

**OPERATING PLAN FOR JURY TRIALS IN
THE DISTRICT COURT OF CARBON COUNTY
SECOND JUDICIAL DISTRICT OF WYOMING**

Due to the COVID-19 pandemic, much of our Nation and our State have been brought to a near standstill. COVID-19 has affected everyone and nearly every aspect of our lives, including the Wyoming Court system, especially jury trials. Generally, the Wyoming Supreme Court has recommended that no courts conduct jury trials until August 3, 2020. However, trials necessary to protect the constitutional rights of criminal defendants may need to occur before August 3, 2020. *See* Fourth Order Amending March 18, 2020, Temporary Plan to Address Health Risks Posed by the COVID-19 Pandemic (the “Order”) at ¶ 1.a. Regardless of when a trial is held, it is incumbent on the trial court to have a plan to best ensure the health and safety of our jurors while still providing a fair trial. *Id* at ¶1.i.

Although no person or government agency can guarantee that any of us will not be exposed to COVID-19, this Court can, and must, take all reasonable precautions to ensure the safety of our citizens who serve on our juries. Each courthouse, and each courtroom, faces different challenges. Additionally, each community may be affected differently by COVID-19. Recognizing these unique characteristics of each courtroom, each community, and drawing on guidance from the Centers for Disease Control (CDC), the State Public Health Officer, and various courts throughout the country, the following is the operating plan for District Court in the Carbon County Courthouse.

PRE-COURTHOUSE SCREENING

Courts should take efforts to ensure that vulnerable populations are not compelled to come to the courthouse and to educate potential jurors on the precautions each courtroom is taking to protect jurors' health and safety.

Supplemental juror questionnaires

The Court will send supplemental juror questionnaires four to five weeks in advance of trial.

It is important to have this questionnaire sent early to allow response time to pre-screen potential jurors with health conditions that may excuse them due to COVID-19.

The Court will share responses with the parties. The Court will have an on-the-record discussion, which shall include the defendant in a criminal case.

If both parties agree, dismiss the potential juror for cause before the trial date.

If the parties do not agree, if possible, the Court will decide before the trial date whether the potential juror is excused. The Court will have the Clerk of District Court notify the potential juror immediately to avoid having the at-risk person appear at the courthouse.

If a potential juror brings the supplemental questionnaire to the courthouse on the day of trial and has provided questionable responses, Court screening personnel will notify the Court, and the Court will immediately confer with the parties on the record, and decide whether to excuse the potential juror.

Safety Precaution Information

The Court will post information on the county website and throughout the courthouse detailing the precautions taken by the Court.

COURTHOUSE PROTECTIONS

Social distancing, barriers, personal protective equipment (PPE), health screenings, and changes in facilities and operations can all help protect potential jurors and minimize the risk of exposure while at the courthouse. There are things within the courthouse/rooms that courts may adjust to help the facility itself protect jurors' health and safety.

Facilities (Ventilation)

Research indicates that proper airflow can help limit the spread of COVID-19. Courts should consider trying to improve air quality within the courtroom by:

Increasing ventilation rates.

	<p>Ensuring ventilation systems operate properly and provide acceptable indoor air quality for the current occupancy level for each space.</p> <p>Increasing outdoor air ventilation, using caution in highly polluted areas.</p> <p>Disabling demand-controlled ventilation (DCV).</p> <p>Opening minimum outdoor air dampers (as high as 100%) to reduce or eliminate recirculation.</p> <p>Improving central air filtration to the MERV-13 or the highest compatible with the filter rack.</p> <p>Sealing edges of the filter to limit bypass.</p> <p>Checking air filters to ensure they are within service life and appropriately installed.</p> <p>Keeping systems running longer hours, 24/7 if possible, to enhance air exchanges in the building space.</p>
<p>Facilities (Doors)</p>	<p>The Court will leave the courtroom doors open, except for when conducting private voir dire with venire members. This will help with air circulation and avoid persons involved in the trial process from having to touch additional surfaces (i.e., door handles).</p> <p>When doors must be opened and closed, only bailiffs or court screening personnel, equipped with gloves and face coverings, will open and close doors.</p>
<p><i>VOIR DIRE</i></p>	
<p><i>Voir dire</i> poses special problems due to the number of people that will be congregating at the courthouse. In addition, <i>voir dire</i> is the first time potential jurors will interact with court personnel so neither group may know what to expect.</p>	
<p>Court Procedures Information</p>	<p>The Court will post signs at the courthouse entrance that instruct potential jurors to report to the juror screening area on the third floor at the top of the stairs. This notice will let potential jurors know that they will:</p> <p>Have their temperature taken;</p> <p>Must answer some health questions, and</p> <p>Be provided a face covering and may also have sterile gloves if they request them.</p>

<p>Social Distancing</p>	<p>The gallery of the courtroom allows for 24 persons to be seated at a proper social distance.</p> <p>Therefore, the Court will summon 18 potential jurors at a time.</p> <p>The first set of 18 potential jurors will be summoned for 8:00 a.m., the second set at 10 a.m., and the third set at 1 p.m.</p> <p>The Court will qualify jurors and conduct basic, preliminary <i>voir dire</i> from approximately 8:15 – 8:30 (10:15 – 10:30/1:15-1:30).</p> <p>Each side will be given 30 minutes to conduct <i>voir dire</i>. (8:30 – 9:30/10:30 – 11:30/1:30 – 2:30).</p> <p>The Court will conduct private <i>voir dire</i> arising during <i>voir dire</i> from approximately (9:30 – 10:00/11:30 – 12:00/2:30 – 3:00).</p> <p>The Court will excuse the first sub-panel.</p> <p>Between panels, court staff will use disinfecting spray on all common surfaces including, but not limited to, gallery, counsel tables, podium (if used), and microphones.</p> <p>Arrange for additional court screening personnel in common areas to direct each subpanel to maintain social distance in common areas.</p> <p>Arrange for proper spacing of chairs in hallways and sufficiently large meeting rooms where <i>voir dire</i> may take place.</p> <p>When Court excuses each sub-panel, the Court will notify potential jurors that the Court will call them between 2:00 and 3:00 p.m. to let them know whether they have been selected for jury service.</p>
<p>Health (Screening)</p>	<p>The Court will conduct health screenings when jurors arrive at the courthouse. Court security has agreed to provide Court screening personnel for when jurors arrive at the courthouse. Court screening personnel will:</p> <p>Take the temperature of each potential juror before allowing the juror to enter the courtroom.</p> <p>If a potential juror has a temperature over 100° F, the potential juror will not be admitted to the courtroom and will be asked to return to their vehicle and await further instruction from the Court.</p> <p>Court screening personnel will ask COVID-19 screening questions.</p>

	<p>If a potential juror answers in the affirmative to any health screening question, the potential juror will not be admitted to the courtroom and will be asked to return to their vehicle and await further instruction from the Court.</p> <p>The Court will remind venire members to notify a bailiff or the Court of any changes in their health condition.</p> <p>If there is a change in a health condition that relates to COVID-19 symptoms, the Court must be prepared to implement its Infectious Event Outline (below).</p>
<p>Hygiene/Personal Protective Equipment (Screening)</p>	<p>The Court will ensure that each venire member sanitizes their hands before entering the courtroom.</p> <p>After hands are sanitized, court screening personnel will provide each venire member a face covering (mask) and gloves (if requested).</p> <p>Court and court screening personnel must also instruct venire members how to put on, and take off, face coverings, and disposable gloves.</p> <p>Court screening personnel or bailiffs will wear face coverings (i.e., masks) and gloves throughout the <i>voir dire</i> process.</p> <p>The Court will train court screening personnel and bailiffs on proper procedures for putting on/taking off PPE (masks and gloves) (see below).</p>
<p>Social Distancing Within the Courtroom</p>	<p>Once in the courtroom, courts must ensure social distancing, face coverings, or a combination of both. At a minimum, either social distancing or a protective barrier must be used.</p> <p>The Court will only allow as many venire members in the courtroom as may maintain social distancing (minimum six feet apart) in the gallery.</p> <p>The Court has marked the gallery in six feet spacing.</p> <p>A row shall remain vacant between the jury and the public.</p> <p>The last rows can accommodate up to four to six people for public access.</p> <p>The Clerk of District Court will maintain information on all members of the public that enter the courtroom for contact tracing purposes, to include:</p> <p style="text-align: center;">Name and telephone number.</p>

	<p>All members of the public will be screened like potential jurors (temperature checks and health screening forms).</p>
<p>Health Screening in the Courtroom</p>	<p>The Court will instruct bailiffs to monitor venire sub-panels for signs of COVID-19 symptoms.</p> <p style="padding-left: 40px;">This will require some training on spotting symptoms.</p> <p>Court screening personnel or bailiffs will ask COVID-19 screening questions and take temperatures at the beginning of each day when the public, venire, and/or jury members are in the courtroom.</p>
<p>Hygiene/ Personal Protective Equipment in the Courtroom</p>	<p>Potential jurors shall wear masks while entering and leaving the courtroom. Jurors will also be provided with a face shield to wear instead of a mask, at their seat for jury selection so the attorneys may better see the expressions and answers of potential jurors.</p> <p>If it becomes necessary for a potential juror to address the Court, the Court will:</p> <p style="padding-left: 40px;">First, ask venire members to “speak up” and avoid the use of a microphone to avoid another surface vector.</p> <p style="padding-left: 40px;">If it becomes necessary to use the microphone, the Court and bailiffs will instruct (and require) that each venire member wear a face covering when responding to questions during <i>voir dire</i> if using a microphone.</p> <p style="padding-left: 40px;">Bailiffs will use a disposable microphone cover on the handheld microphone and sanitize the handheld microphone with Purell after use.</p> <p style="padding-left: 80px;">Purell is on List N of disinfectants approved by the EPA to address coronavirus. Purell has a one (1) minute wet time, which bailiffs will use.</p> <p>All persons entering and leaving the courtroom must sanitize their hands each time they re-enter the courtroom.</p> <p>Court/courthouse staff will clean the courtroom between venire sub-panels.</p>

	<p>The Court currently has the following disinfectants from List N available for morning and afternoon cleaning:</p> <table border="1" data-bbox="527 283 1079 504"> <thead> <tr> <th>Name</th> <th>EPA Reg. No.</th> <th>Wet Time (min)</th> </tr> </thead> <tbody> <tr> <td>Purell</td> <td>84368-1</td> <td>1</td> </tr> <tr> <td>Clorox Cleaner</td> <td>67619-17</td> <td>5</td> </tr> <tr> <td>Perk Wipes</td> <td>6836-340</td> <td>10</td> </tr> <tr> <td>Rediquat</td> <td>10324-85</td> <td>10</td> </tr> <tr> <td>Cidequat</td> <td>1839-83</td> <td>10</td> </tr> </tbody> </table> <p>All cleaning must be done by persons wearing face coverings and gloves.</p>	Name	EPA Reg. No.	Wet Time (min)	Purell	84368-1	1	Clorox Cleaner	67619-17	5	Perk Wipes	6836-340	10	Rediquat	10324-85	10	Cidequat	1839-83	10
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<p>Private Voir Dire</p>	<p>Any panel member who requests to have a private <i>voir dire</i> will have his name recorded. After the panel of jury selection is completed, the court will call jurors who request private <i>voir dire</i> back into the courtroom one at a time to be examined by the parties. The potential juror will return to his designated seat.</p> <p>The bailiffs will instruct any potential jurors who want private <i>voir dire</i> to wait in the 3rd-floor corridor and maintain social distance from other panel members.</p> <p>The Court will ensure that <i>only</i> bailiffs or court security personnel who wear masks and gloves open and close all doors when escorting venire members in and out of the courtroom.</p> <p>Bailiffs may return all venire members to the assigned seating in the hallway/alternative meeting rooms where bailiffs assembled venire members before entering the courtroom. The hall is marked to maintain social distance.</p> <p>Bailiffs may encourage venire members to go outside (weather permitting) during any breaks.</p>																		
<p>Calling the jury</p>	<p>The Clerk will call the jurors chosen to serve and ask them to report to the juror screening area at the top of the steps by a time certain (probably about 3:30).</p> <p>Court screening personnel or bailiffs will repeat temperature checks and health screening questions with each juror as they return.</p> <p>Clerk of Court will notify the remainder of the venire members that are free to go about their business as they have not been selected to serve on this jury.</p>																		

TRIAL	
Seating the Jury	<p>Once the court has completed the <i>voir dire</i> process, the Court must determine how to safely seat the jury. The Court will utilize the gallery to seat the jury during trial. The Jurors will be socially distanced at least six feet and required to wear a mask of face shield throughout the trial. Each juror will have an assigned seat for the duration of the trial.</p> <p>Jurors will be provided with disposable notebooks for notetaking throughout the trial. The jurors will leave their covered notes at their assigned seats throughout the trial. The bailiffs and court security will ensure no one has access to the juror's materials.</p>
Social Distancing	<p>The Court will seat the jury in the gallery maintaining social distancing. Bailiffs will sit in the row behind the jury, then the next row will be left empty, and the public will be seated in the back rows.</p> <p>To orient the courtroom toward the gallery and provide a line of sight between the jury and witnesses, the Court will have witnesses testify from the jury box using a wireless microphone.</p> <p>If the witness uses a wireless microphone, the Court will:</p> <ul style="list-style-type: none"> Have disposable microphone covers, which court staff will remove from the microphone after each use, and; Clean the microphone using the cleaning protocol described above after each witness.
	<p>Recesses. The jury room is not large enough to accommodate social distancing. Therefore, the Court will utilize both the jury room and the attached conference room. The Court will provide an assigned chair to each juror with proper social distance within these two rooms. Jurors will also be allowed to go outside or to their vehicles during recesses. All jurors will wear badges identifying them as jurors.</p>
	<p>Public Access. State and Federal Constitutions require public access to the trial proceedings. In light of the limited space within the courtroom, the Court will mark off areas for public access when using the gallery to seat a jury. The last row of the courtroom will be available for public access, approximately four to six spaces that will be at least six feet apart.</p> <p>All persons entering the courtroom will undergo health screening (temperature checks and health questions).</p>

CONDUCTING THE TRIAL

Trial. Conducting a trial necessarily requires close, personal interaction between the participants of the trial. Not only will lawyers need to talk to their client, but attorneys in the well may need to converse regarding issues that arise during the trial. In addition, the court must ensure that common areas are disinfected during the trial to protect the health and safety of all participants.

Social Distancing

Generally, all participants, including attorneys and clients, must maintain social distancing.

Attorneys/Clients – All parties will wear face-coverings, either a face mask or face shield.

To facilitate confidential communication, lawyers and clients may use their cell phones, tablets, or other electronic devices at counsel tables to communicate with one another.

Recording the proceedings in any manner is expressly prohibited.

Attorneys and their clients may only use electronic devices for communicating with one another about the current case.

Attorneys may have one additional person in the courtroom, either one co-counsel or one staff member. This person will sit behind the counsel table, away from the jury.

Counsel may remain seated throughout the trial, including jury selection, opening statements, closing statements, and witness questioning. However, the Court will provide separate podiums if the attorneys prefer to stand during jury selection, and opening and closing statements. Attorneys shall remain seated while question witnesses.

Hygiene

The Court will ensure that the Courtroom is cleaned and disinfected following the morning session and afternoon session.

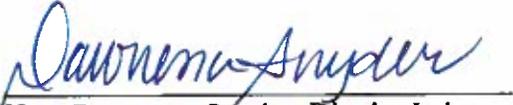
The Court will ensure that courtrooms are disinfected with an EPA approved disinfectant (List N), which is used according to EPA guidelines.

The Court will also ensure that the jury room and conference room are cleaned and disinfected after the morning session and afternoon session.

Each party will be provided with a podium and microphone. The microphones will have disposable covers that will be changed daily and the podium will be sanitized daily.

Scheduling	<p>The Court will limit all sessions to no more than 90 minutes (frequent recesses).</p> <p>Before recessing, the Court will set specific return times to allow the bailiffs to permit jurors to go outdoors during court recesses to get out of a confined area.</p>
Exhibits and Documents	<p>Although there is not much evidence supporting surface transmission of COVID-19. Still, the Courts will use the following procedures for admitting and publishing documents and physical evidence:</p> <p style="padding-left: 40px;">Any person handling exhibits during the trial must sanitize their hands and wear gloves when handling exhibits.</p> <p>Each party shall provide the Court and opposing party a trial notebook with all reproducible exhibits 48 hours prior to trial. The party shall also have a notebook for the witness(es). The exhibits in the Court's notebook will become the official exhibits.</p> <p>When a party seeks to admit an exhibit, the party shall identify the pre-disclosed exhibit number to the Court and opposing counsel. They will instruct the witness to refer to the copy in the witness notebook or they may approach the witness with an exhibit while using gloves and a face mask.</p> <p style="padding-left: 40px;">Counsel shall follow normal procedures for seeking admission of the exhibit.</p> <p style="padding-left: 40px;">If a party seeks to have an exhibit published, the party may use available technology to publish the exhibit. Each party is expected to bring a laptop that can join a Teams meeting to display exhibits on the Surface Hub.</p> <p>Exhibits will be placed on the exhibit table. They will be collected by the court reporter or clerk at the end of the session in which the exhibit was admitted.</p> <p style="padding-left: 40px;">All documents provided to jurors for deliberation shall be provided by a single person assigned by the Court.</p> <p>If the parties have exhibits that require each juror to have a hard copy (i.e., transcripts) the party shall furnish 48 hours to the court the copies prior to trial.</p>
Side Bars	<p>If an attorney wished to have a sidebar conversation, the attorneys will approach the bench and speak into designated microphones while the Court utilizes the white noise system. Attorneys shall wear masks and maintain social distance during sidebars. Sidebars will be limited to necessary issues.</p>
Jury Deliberation	<p>Jury deliberation will occur in the Courtroom.</p>

	<p>The parties shall remove all their materials from the Courtroom.</p> <p>The Court will ensure that the microphones and cameras are turned off during deliberation.</p> <p>The jury will be instructed that the foreperson they elect will be responsible for enforcing the Court's face covering and social distancing rules.</p>
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Hon. Dawnessa Snyder, District Judge
Second Judicial District



Dr. M. Wayne Couch
Carbon County Public Health Officer