 people and will require wearing a face covering and social distancing of 6 feet. Court staff and attorneys are not included in the 10 person limitation as long as the social distancing and face covering requirements are maintained. Any staging of people for court proceedings should occur in other courtrooms or the public area adjacent to courtrooms with the same limitations.



PHASE TWO

14



- This phase will also allow proceedings involving non-incarcerated defendants to proceed except for trials. All proceedings involving incarcerated defendants will continue to be done by video to limit potential introduction of the virus into the prison facilities and the courthouses. Due to the 10 person limitations, jury trials will not be conducted during this phase, but non-jury civil and criminal trials may proceed as long as they can be conducted with the same social distancing limitations. Grand Jury proceedings can occur with the assistance of technology. If the 10 person limitation is subsequently modified by the Governor, the Chief Justice should consider the merit of making similar modifications.

PHASE TWO

15



- PARAMETERS

- COURTHOUSE OPEN TO THE PUBLIC WITH 6 FOOT SOCIAL DISTANCING AND NO MORE THAN 10 PEOPLE IN A COURTROOM OR COURTROOM RELATED PUBLIC AREAS
- ALL NON-COURTROOM RELATED PUBLIC AREAS ARE CLOSED
- INCREASE STAFFING TO NO MORE THAN 50%
- COURTHOUSE ADMISSIONS SHOULD BE MONITORED AND CORRECTIVE ACTION TAKEN WHEN 50% OF BUILDING CAPACITY IS REACHED

EVENTS UNDER PHASE TWO

16



- ADD:
 - CIVIL HEARINGS THAT REQUIRE WITNESSES OR CLIENT PARTICIPATION
 - NON-JURY CIVIL AND CRIMINAL TRIALS
 - FINAL CASE REVIEWS OF INCARCERATED DEFENDANTS BY VIDEO
 - FIRST CASE REVIEWS OF INCARCERATED DEFENDANTS BY VIDEO TO THE EXTENT A WAIVER FORM HAS NOT BEEN FILED
 - INVOLUNTARY OUTPATIENT HEARINGS IN SUSSEX AND KENT (BY VIDEO IN NCC)

EVENTS UNDER PHASE TWO

17



- SENTENCING OF NON-INCARCERATED DEFENDANTS
- PRESENTENCE INTERVIEW OF INCARCERATED DEFENDANTS BY VIDEO
- GRAND JURY
- GUN RELINQUISHMENT HEARINGS
- CASE REVIEWS FOR NON-INCARCERATED DEFENDANTS
- PROBLEM SOLVING COURTS FOR NON-INCARCERATED DEFENDANTS



PHASE THREE

- There are two significant changes that are introduced in Phase Three. First, the group limitation is expanded to 50 people thus allowing jury trials to begin in both civil and criminal matters. The second is that incarcerated inmates are now introduced back into the courthouse. This will allow pretrial motions to be held that require the incarcerated defendant's presence and sentencings for all defendants to proceed. In addition, since trials can now be scheduled, final case reviews can also be scheduled in relation to those trial dates. While in-person proceedings will now become more common, the Committee encourages each Court to continue to do proceedings remotely when possible. This will assist in limiting the spread of the virus and protecting the safety of the staff and the public.





- PARAMETERS

- COURTHOUSE OPEN TO THE PUBLIC WITH A 6 FOOT SOCIAL DISTANCING REQUIREMENT AND NO MORE THAN 50 INDIVIDUALS IN THE COURTROOMS OR PUBLIC AREAS
- ALL NON-COURTROOM PUBLIC AREAS REMAIN CLOSED
- INMATES TRANSPORTED FOR CALENDARS THAT ARE NOT CONTINUING TO BE HANDLED BY VIDEO
- INCREASE STAFFING TO 75%
- COURTHOUSE ADMISSIONS SHOULD BE MONITORED AND CORRECTIVE ACTION TAKEN WHEN 75% OF BUILDING CAPACITY IS REACHED

EVENTS UNDER PHASE THREE

20



- ADD:
 - CIVIL AND CRIMINAL JURY TRIALS
 - HEARINGS ON PRETRIAL CRIMINAL MOTIONS
 - IN-COURT PRELIMINARY HEARINGS OF INCARCERATED DEFENDANTS
 - IN-COURT FINAL CASE REVIEWS OF ALL DEFENDANTS
 - SENTENCING OF ALL DEFENDANTS
 - VOPS OF ALL DEFENDANTS
 - MINOR TORT SETTLEMENT HEARINGS
 - INQUISITION HEARINGS
 - PROBLEM SOLVING COURTS INVOLVING INCARCERATED DEFENDANTS



PHASE FOUR

- Phase Four is now the “new normal” with all proceedings returning to the courthouses. This new norm, however, is not a return to the ways of the past. Social distancing and the minimizing of large calendars are recommended and the Courts should take the opportunity to reassess whether the lessons learned during the earlier phases should continue. The pandemic forced the courts to rethink how they have done business for decades and it is important that those lessons not be thrown aside now that some normality has returned. Doing events remotely can reduce costs, improve attorney productivity, and improve the safety and efficiency of our staff. While this movement towards a more technological solution to our work has not been accomplished without some pain and stress, it has moved the needle forward and we should pause before returning to what was comfortable in the past.



PHASE FOUR

22



- PARAMETERS:
 - COURTHOUSE IS OPEN BUT WITH PROCEDURES TO MINIMIZE CROWDED SETTINGS AND THE ABILITY TO PRACTICE SOCIAL DISTANCING
 - PUBLIC AREAS OF THE COURTHOUSES ARE OPEN
 - STAFFING INCREASED TO 100%
 - COURTHOUSE ADMISSIONS ARE MONITORED TO ENSURE COURTHOUSES ARE NOT EXCEEDING CAPACITY TO MAINTAIN PUBLIC AND STAFF SAFETY

EVENTS UNDER PHASE FOUR

23



- ADD:
 - CRIMINAL JURY TRIALS THAT REQUIRE A LARGE JURY POOL
 - HEARINGS RELATED TO RULE 61 MATTERS
 - CONTEMPT OF COURT PROCEEDINGS
 - CCDW HEARINGS
 - EXPUNGEMENT HEARINGS
 - RETURN OF PROPERTY HEARINGS
 - RESTITUTION HEARINGS

HOW TO MOVE FORWARD

While the phasing process allows for the reopening of the courthouses in a way that would limit court procedures and thus minimize the risk to staff and visitors, the Committee also recognized the need to address some of the practical issues surrounding the opening of the courthouses. Clearly, simply opening the courthouse doors and following the old protocols and procedures would no longer be adequate. Following the guidance provided by the Division of Public Health and the Governor's Office, the Committee has reviewed what should be required to allow individuals to enter the courthouses, how to manage visitors and staff once they are in our facilities, and what unique challenges the courts would face in the courtrooms. It also quickly became clear that this was not an issue that each court could address separately. With few exceptions, our courthouses include multiple courts, and the failure to coordinate the conduct of each court could have a dramatic impact on the safety of all.

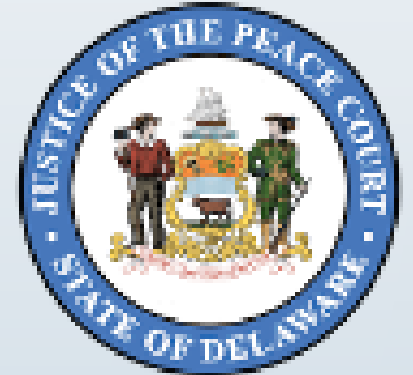
In order to accomplish this review, the Courthouse Reopening Committee created subcommittees to focus on three critical areas.

The **first subcommittee** was tasked with reviewing how to manage the various entrances into the courthouses. This included determining what testing should be performed, what new procedures would be required to maintain social distancing and how to best ensure the safety of our employees as they come to work.

The **second subcommittee** was tasked with determining how to manage the public and employees once they are in the courthouse. This included reviewing whether there are sufficient safeguards in public areas where there is interaction with staff, how the public and staff move within the courthouse, and how staff working areas comply with social distancing requirements. In addition, the Committee reviewed what the expectation of staff should be when they are in their working area.

The **third subcommittee** was tasked with reviewing how to manage the conduct and procedures in the courtroom setting itself and how the court proceedings of the various courts in a courthouse could be coordinated to minimize the volume of people coming to the courthouses. It also considered how incarcerated defendants would be managed by the Department of Correction (DOC) during transport and in the courtroom.

While each courthouse is structurally different and presents unique challenges, the Committee believes that with few exceptions, the guidance that follows can be accomplished and should be mandated for all of the courthouses statewide. However, the Committee did not attempt to address the unique challenges facing the Justice of the Peace courts since at present all but Court 16 are housed in separate stand alone facilities. The JP court has developed a separate plan that would be applicable to their facilities and is included in the Appendix.



COURTHOUSE ENTRANCE

- ALL COURTHOUSES SHOULD HAVE A DESIGNATED ENTRANCE SPECIFICALLY FOR EMPLOYEES OR A DESIGNATED PROCESS THAT ALLOWS EMPLOYEES TO ENTER THE FACILITY IN A MANNER THAT MINIMIZES CONTACT WITH THE PUBLIC
- ALL VISITORS TO THE COURTHOUSE SHOULD BE REQUIRED TO QUEUE UNDER THE DIRECTION OF CAPITOL POLICE OR OTHER APPROPRIATE AUTHORITY IN ORDER TO MAINTAIN SOCIAL DISTANCING REQUIREMENTS. VISITORS SHOULD BE PROCESSED INTO THE COURTHOUSE IN A MANNER THAT WILL ALLOW APPROPRIATE SCREENING TO OCCUR IN A PLANNED AND CONTROLLED FASHION.





COURTHOUSE ENTRANCE

- SIGNS IN BOTH ENGLISH AND SPANISH (AND HAITIAN CREOLE IN SUSSEX) SHOULD BE LOCATED BOTH INSIDE AND OUTSIDE THE COURTHOUSES TO INFORM VISITORS OF NEW SCREENING MEASURES THAT MUST BE OBSERVED IN ORDER TO GAIN ENTRANCE INTO THE FACILITY. THESE MEASURES INCLUDE:
 - MAINTAINING OF SOCIAL DISTANCE
 - WEARING A FACE COVERING
 - USING HAND SANITIZER UPON ENTERING THE BUILDING
 - REQUIRING ANSWERS TO COVID-19 SCREENING QUESTIONS
 - SUBMITTING TO A TEMPERATURE SCAN



COURTHOUSE ENTRANCE

- BEFORE ALLOWING A VISITOR OR EMPLOYEE TO ENTER THE BUILDING, CAPITOL POLICE OR OTHER APPROPRIATE AUTHORITY SHOULD CONFIRM THAT EACH VISITOR OR EMPLOYEE ANSWERS “NO” TO THE FOLLOWING QUESTIONS:
 - 1) 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



COURTHOUSE ENTRANCE

- 2) WITHIN THE LAST 14 DAYS, HAVE YOU BEEN IN CLOSE CONTACT (I.E., WITHIN 6 FEET FOR MORE THAN 10 MINUTES) WITH A PERSON WITH A CONFIRMED COVID-19 INFECTION?
- 3) WITHIN THE LAST 14 DAYS, HAVE YOU TRAVELLED INTERNATIONALLY?
- INDIVIDUALS THAT REFUSE TO COOPERATE OR DO NOT PASS ESTABLISHED SCREENING AND SAFETY PROTOCOLS SHOULD BE TURNED AWAY FROM THE COURTHOUSE. THE OFFICER OR OTHER APPROPRIATE AUTHORITY SHOULD DOCUMENT THE NAME OF THE INDIVIDUAL, THE PROCEEDING THEY WERE THERE TO ATTEND AND NOTIFY THE APPROPRIATE COURT OF SUCH ACTION



COURTHOUSE ENTRANCE

- ANY EMPLOYEE WHO CANNOT ANSWER “NO” TO ALL THREE SCREENING QUESTIONS SHOULD BE DENIED ENTRANCE AND DIRECTED TO CONTACT THEIR SUPERVISOR. IF THE EMPLOYEE REPORTS HAVING BEEN IN CLOSE CONTACT WITHIN THE LAST 14 DAYS WITH A PERSON WITH A CONFIRMED COVID-19 INFECTION, THE EMPLOYEE SHOULD BE DIRECTED TO SELF QUARANTINE FOR 14 DAYS FROM THE DATE OF THEIR EXPOSURE
- IF THE COURT IS NOTIFIED THAT A VISITOR OR EMPLOYEE HAS TESTED POSITIVE FOR COVID-19 WITHIN 14 DAYS OF THEIR APPEARANCE IN THE COURTHOUSE, THE COURT SHOULD BEGIN A PROCESS OF TRACKING AND NOTIFYING OTHERS WHO MAY HAVE BEEN IN CLOSE CONTACT WITH THAT INDIVIDUAL



COURTHOUSE ENTRANCE

- ALL INDIVIDUALS THAT ENTER THE COURTHOUSE SHOULD BE REQUIRED TO WEAR MASKS OR OTHER FACE COVERING OVER THEIR NOSE AND MOUTH. IF A VISITOR OR EMPLOYEE ARRIVES AT THE COURTHOUSE WITHOUT A FACE COVERING, A DISPOSABLE MASK SHOULD BE PROVIDED
- ALL INDIVIDUALS UPON ENTRY TO THE COURTHOUSE WILL HAVE THEIR TEMPERATURE TESTED BY A THERMAL SCAN OR OTHER APPROVED DEVICE. ANYONE THAT REGISTERS A TEMPERATURE OF 99.5 DEGREES FAHRENHEIT OR ABOVE SHOULD BE DENIED ENTRY TO THE COURT FACILITY. IF IT IS A VISITOR, THE SCREENING AUTHORITY SHOULD DOCUMENT THE NAME OF THE INDIVIDUAL, THE PROCEEDING THEY WERE THERE TO ATTEND, AND NOTIFY THE APPROPRIATE COURT OF SUCH ACTION



COURTHOUSE ENTRANCE

- IF IT IS AN EMPLOYEE THAT REGISTERS A TEMPERATURE OF 99.5 F OR ABOVE AND IS DENIED ENTRY, THEY SHOULD NOTIFY THEIR SUPERVISOR AND FOLLOW THEIR COURT'S PROTOCOLS FOR UNSATISFACTORY TEMPERATURE SCAN
- ONLY AFTER A SATISFACTORY COMPLETION OF THE TEMPERATURE SCREENING MAY THE VISITOR OR EMPLOYEE PROCEED TO THE MAGNETOMETER SCREENING. TO MINIMIZE POTENTIAL CONTAMINATION OF EQUIPMENT, AIRPORT-TYPE BINS SHOULD BE USED TO SCREEN PERSONAL ITEMS

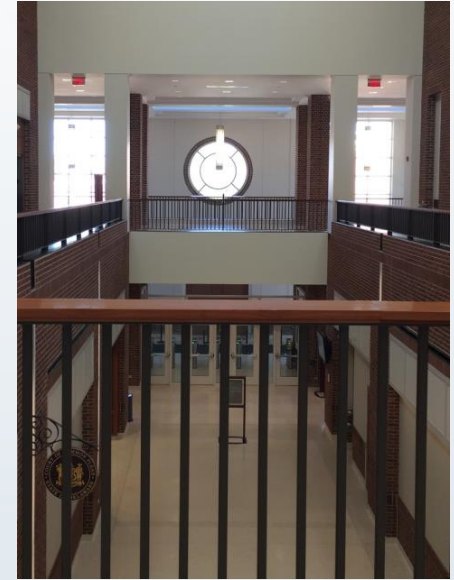


COURTHOUSE ENTRANCE

- CAPITOL POLICE OR OTHER APPROPRIATE AUTHORITY MONITORING THE ENTRANCE TO THE COURTHOUSE SHOULD WEAR PROTECTIVE EQUIPMENT AND WHEN FEASIBLE, MAINTAIN APPROPRIATE SOCIAL DISTANCING CONSISTENT WITH THEIR RESPONSIBILITIES
- SCREENING EQUIPMENT AT THE ENTRANCE SHOULD BE DISINFECTED ON A REGULAR BASIS
- WHERE FEASIBLE, COURTHOUSE GUIDES SHOULD BE AT THE COURTHOUSE ENTRANCE TO DIRECT VISITORS TO THE APPROPRIATE COURTROOM
- CONSISTENT WITH THE EMERGENCY ORDERS ISSUED BY THE GOVERNOR AND THE CHIEF JUSTICE , CAPITOL POLICE WILL BE AUTHORIZED TO ENFORCE ALL SCREENING AND COURTHOUSE PROTOCOLS

MANAGING THE COURTHOUSE

- EMPLOYEE WORKSPACES SHOULD BE RECONFIGURED TO COMPLY WITH THE 6 FOOT SPACING REQUIREMENTS
- EMPLOYEES SHOULD BE REQUIRED TO WEAR MASKS WHEN THEY LEAVE THEIR WORK AREA OR ARE WITHIN 6 FEET OF ANOTHER INDIVIDUAL
- PUBLIC AREAS IN COURTHOUSE OFFICES SHOULD BE MARKED TO INDICATE THE 6 FOOT SEPARATION REQUIREMENT
- COURTROOMS SHOULD BE CLEANED AFTER EACH COURT PROCEEDING
- EMPLOYEES WILL BE PROVIDED CLEANING SUPPLIES TO ENABLE THEM TO CLEAN THEIR WORK AREA





MANAGING THE COURTHOUSE

- EACH COURTHOUSE SHOULD LIMIT ACCESS TO ELEVATORS AND TO THE EXTENT POSSIBLE, OFFER ALTERNATIVE MEANS TO MOVE AROUND THE BUILDING. IF AVAILABLE, EMPLOYEES SHOULD BE GIVEN ACCESS TO NON-PUBLIC ELEVATORS
- NO MORE THAN FOUR INDIVIDUALS SHOULD BE ALLOWED IN THE ELEVATOR AT A TIME
- SIGNS IN BOTH ENGLISH AND SPANISH (AND IN HAITIAN CREOLE IN SUSSEX) SHOULD BE PLACED AT THE ELEVATORS TO INDICATE NO MORE THAN FOUR INDIVIDUALS ARE ALLOWED IN AN ELEVATOR CAR
- THE FLOOR OF ELEVATOR CARS SHOULD BE DIVIDED INTO SQUARES TO ENCOURAGE COMPLIANCE AND SIGNS SHOULD BE POSTED IN ELEVATOR CARS TO REFLECT THE FOUR PERSON LIMIT



MANAGING THE COURTHOUSE

- SANITIZER STATIONS SHOULD BE AVAILABLE ON EACH FLOOR AT THE ELEVATORS
- ELEVATORS SHOULD BE CLEANED MULTIPLE TIMES PER DAY
- ESCALATORS SHOULD BE CLEANED MULTIPLE TIMES PER DAY AND HAND SANITIZER STATIONS SHOULD BE AT BOTH ENDS OF THE ESCALATOR
- SIGNS IN BOTH ENGLISH AND SPANISH SHOULD BE PLACED AT EACH ESCALATOR TO REMIND INDIVIDUALS OF THE NEED FOR PROPER SOCIAL DISTANCING AND SANITATION



MANAGING THE COURTHOUSE

- PROTECTIVE GLASS SHOULD BE INSTALLED IN ALL OFFICES THAT HAVE REGULAR INTERACTION WITH THE PUBLIC
- EMPLOYEES SHOULD WASH THEIR HANDS OR USE HAND SANITIZER AFTER EACH COURT PROCEEDING
- SMALL BOTTLES OF HAND SANITIZER SHOULD BE PLACED AT THE CLERK'S BENCH IN ALL COURTROOMS
- ALL NON-COURTROOM RELATED PUBLIC AREAS SHOULD BE CLOSED UNTIL PHASE THREE IS IMPLEMENTED



MANAGING THE COURTHOUSE

- SIGNS IN BOTH ENGLISH AND SPANISH (AND HAITIAN CREOLE IN SUSSEX) SHOULD BE PLACED AT PUBLIC BATHROOMS LIMITING ACCESS TO ONLY TWO PEOPLE AT A TIME AND REMIND THEM TO MAINTAIN PROPER SOCIAL DISTANCING DURING USE
- SOCIAL DISTANCING IN OFFICE BREAKROOMS SHOULD BE MAINTAINED AND IF THAT IS NOT POSSIBLE, BREAKROOMS SHOULD BE CLOSED



MANAGING THE COURTHOUSE

- UNTIL PHASE FOUR IS REACHED, EACH COURT SHOULD IMPLEMENT A STAFFING PLAN CONSISTENT WITH THE LIMITATIONS SET FORTH IN EACH PHASE THAT MINIMIZES THE STAFF NEEDED IN THE BUILDING
- TO THE EXTENT POSSIBLE, THE COURT SHOULD CONTINUE TO ALLOW EMPLOYEES TO WORK REMOTELY SO AS TO LIMIT THE POSSIBILITY OF INFECTION AND TO PREVENT THE POSSIBLE QUARANTINING OF A SUBSTANTIAL PORTION OF THE WORKFORCE



MANAGING THE COURTHOUSE

- ALL MEASURES ADOPTED BY THE COURT TO ENSURE THE SAFETY OF THE PUBLIC AND STAFF SHOULD BE POSTED ON THE COURT WEBSITE AND IN ALL COMMUNICATIONS TO JURORS
- ENCOURAGE ALL EMPLOYEES TO UTILIZE AUTOMATED TRACKING TECHNOLOGY WHEN IT IS MADE AVAILABLE

COURTROOM MANAGEMENT

- EACH COURTROOM SHOULD HAVE THE ABILITY TO USE JIC APPROVED TECHNOLOGY TO CONNECT WITH ATTORNEYS, LITIGANTS AND DOC FOR PROCEEDINGS INVOLVING INCARCERATED DEFENDANTS
- COURTROOMS SHOULD BE CONFIGURED AND MARKED TO MAINTAIN PROPER SOCIAL DISTANCING BETWEEN COUNSEL, LITIGANTS AND COURT STAFF WITH COUNSEL TABLES AT LEAST 6 FEET FROM THE JURY AND COURT STAFF
- ALL PARTICIPANTS, INCLUDING NON-LITIGANTS, SHOULD BE REQUIRED TO WEAR A FACE COVERING OR MASK WHILE IN THE COURTROOM. DURING COURTROOM PROCEEDINGS, THE JUDGE MAY AUTHORIZE REMOVAL OF MASKS OR FACE COVERINGS FOR PURPOSES OF WITNESS TESTIMONY, DEFENDANT IDENTIFICATION OR OTHER REASONS DEEMED NECESSARY BY THE JUDGE FOR THE FAIR PRESENTATION OF THE CASE
- COUNSEL SHOULD REMAIN AT COUNSEL TABLE WHEN ADDRESSING THE COURT OR THE JURY





COURTROOM MANAGEMENT

- ALL PODIUMS SHOULD BE REMOVED FROM THE COURTROOMS OR WHEN THAT IS NOT REASONABLE, SIGNS SHOULD BE PLACED TO INDICATE TO COUNSEL THEY SHOULD ADDRESS FROM COUNSEL TABLE
- PROCEDURES SHOULD BE ESTABLISHED THAT WILL LIMIT THE NEED FOR COUNSEL TO DIRECTLY APPROACH THE CLERK'S TABLE.
- PLEXIGLASS DIVIDERS SHOULD BE CONSIDERED WHEN APPROPRIATE SOCIAL DISTANCING CANNOT BE MAINTAINED BETWEEN STAFF, COUNSEL, LITIGANTS OR JURY
- COURT CLERK SHOULD USE HAND SANITIZER OR, IF NOT AVAILABLE, USE PROTECTIVE GLOVES FOR HANDLING PLEADINGS OR EXHIBITS AND SHOULD WASH THEIR HANDS AFTER EACH COURTROOM PROCEEDING



COURTROOM MANAGEMENT

- SINCE IT MAY NOT BE POSSIBLE TO APPLY SOCIAL DISTANCING CONSTITUTIONALLY IN ALL CIRCUMSTANCES, PARTICULARLY AS IT RELATES TO DEFENDANTS AND THEIR COUNSEL, THE JUDGE SHOULD MAKE SOCIAL DISTANCING DETERMINATIONS BASED UPON STATUTORY OR CONSTITUTIONAL RESTRAINTS. CONSIDERATION SHOULD BE GIVEN TO THE USE OF CONVERSATION AIDS THAT WILL PERMIT COMMUNICATIONS BETWEEN COUNSEL AND THEIR CLIENT WHILE STILL MAINTAINING SOCIAL DISTANCING REQUIREMENTS
- COURTROOMS SHOULD BE EQUIPPED TO ALLOW WITNESSES AND VICTIMS TO PARTICIPATE REMOTELY IN PROCEEDINGS WHEN DEEMED APPROPRIATE BY THE JUDGE



COURTROOM MANAGEMENT

- UNTIL PHASE FOUR IS REACHED, THE COURT SHOULD LIMIT LIVE PROCEEDINGS TO ONLY THOSE INDIVIDUALS THAT CAN BE ACCOMMODATED UNDER THE SOCIAL DISTANCING REQUIREMENTS AND ARE NEEDED FOR THE EFFECTIVE PRESENTATION OF THE MATTER. THE JUDGE IN EACH PROCEEDING SHOULD BE AUTHORIZED TO ENTER REASONABLE ORDERS TO ENSURE THE HEALTH AND SAFETY OF THE PARTICIPANTS AND STAFF ARE MAINTAINED. THE USE OF TECHNOLOGY TO ALLOW PUBLIC ACCESS SHOULD BE CONSIDERED WHEN A JUDICIAL LIMITATION IS IMPOSED
- THE COURT SHOULD LIBERALLY GRANT CONTINUANCES AND MAKE REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WHO ARE CONSIDERED AT A HIGH RISK OF CONTRACTING COVID-19 OR WHO REPORT ANY COVID-19 DIAGNOSIS, SYMPTOMS OR EXPOSURE



COURTROOM MANAGEMENT

- WHEN DEEMED APPROPRIATE BY THE PRESIDING JUDGE, COURT CLERKS, COURT REPORTERS AND/OR COUNSEL MAY BE AUTHORIZED TO ATTEND COURT PROCEEDINGS BY ELECTRONIC MEANS TO AID IN LIMITING THOSE WHO ARE IN THE COURTROOM

CALENDAR MANAGEMENT

- CALENDARS OF THE VARIOUS COURTS IN A PARTICULAR COURTHOUSE SHOULD BE COORDINATED TO MINIMIZE THE NUMBER OF PEOPLE ENTERING THE COURTHOUSE EACH DAY
- DURING PHASES ONE AND TWO, COURTS SHOULD COORDINATE THEIR CALENDARS BETWEEN ALTERNATING LIVE AND VIDEO PROCEEDINGS IN ORDER TO LIMIT THE NUMBER OF PEOPLE IN THE COURTHOUSE AND TO ALLOW FOR THE STAGING OF INDIVIDUALS IN COURTROOMS TO MAINTAIN THE SOCIAL DISTANCING REQUIREMENTS
- IN ORDER TO LIMIT THE NUMBER OF PEOPLE IN THE COURTHOUSE, WHENEVER IT IS REASONABLY POSSIBLE TO DO SO, THE COURT SHOULD CONSIDER THE USE OF TECHNOLOGY IN THE PRESENTATION OF EVIDENCE OR LEGAL ARGUMENTS





CALENDAR MANAGEMENT

- WHEN THE COURTROOM LIMITATIONS WILL BE EXCEEDED BY THE NUMBER OF INDIVIDUALS ON A COURT'S CALENDAR, THE COURT SHOULD USE SEPARATE STAGING AREAS FOR THOSE AWAITING THEIR COURT APPEARANCE. ALL LIMITATIONS REGARDING DISTANCING AND DENSITY RESTRICTIONS WOULD ALSO APPLY TO THOSE AREAS
- COURTS SHOULD ADJUST WHEN COURT PROCEEDINGS BEGIN AND WHEN EMPLOYEES SHOULD REPORT TO WORK IN ORDER TO MINIMIZE THE NUMBER OF PEOPLE THAT ARE IN THE COURTHOUSE AT ANY GIVEN TIME

PRISONER MANAGEMENT IN THE COURTHOUSE

- TO THE DEGREE IT IS REASONABLE AND POSSIBLE, TRANSPORTATION OF INMATES TO THE COURTHOUSE SHOULD BE MANAGED TO MAINTAIN REQUIRED SOCIAL DISTANCING REQUIREMENTS
- COURTHOUSE CELL BLOCKS ARE TO BE MANAGED TO MAINTAIN SOCIAL DISTANCING REQUIREMENTS
- INMATE TEMPERATURES ARE TO BE TAKEN BEFORE THEIR ARRIVAL TO THE COURTHOUSE AND IF AN INMATE HAS A TEMPERATURE, THEY SHOULD NOT BE TRANSPORTED OR SHOULD BE RETURNED TO THE PRISON WITH THE APPROPRIATE COURT NOTIFIED





PRISONER MANAGEMENT IN THE COURTHOUSE

- THE COURT SHOULD BE NOTIFIED OF ANY INMATE THAT HAS TESTED POSITIVE FOR COVID-19 WHO HAS BEEN IN THE COURTHOUSE IN THE TWO WEEKS PRIOR TO THE DISCOVERY
- DOC SHOULD BE NOTIFIED IF AN EMPLOYEE, ATTORNEY, WITNESS OR OTHER LITIGANT HAS TESTED POSITIVE FOR COVID-19 WITHIN 14 DAYS OF ANY PROCEEDING INVOLVING AN INMATE
- TECHNOLOGY SHOULD BE USED TO FACILITATE COMMUNICATIONS BETWEEN THE ATTORNEY AND CLIENT PRIOR TO ANY COURT PROCEEDING
- WHEN PHASE THREE BEGINS, CONTINUED USE OF VIDEO PROCEEDINGS SHOULD BE CONSIDERED TO MINIMIZE UNNECESSARY TRANSPORTATION OF INMATES TO THE COURTHOUSE



PRISONER MANAGEMENT IN THE COURTHOUSE

- TO THE EXTENT A COURTHOUSE STRUCTURE AND TECHNOLOGY CAN ACCOMMODATE, THE USE OF INTRA-COURTHOUSE VIDEO BETWEEN CELLBLOCK AND COURTROOMS SHOULD BE CONSIDERED TO MINIMIZE THE RISK TO CORRECTIONAL OFFICERS AND STAFF
- EVEN WHEN PHASE THREE BEGINS, COUNSEL SHOULD CONTINUE TO INTERVIEW AND COMMUNICATE WITH THEIR INCARCERATED CLIENTS BY VIDEO

INDIVIDUAL RESPONSIBILITIES

THE COMMITTEE RECOGNIZES THAT EACH EMPLOYEE AND VISITOR TO THE COURTHOUSE ALSO HAS SOME RESPONSIBILITY TO MINIMIZE THE SPREAD OF THE VIRUS AND TO HELP ENSURE THE SAFETY OF ALL IN THE COURTHOUSE. THIS INCLUDES:



- WASHING HANDS WITH SOAP AND WATER OR USING HAND SANITIZER REGULARLY AND AFTER EVERY COURT APPEARANCE
- AVOIDING TOUCHING YOUR FACE
- SNEEZING OR COUGHING INTO A TISSUE OR YOUR ELBOW
- FREQUENTLY DISINFECTING YOUR WORKSPACE
- USING FACE COVERINGS WHILE IN PUBLIC OR WHEN UNABLE TO MAINTAIN 6 FOOT SPACING
- MAINTAINING RECOMMENDED SOCIAL DISTANCING WHILE IN THE COURTHOUSE
- PERFORM SELF ASSESSMENT AND REMAIN HOME IF ILL OR SICK

CONCLUSION

The Committee has asked that this report be termed as an Interim Report to the Chief Justice. There are two reasons for this request. First, the Committee has asked that a separate subcommittee under the Reopening Committee be formed to study and address the issues around jury selection and jury trials. The limitations set forth above result in significant issues as to how to accomplish jury selection. Since it is expected that jury trials would not occur until Phase Three, some additional time to study and gain from the experience of other jurisdictions would be helpful. The second reason is the concern expressed by health care professionals that, as a result of reopening our society, an increase in infection may occur this summer or fall. If this occurs and results in the closing of the courthouses again, a frank discussion must occur regarding how to accomplish more remotely. Having the Reopening Committee do some planning to prepare for this contingency seems prudent.

Finally, the framework set forth in this document is intended to give guidance to the various courts as they again begin increasing operations. As previously mentioned, the layout of each courthouse is different so some local interpretation of how best to implement the recommendations must be left to the occupants of each courthouse. The Committee does, however, remind each court that the Chief Justice's direction to the Committee was to develop a statewide approach to these difficult issues and it believes it has done so. Now is not the time to deviate from these recommendations simply because they are too hard to accomplish or one believes they have a better solution. The safety of our employees and the public mandates a consistent approach in addressing these issues. Finally, the Committee acknowledges that the constantly evolving nature of this pandemic will require reassessment and adjustment as our knowledge of the virus develops.

APPENDIX

- CHIEF JUSTICE'S EMERGENCY ORDERS
 - March 13, 2020 Order Declaring a Judicial Emergency
 - <https://courts.delaware.gov/forms/download.aspx?id=120328>
 - March 22, 2020 Order Restricting Operations
 - <https://courts.delaware.gov/forms/download.aspx?id=120578>
 - April 14, 2020 Order Extending Emergency
 - <https://courts.delaware.gov/rules/pdf/COVID-extended-deadline.pdf>
 - April 30, 2020 Order Requiring Facemasks
 - <https://courts.delaware.gov/rules/pdf/COVID-19-Admin-Order-5.pdf>
 - May 14, 2020 Order Extending Emergency
 - <https://courts.delaware.gov/rules/pdf/COVIDOrderCJS3.pdf>
- A complete list of COVID-related orders and statements
 - <https://courts.delaware.gov/aoc/covid-19>

APPENDIX

- PRESIDENT'S GUIDELINES FOR OPENING UP AMERICA AGAIN
 - <https://www.whitehouse.gov/openingamerica/>
- GOVERNOR'S REOPENING PLAN
 - https://governor.delaware.gov/wp-content/uploads/sites/24/2020/05/Delaware-Economic-Reopening-Guidance-Phase-1-Revised_05202020.pdf
- JUSTICE OF THE PEACE COURT REOPENING PLANS