



Pandemic Continuity of Operations Resource Guide

PANDEMIC CONTINUITY OF
OPERATIONS WORKING GROUP

Version 1.0

JUNE | 2020

DISCLAIMER

This resource guide is compiled from approaches outlined by the Occupational Safety and Health Administration, the Centers for Disease Control and Prevention, and best practices from the National Center for State Courts as well as other courts across the state and country. The COVID-19 pandemic crisis is dynamic and evolving every day; therefore, as more evidence-based information becomes available, this resource guide is subject to change.

This resource guide is not a standard or regulation, and it creates no new legal obligations. It contains recommendations that are advisory in nature, informational in content, and are intended to assist courts in providing a safe environment for the public, litigants, lawyers, and judicial and administrative staff.

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Introduction

On May 11, 2020, the Judicial Council of California launched the Pandemic Continuity of Operations Working Group (working group) to collect best practices—from inside and outside the California judicial branch—as well as guidance from federal, state, and local entities to develop a customizable template for the 58 California superior courts to use in managing the continued impacts to operations as a result of the COVID-19 public health crisis. The following continuity of operations plan serves as a resource guide to assist all courts with this endeavor and with maintaining ongoing modifications to public health restrictions from the state, counties, and cities.

COVID-19 OVERVIEW

COVID-19 mainly spreads through close contact from person to person, even from people without symptoms. The virus that causes COVID-19 is spreading very easily and sustainably between people.

Methods of Transmission

- **Respiratory**—COVID-19 is considered a respiratory virus and, as such, it is mainly transmitted through “respiratory droplets” when symptomatic people sneeze, cough, or talk.
- **Aerosol**—People emit virus particles in a range of sizes and some are small enough to be considered aerosols (fine particles that can remain suspended in the air for hours and travel with air currents across larger distances).
- **Contact**—Viral particles emitted from the respiratory tract of an infected individual land on a surface. If a second person touches that surface, then touches their nose, mouth, or eyes, the virus can then enter the body via mucous membranes and infect the second person.

While the creation of this resource guide was in response to the COVID-19 pandemic, it may also be used as a general guide that assists with managing court operations outside of COVID-19 (in the event of another pandemic or emergency situation). The resource guide allows each court to add to the best practices provided and build on those ideas, enhancing this guide while making the information more specific to each court and its operations.

As you read through the resource guide, you may notice some redundancy. This is by design as we expect that some courts may have individual teams focused on specific areas utilize only a portion of the resource guide. We wanted to ensure that each chapter could stand alone and therefore have included some overlapping information related to facilities, social distancing, and forming action teams.

Guiding Principles

Summary of Principles

| Topic | |
|-------|--|
| 1 | <u>Uphold Access to Justice, Liberty, and Due Process while Balancing Safety and Health</u> |
| 2 | <u>Protect the Health and Safety of the Public, Justice Partners, Judicial Officers, and Staff</u> |
| 3 | <u>Closely Monitor Public Health Directives and Comply with Applicable Health and Safety Laws, Regulations, and Orders</u> |
| 4 | <u>Address Varying Local Challenges with Flexible Response Plans</u> |
| 5 | <u>Maximize Flexibility in Crisis Planning to Rescale, Reinvent, Reduce, or Retire Certain Court Services, Calendars, and Programs</u> |

Principle 1 | Uphold Access to Justice, Liberty, and Due Process while Balancing Safety and Health

Inherent in all plans responsive to a crisis is the obligation to maintain continued, fair, and equal access to the courts, including the protection of constitutional and civil rights. While continuity of court operations might require a more modern method, the method must incorporate individual and procedural constitutional and civil rights protections. A continuity of operations plan should look toward protection of those rights through avenues that afford the most access to the courts but in a manner that balances the need to maintain the health and safety of all court users, court staff, and the public.

Principle 2 | Protect the Health and Safety of the Public, Justice Partners, Judicial Officers, and Staff

Courts have a responsibility to endeavor to provide safe facilities to those required to attend. To demonstrate commitment to the wellbeing of the community that the court serves—and to court staff, judges, and justice partners—all decisions on court operations should have health and safety as a central guide. How the goal will be met will be influenced by the unique local health orders of each jurisdiction, the varied impact of the virus in each county, and the resources and needs of each court.

Principle 3 | Closely Monitor Public Health Directives and Comply with Applicable Health and Safety Laws, Regulations, and Orders

It is important to use an objective, fact-based measure to determine the propriety and range of full, reduced, or closed court operations. Decisions regarding the range of court services and court access should be consistent with directives from local, state, and national healthcare directives to ensure that community members may comply with the needs of the court without violating public health directives.

Principle 4 | Address Varying Local Challenges with Flexible Response Plans

The impact of COVID-19 varies amongst counties and courts. Within each county, the impact will ebb and flow with diminishing or spiking infection rates. This fluctuation in severity should be anticipated and factored into a court’s plans for crisis response and continuity of operations. The plan should include the expectation of periodic surges of caseloads and needs.

A crisis response and continuity plan should be tailored according to the resources and needs of the particular court, with a short-term plan of immediate response, a midterm plan of stability for the court and community, and a long-term plan that is sustainable over the coming months.

A long-term plan that provides access to the courts at some level benefits the community by demonstrating stability in a time of crisis. A long-term plan assumes that the crisis is long-lasting. To the extent possible, long-term plans should incorporate input from justice partners so that their needs and perspectives are accommodated and their voices heard. Also, plans should anticipate periodic surges in caseloads and increasing and decreasing service levels, and identify which programs and services need to be prioritized or expanded based on individual community needs and statutory requirements.

Principle 5 | Maximize Flexibility in Crisis Planning to Rescale, Reinvent, Reduce, or Retire Certain Court Services, Calendars, and Programs

Courts responding to a crisis should look at continuity planning with an understanding that court services may require revision to address the immediate needs of the court and community, including replacing traditional practices with new practices and procedures. Use of technology by each court increases that court’s flexibility to quickly and sustainably increase safety and efficiency and meet the needs of court users and justice partners.

General Considerations

The hierarchy of controls is a framework that can be used to create an operational plan and select ways to control and mitigate the hazard of COVID-19 exposure. The best way to achieve this is to systematically remove the virus from the court altogether. The most effective approach is limiting the possibility of exposure by screening potentially infected people while implementing strategies to limit building occupancy. During the COVID-19 outbreak, when it may not be possible to completely eliminate the hazard, operational plans and protection measure should be deployed using the most effective measures feasible for the activity. There are advantages and disadvantages to each type of control measure when considering the ease of implementation, effectiveness, and cost. In most cases, protecting workers will require a combination of control measures.

Summary of Considerations

| Topic | |
|------------------------------|--------------------------------------|
| <u>HIERARCHY OF CONTROLS</u> | |
| 1 | <u>Elimination</u> |
| 2 | <u>Engineering Controls</u> |
| 3 | <u>Administrative Controls</u> |
| 4 | <u>Personal Protective Equipment</u> |
| <u>BUDGETS AND EXPENSES</u> | |

Hierarchy of Controls

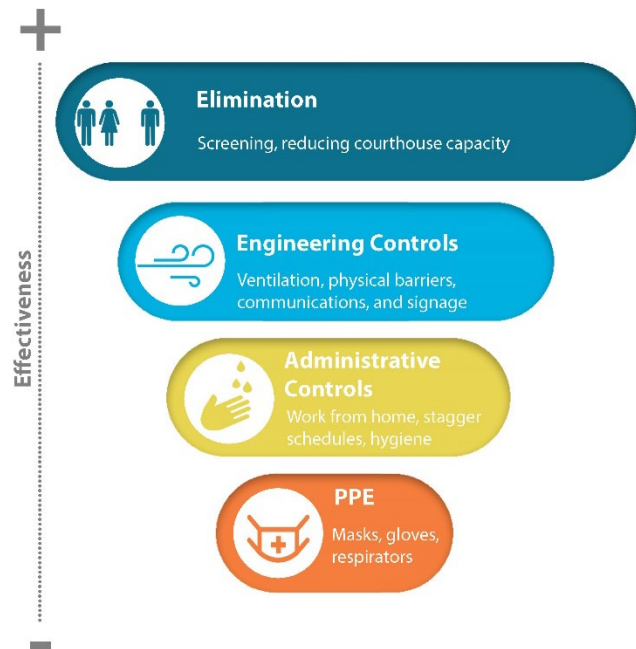


Figure 1. Hierarchy of Controls.

This diagram demonstrates how the hierarchy of protection controls ranges from most effective to least effective with examples of tactics under each heading. The categories are based on Occupational Safety and Health Administration (OSHA) guidance developed for reopening offices.

Consideration 1 | Elimination

While complete elimination of a hazard from the environment is the ideal goal, practical constraints will require that goal to be accomplished over time and over a series of continued, supporting actions. Some ideas for preventing a hazard from entering an environment include:

- Instituting temperature assessment requirements before entries to courthouses.
- Developing health questions for screening of judges, staff, and public entering the building.
- Using technology to conduct proceedings remotely.

Consideration 2 | Engineering Controls

Modifications to Building Mechanical Systems

Though most building mechanical systems have modification limits, there are ways to help reduce airborne particles:

- The Division of Occupational Safety and Health (Cal/OSHA) regulations and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) best practices generally:
 - Require that in mechanically ventilated buildings, the heating, ventilation, and air conditioning (HVAC) system must be run continuously during working hours.
 - Recommend maintenance of buildings in accordance with their original ASHRAE design criteria and increase the frequency of filter changes to improve indoor air quality.
- The following, additional engineering controls can be considered based on risk assessment and feasibility for individual buildings:
 - Increase outdoor air ventilation where practical and feasible by reducing the population in the building. This increases the effective dilution ventilation per person.
 - Open minimum outdoor air dampers, as high as 100 percent, to eliminate recirculation (in the mild weather season, this need not affect thermal comfort or humidity, but clearly becomes more difficult in extreme weather).

Communication and Signage

- Place posters at courthouse entrances and other visible areas that encourage staying home when sick and address: cough and sneeze etiquette, preventive practices such as social distancing, hand hygiene, and avoiding face touching.
- Use floor markings to demonstrate six-foot spacing in areas where large numbers of people may congregate or need to wait in line (queuing).
- Use elevator and room capacity signage.
- Provide/place instructions for one-way circulation.

Social Distancing to Maintain Six Feet of Separation

- Establish and communicate maximum capacity for the building, rooms, and spaces, including staff areas.
- Rearrange furniture in existing rooms and spaces.
- Use alternate locations for court functions that provide adequate space and the recommended six feet of separation.

- Use technology to maintain separation between parties.
- Install physical barriers, such as clear, plastic sneeze guards, where six feet of separation cannot be achieved.
- Install queuing control devices, such as stanchions with retractable belts, to define paths that provide separation of six feet or more.

Consideration 3 | Administrative Controls

Administrative controls include procedures for taking appropriate action to reduce the duration, frequency, or intensity of exposure to a hazard or potential hazard.

Work Remotely

- Initiate/maintain remote-work programs when appropriate, to continue providing services to the public.
- Establish clear responsibilities for supervisors and employees, such as the following:

Supervisor Responsibilities

- Communicate with employees about the resources necessary to work remotely.
- Assist employees to obtain the equipment, technology, and technical support to work remotely.
- Communicate expectations to employees regarding their remote work roles and responsibilities.
- Establish communication processes for contacting employees during regularly scheduled work hours.
- Establish scheduled hours remote-work employees are expected to work.
- Determine ways to maintain time and attendance.

Employee Responsibilities

- Establish and maintain a safe remote-office environment.
- Be flexible and willing to perform the duties assigned by management, even if they are outside of the usual or customary duties. (Consider any new duties, provided they are in alignment with local labor agreements.)
- Follow the communication processes established by your supervisor.
- Be available to discuss work-related matters at all times during established work hours.
- Adhere to privacy policies related to secure and confidential data and information.

- Be vigilant about locking computer screens when leaving them unattended when working with confidential information.
 - Increase awareness of potential malicious email communications, including: payment requests, helpdesk support communications containing passwords or other personal information, urgent access to sensitive information, and links to webpages.
- Return-to-work considerations and approaches are discussed in the [Personnel](#) section.

Stagger Schedules

Modify staff work schedules, courtroom calendars, and general service hours to the public, attorneys, and justice partners to help manage the flow and volume of people in the courthouse. The [Personnel](#) section contains suggestions regarding staggering staff schedules.

Hygiene and Cleanliness

- Provide resources that promote personal hygiene:
 - Tissue, no-touch trash cans, hand soap, alcohol-based hand sanitizer containing at least 60 percent alcohol, disinfectants, and disposable towels for workers to clean their work surfaces.
 - Cleaning crews with personal protective equipment (PPE) and plastic bag-lined waste bins so they can be emptied without touching the contents.
- Encourage regular handwashing and use of hand sanitizer or alcohol-based hand wipes.
- Clean premises recurrently, especially counters, door handles, and other frequently touched surfaces.
- Frequently clean equipment used often, such as payment portals and public-use kiosks.

Consideration 4 | Personal Protective Equipment

- Consider requiring (and whether you will be providing) face covers for courthouse occupants.
- Provide gloves, face coverings, and training to cleaning crews.
- The [Personnel](#) section contains considerations regarding PPE and court personnel.

Budgets and Expenses

Courts may consider the potential fiscal implications of policy, procedure, or guideline changes and the actions needed to resume full operation. The Judicial Council of California is available to assist courts with navigating the Federal Emergency Management Agency application for public assistance process.

Facilities

California court functions are considered medium-risk-exposure jobs which, according to The Division of Occupational Safety and Health (Cal/OSHA), are those that require frequent and/or close contact with (i.e., within six feet of) people who may be infected with COVID-19, but who are not known or suspected COVID-19 patients. In areas with ongoing community transmission, workers in this category may have contact with the general public (e.g., schools, high-population-density work environments, courthouses, and some high-volume retail settings).

As courts return to full operations, they will need to consider a variety of safety measures and guidelines issued by local, state, and federal officials. The Centers for Disease Control (CDC), Cal/OSHA, and local public health officials provide specific guidance to reduce workplace exposures for all court staff and court facility users. The CDC is also providing states and other jurisdictions with technical assistance regarding surveillance data collection and reporting, contact tracing, infection control, and outbreak investigation. They developed and are guiding the overall response to COVID-19 to advise and support communities during the phased reopening.

Safe work practices encompass how the court will implement the guidance provided by the CDC and Cal/OSHA. These safe work practices must be developed in conjunction with the safety requirements established by the public health official in each local jurisdiction. Local conditions will influence the decisions that public health officials make regarding community-level strategies. The activities required to maintain safe court operations must be developed by each court based on their operational needs, capabilities, and resources along with their local jurisdictional requirements. This section is not intended to address operational areas like in-custody holding, sally port and other law enforcement areas, law libraries, and mechanical spaces.

Summary of Considerations

| Topic | |
|-------|---|
| 1 | <u>Court Entrances</u> |
| 2 | <u>Public Counters</u> |
| 3 | <u>Jury Assembly</u> |
| 4 | <u>Jury Selection (Voir Dire)</u> |
| 5 | <u>Jury Deliberations</u> |
| 6 | <u>Public Corridors and Vertical Circulation (Elevators and Stairs)</u> |
| 7 | <u>Courtroom Areas</u> |
| 8 | <u>Staff Support Areas</u> |

| Topic | |
|--|---|
| <u>EXECUTIVE AND EMERGENCY RESPONSE ORDERS</u> | |
| 9 | <u>Federal Executive Orders</u> |
| 10 | <u>State Executive, Public Health, and Local Orders</u> |
| <u>BUDGETS AND EXPENSES</u> | |

Consideration 1 | Court Entrances

CONCERNS AND CHALLENGES

The primary concerns in court entrances generally relate to providing separation during queuing for both security/weapons and health screening, particularly in court facilities with space constraints. Narrow entries and lack of exterior covered areas create difficulties at high-traffic times, like jury assembly.

Another area of primary concern is in the security screening area and the challenge of providing sufficient space and separation between screeners and people entering the building. Activities like passing trays through screening or using a hand-held metal detector (HHMD) are likely to result in reduced social distancing.

PLANNING AND BEST PRACTICES

Exterior Space

It is likely that at times court visitors will need to queue outside the entrance to maintain the six feet of separation. Floor or pavement markings can be used to provide proper spacing but planning the alignment of queuing spaces should include considerations for shelter from sun and rain as well as accessibility. Long queues can be especially difficult for seniors and people with disabilities. Providing a separate priority lane with a temporary shelter may be necessary to accommodate people in this category. Courts may also consider implementing ways to triage the lines outside the courthouse to determine if the individual needs to enter the courthouse at all.

Vestibules and Pre-Security Queuing Areas

- Inclement weather such as wind, wind-driven rain, and extreme heat may be handled with a “metering” concept with staff at each entry vestibule to keep exterior doors closed until each visitor has cleared the vestibule, to help maintain door closure.
- Space limitations will likely be an issue but extending and maintaining spaced queuing will allow for social distancing.
- Sequence temperature and health-question screening before courthouse visitors enter the security screening queue may significantly help decrease the risk of admittance of an infected individual. Turn away individuals who:
 - Exhibit temperatures over the established threshold for the building.
 - Answer health screening questions affirmatively.
 - Will not wear a face covering if that is required.

Security

- During metal detector screening, maintain social distancing as much as possible.
- Use an acrylic or glass screen between staff and public, similar to accommodations in retail checkout areas.
- Use an increased number of security trays and sanitize the trays frequently. A tray “slide” could help to avoid the need to touch the tray.
- Place sanitizer stations in areas that allow staff to sanitize after handling each bag or other handled item.
- Ensure that staff is always wearing a face covering when using HHMDs.

POTENTIAL ALTERNATIVES

Consider strategies to limit courthouse occupancy:

- Alternate work schedules with two shifts for employees, combined with a remote-work option.
- Utilize night court proceedings.
- Allow staff to work on weekends. Work together with labor organizations to explore potential options. See the [Personnel](#) section for other labor-related issues.
- Look across court divisions to leverage appointment systems and best practices from one division to another.
- Use an onsite or online reservation system to control queues and waiting. On busy days, customers who line up in the morning can be offered appointment slips for a time later that day, or request an appointment online and be reminded via email or text message.

Consideration 2 | Public Counters

CONCERNS AND CHALLENGES

- Queuing control.
- Proximity of adjacent counter space.
- Transaction window, proximity of staff to client, and frequency of passed documents.

PLANNING AND BEST PRACTICES

Counter Queuing Areas

Floor markings can be used to provide proper spacing but planning the alignment of queuing spaces should include considering size and the potential need for a queuing line to extend into other spaces.

Counters

- Check spacing between counters and provide floor markings leading up to counters.
- Close off counters to provide additional space if necessary, to reduce capacity.
- Provide physical barriers between staff and clients, if not already utilized.
- Use gloves when handling documents and/or sterilize documents with a handheld ultraviolet wand.
- Provide sanitizer stations near the counters.
- Where queuing tickets are used, provide a trash receptacle for discarding tickets instead of handing them to the clerk.

POTENTIAL ALTERNATIVES

Because most buildings have built-in public counter spaces with secure connections to staff areas, alternatives are limited. Some uses may allow for the placement of a table or desk in an open area to use for screening or other functions not involving money transfer or frequent access to secure areas.

Consider providing drop boxes for transmitting physical documents and leveraging technology for electronic filings. Post communication of these options online and with signage at the building entry and clerk transaction areas.

Consideration 3 | Jury Assembly

CONCERNS AND CHALLENGES

Jury assembly rooms can get congested, particularly in older courthouses that weren't designed for larger volumes of people. Some estimates show that indoor public spaces may need to have their seating capacity reduced to about 20 percent of normal to comply with social distancing rules. Some courts operate without the use of jury-assembly rooms. If courtrooms are traditionally used for this purpose, there may be a significant drop in the number of available jurors due to physical occupancy constraints.

Jury calls may need to be spread over several days to assure that qualified jurors can be selected. See the [Jury Management](#) section for suggestions regarding jury summoning, jury selection, and jury management during a trial.

PLANNING AND BEST PRACTICES

Counter Queuing Areas

- Check spacing between counters and provide floor markings leading up to counters.
- Close off counters to provide additional space if necessary, to reduce capacity.

- Provide physical barriers between staff and client, if not already utilized.

Seating and Amenity Areas

- Remove or mark off chairs to reduce density and allow distancing.
- Define walking paths with stanchions or floor markings.
- Limit occupancy in amenity areas; potentially close off certain sections.

POTENTIAL ALTERNATIVES

- Rework jury assembly procedures to allow for smaller pools.
- Move operations to an offsite location that accommodates larger groups.
- Use other rooms to stage jury assembly.
- Use technology to create a pre-screening process or obtain more accurate attendance counts.

Consideration 4 | Jury Selection (Voir Dire)

CONCERNS AND CHALLENGES

Reduced jury pools will likely impact court operations, and having fewer potential jurors available at one time will extend the process.

Most current courtrooms hold only about 15 potential jurors at a time with social distancing. This may require additional voir dire sessions and cleaning time, further extending the process.

PLANNING AND BEST PRACTICES

Courtroom

- Assess courtroom seating and remove or mark off chairs as needed to achieve social distancing.
- Potentially modify the traditional method of numbering jurors. Sequencing of seating will help maintain social distance.
- Consider releasing selected jurors after each session so the courtroom can be sanitized.

POTENTIAL ALTERNATIVES

- Schedule pools for specific times to reduce pressure on jury assembly and allow faster recovery time in the courtroom.
- Move operations to an offsite location that accommodates larger groups.
- Use more than one courtroom at a time to allow staging larger groups.

Consideration 5 | Jury Deliberations

CONCERNS AND CHALLENGES

Jury deliberation rooms are generally designed to be just large enough to accommodate 14 to 16 people without social distancing. Test fits of these rooms show that once social distancing is established, they will only fit 6 to 9 people, rendering the area completely inadequate for the entire jury to participate. Alternate locations may not be suitable (acoustically protected, secure restroom access, etc.) for groups.

PLANNING AND BEST PRACTICES

In jury deliberation and amenity areas:

- Confirm the maximum capacity of the jury deliberation suite.
- Evaluate other, large-volume space options in or near the courthouse for viability of hosting jury deliberations for suitable requirements (acoustic isolation, restroom facilities). Determine what staffing is needed in an alternate location.
- Consider options outside the courthouse for jury lounge areas.

POTENTIAL ALTERNATIVES

Consider using the courtroom as the deliberation suite. The jurors will most likely already be spaced appropriately in this area and there is access to the jury suite for needed amenities.

The figure below illustrates an example of potential arrangements and provision of alternative measures for jury deliberation that could work for some courtrooms.

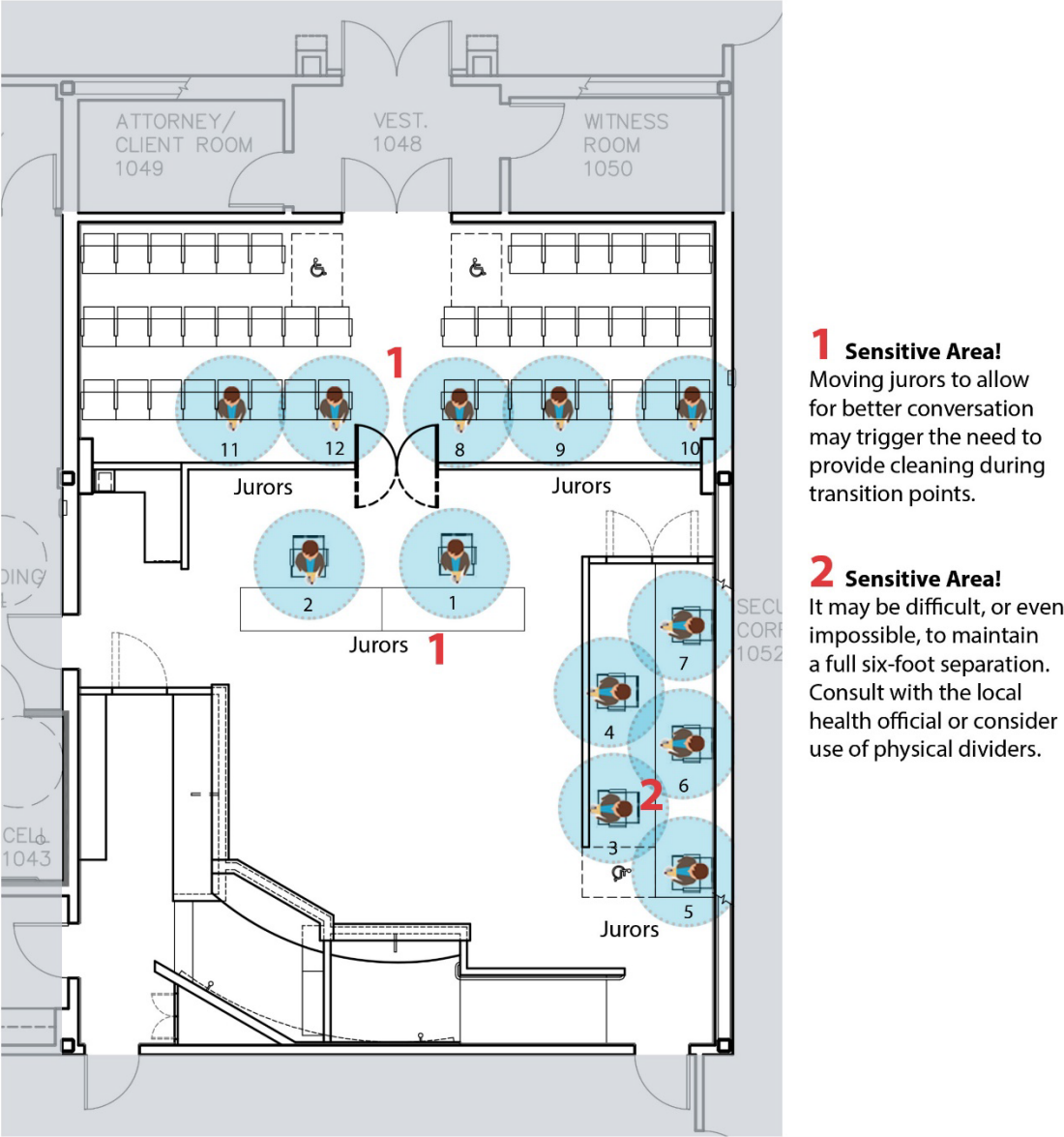


Figure 2. Jury Deliberation in Courtroom

It also identifies potentially sensitive areas in the courtroom. See the [Jury Management](#) section for more information about managing jury members and rooms.

Consideration 6 | Public Corridors and Vertical Circulation (Elevators and Stairs)

CONCERNS AND CHALLENGES

Circulation spaces are generally confined and pose significant interaction challenges. Corridors are often not wide enough for two people to pass while being socially distanced and separating traffic is impossible. Elevators are extremely confined, may only allow room for a single person, and require physical interaction with controls. Courts with high-volume calendars will likely have an increased impact on the capacity of corridors that become de facto waiting areas.

PLANNING AND BEST PRACTICES

Public Corridors

- Use stanchions or floor markings where corridors are at least eight feet wide, to define walking paths.
- Implement a one-way strategy where possible, for smaller corridors.
- Remove or reconfigure seating when placed in walkway areas, to maintain distancing.
- Stagger calendars that will likely have high volumes of people waiting to be called, to avoid overlap and reduce density.
- When planning, consider that these spaces are generally part of the emergency exit system and cannot be reduced in width or obstructed by placed objects.

Elevators and Stairs

- Establishing rules for elevator occupancy can help, and directing able bodied persons to consider the use of stairs as an alternative (in low-rise buildings) will serve to reduce occupancy.
- Clean elevator buttons and controls more frequently.
- Place hand sanitizer stations at each level of access.
- Treat open stairs like public corridors (as mentioned above) to help create one-way traffic solutions and reduce elevator use.

POTENTIAL ALTERNATIVES

Most building layouts do not provide alternatives to circulation so any planning efforts should attempt to reduce exposure by revising operations to include physical equipment.

Consideration 7 | Courtroom Areas

CONCERNS AND CHALLENGES

Fixed casings and furnishings can pose difficulty when planning for a new standard of distancing. Modifying these features could be expensive, and reversing the changes in the future would likely require additional costs. Because of this, this section focuses on adopting measures that can be more readily adjusted.

The dynamic nature of courtroom operations does not lend itself to social distancing. Discreet sidebar conversations and passing of materials, etc., creates exposure potential, and solutions will require a higher attention to detail. See the figures on the following pages for an example of potential arrangements and provision of alternative measures that could work for some courtrooms as well as sensitive areas within the courtroom.

PLANNING AND BEST PRACTICES

Spectator Seating

- Remove or mark off chairs to reduce density and provide distancing. Many spectator seating areas have three rows, so it may be conducive to block off the entire middle row.
- Use open spaces for wheelchair accommodations by placing a chair in that position (as long as it is easily moved and can be stored out of the way).
- When using the spectator area for jury seating, clearly identify jury areas to help with separation.
- Create a hierarchy for seat assignment to spectators, like what might be enacted for a high-profile trial.

POTENTIAL ALTERNATIVES

The Well/Bench/Stand Area

- **Bench:** Many courtroom layouts allow for six feet of separation from the bench, except during times of interaction. Floor tape or other markings can be used to define levels of approach for counsel, or to define travel paths within the well.
- **The Stand:** This area is also generally well-separated but could be further protected through use of floor markings to establish distancing.
- **Court Reporter:** This station is generally well-separated but can be further protected through use of floor markings to define paths.
- **Lecterns:** Mobile lecterns can be used to help with definition of paths and stations in the well but should be cleaned regularly if used with any frequency.

- Counsel Tables:** Most tables do not allow for six feet of separation. Moving or reorienting tables may help with this, but it is likely that the participants in the well will be limited to four people. Use of the spectator gallery may be necessary for all or part of the prosecution to maintain a six-foot distance.

Clerk Stations

- Many clerk stations will not allow for a six-foot separation between clerks. Clerks should try to maintain as much separation as possible and employ personal protective equipment (PPE) or physical barriers where practical.
- Clerks frequently need to pass documents to the bench. Short moments of decreased social distancing can be made safer using physical barriers; PPE; physical devices like document slides; and handheld, ultraviolet sterilizers.
- Many clerk stations are used as offices for day-to-day operations. If the courtroom is used for jury deliberation, clerks will need to have access to other areas for office space. Repurposing jury deliberation areas and related areas might work for this function.

The following pages illustrate potential alternative courtroom layouts that support social distancing objectives. A six-foot “bubble” is drawn around each person to help demonstrate the required separation.

Smaller courtrooms have less flexibility for alternative arrangements, so social distancing in these environments should be carefully planned.

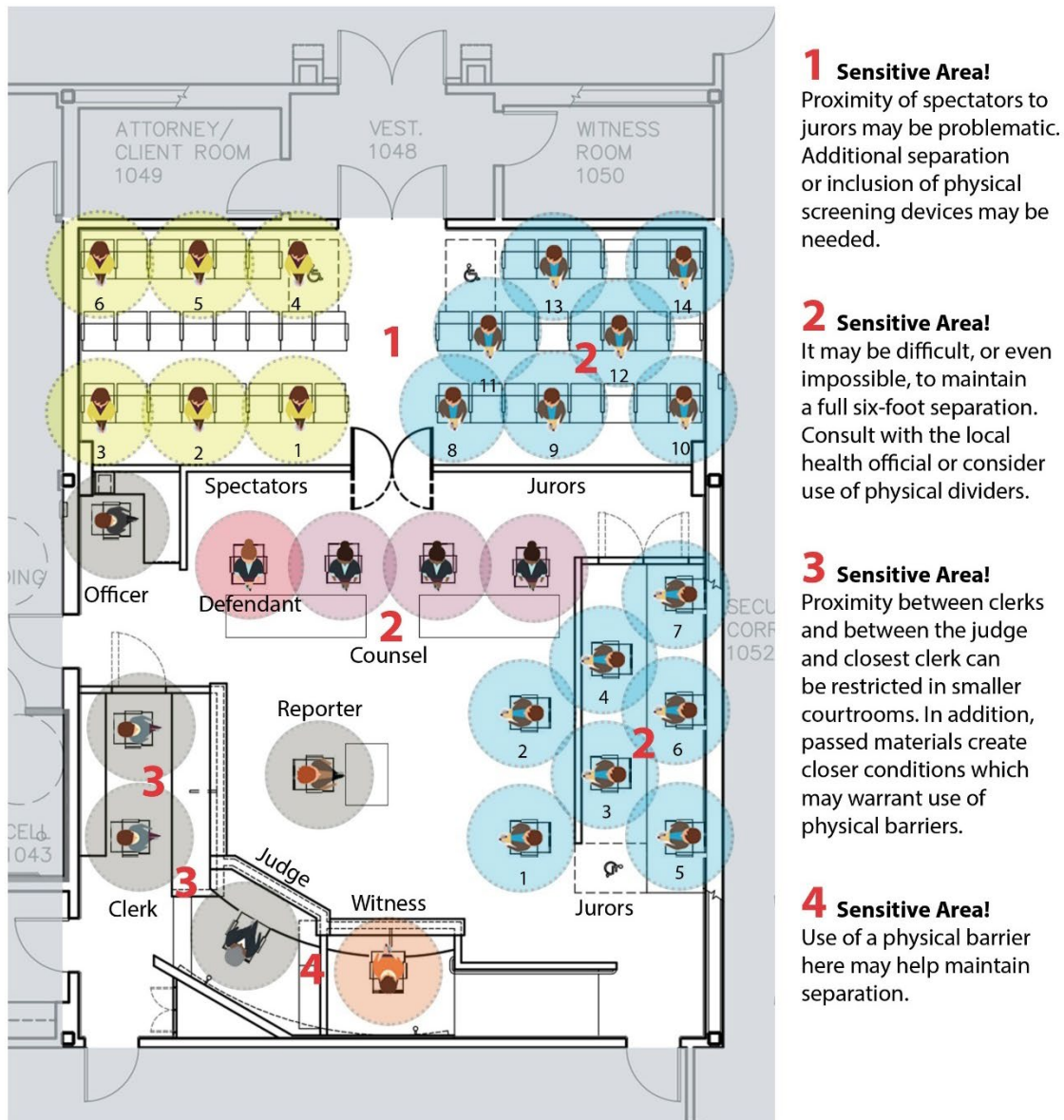


Figure 3. Potential Mitigations in a Small Courtroom

In potentially sensitive areas, additional physical barriers may be necessary.

In a standard-sized courtroom, more options are available but there are still sensitive areas that need to be considered.

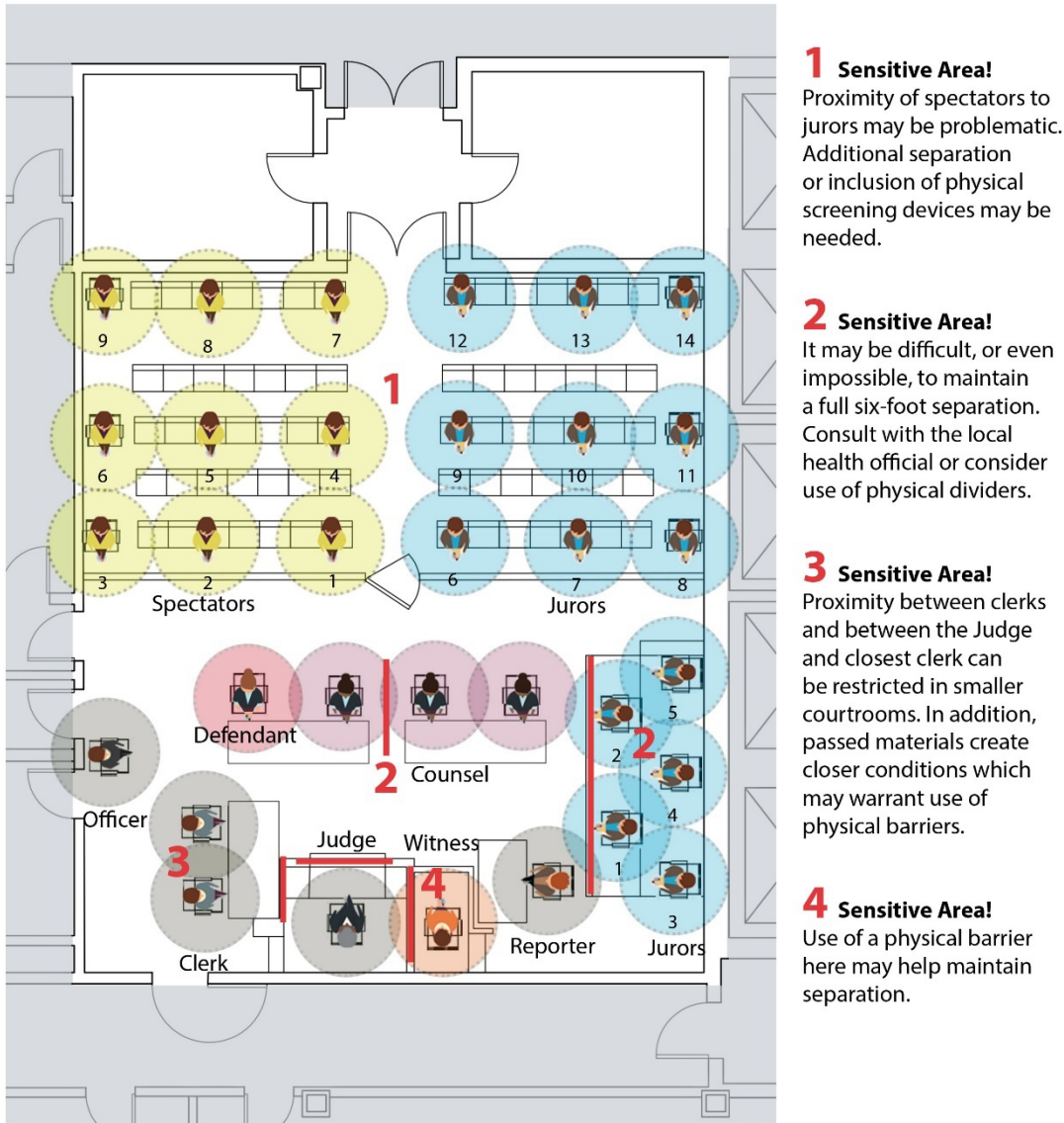


Figure 4. Potential Mitigations in an Alternately Configured Courtroom.

In this configuration, additional separation and physical barriers can be considered to address sensitive areas.

Jury Box

Most jury boxes only allow four or five positions when socially distanced. Depending on well size and configuration, two additional jurors might be located just outside the box. The remaining jurors could be seated in the spectator seating area. See the figure below for an example of potential arrangements and provision of alternative measures that could work for some courtrooms as well as sensitive areas in the courtroom.

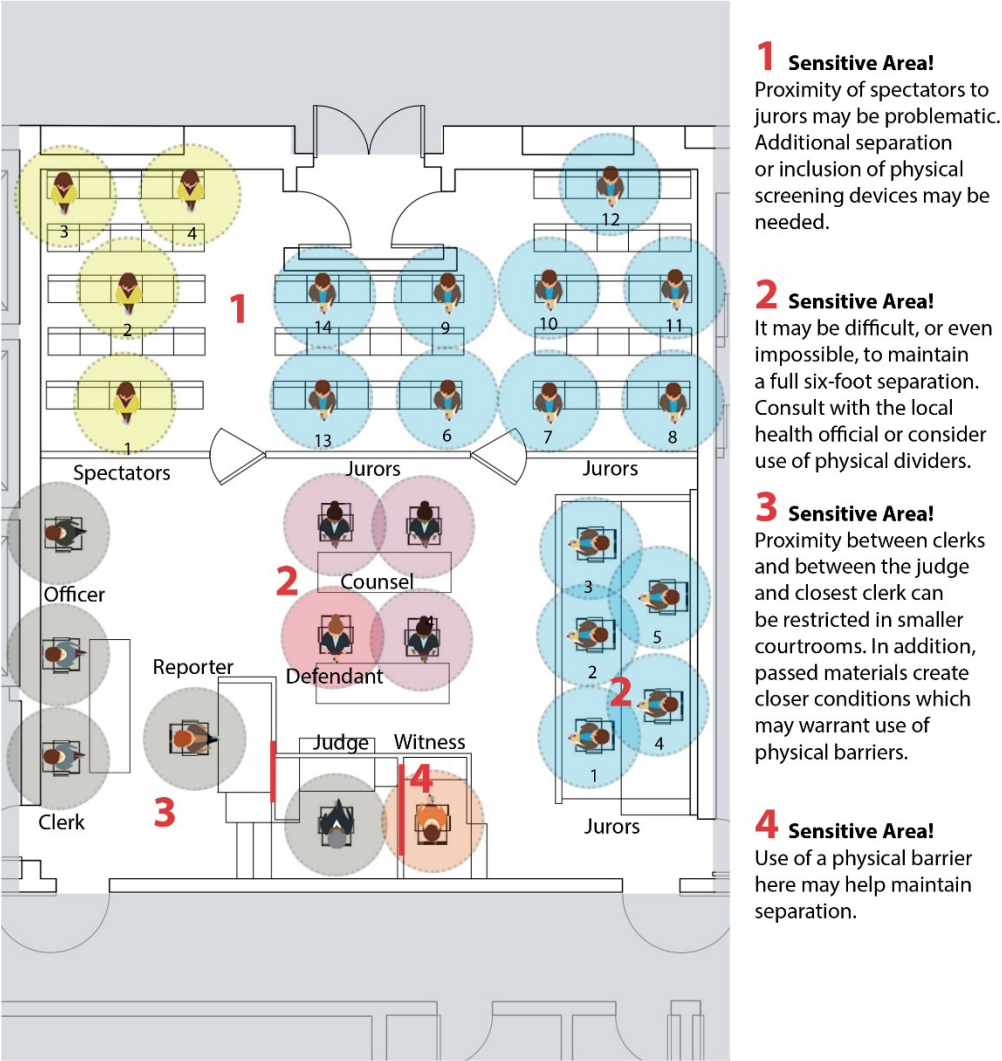


Figure 5. Potential Jury Arrangement for a Typical Courtroom

Other Potential Alternatives

Move operations to an offsite location that accommodates larger groups. This may pose its own complications and may need to be limited to civil calendars.

Consideration 8 | Staff Support Areas

CONCERNS AND CHALLENGES

Modern, open-office areas often have low-height workstations with staff in closer proximity than what is necessary to attain social distancing. In addition, circulation paths and work patterns often create conditions where staff members are nearer to each other than desired.

Conference rooms and other gathering spaces also create potential problems when used for meetings. Much like jury deliberation rooms, these spaces will no longer accommodate intended occupancy counts.

Preparing staff to return to work will help reduce the likelihood of virus transmission and comply with OSHA recommendations and requirements. Staff will require some form of training to meet these requirements and tracking completion and acceptance is generally a good practice.

PLANNING AND BEST PRACTICES

Return-to-Work Preparation

- Transmit a simple yet comprehensive training guide combined with an acknowledgement and acceptance form to staff preparing to return to work ([Click here for an example of OSHA's guide](#)).
- Use email or other technology to receive completed forms before allowing staff to return.

Open Office Areas

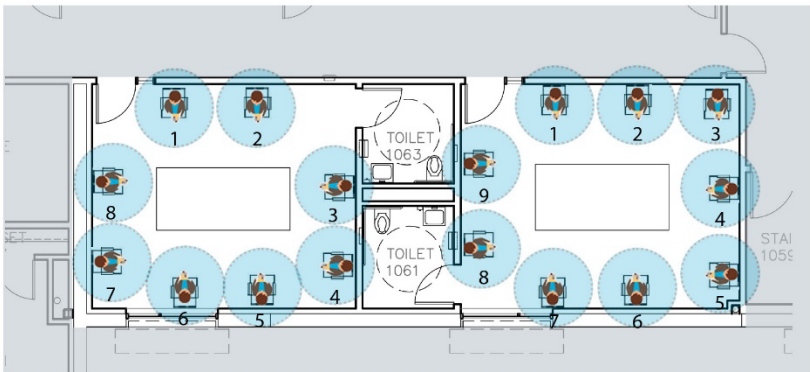
- Develop a floor plan diagram with six-foot “bubbles” to help determine locations of potential concern. If developing a plan or making modifications is not feasible, measure distance between workstations and determine if a six-foot separation exists. If not, consider use of only every other workstation and allow half of the staff to work remotely, using an alternating schedule. Shared workstations are discouraged.
- Alternate staff work schedules to reduce the number of staff in an open office area and to help maintain social distancing.
- Use physical barriers between staff workspaces to allow increased density. A six-foot-high physical barrier is generally acceptable but higher barriers may be required when sit-stand desks are employed in the office.
- Limit rotations between desks/counter assignments.
- Provide sanitizer stations throughout open spaces for convenience.

Narrow Walkways and Constricted Areas

- Where feasible, define one-way patterns throughout the office to avoid crossing of foot traffic.
- Require face coverings when moving around.

Conference and Meeting Spaces

- Use planning diagrams for each space to determine how many people can use these spaces safely. Within the space, remove or mark off chairs to help separate people. If developing a diagram is not feasible, measure the room size and apply the formulas identified in the figure below, and then post the acceptable occupant load outside each meeting room to restrict density.
- Keep meetings short to avoid build-up of airborne particles and schedule gaps between meetings to allow air to be exhausted from the room.
- Provide sanitizer stations at entrances for use before and after meetings.



A Higher Density
To achieve the highest density possible, avoid placing chairs around a table by pushing all of the chairs to the outer area. Taping an "X" to the floor can help with keeping chairs in the right spaces.
Sample calculation:
 $350 \text{ sf} \div 42 \text{ sf/person} = 8 \text{ people}$



B Lower Density
Remove chairs to provide for table seating that will allow a full six-foot separation. Additional chairs may be placed in corners or other spaces where separation can occur.
Sample calculation:
 $350 \text{ sf} \div 55 \text{ sf/person} = 6 \text{ people}$

Figure 6. Potential Conference Room Layouts

Break and Lounge Areas

- Assign a maximum occupancy to break areas by using the method established for meeting rooms.
- Require face coverings when in these areas.
- Place time limits on using these spaces to reduce density.
- Restrict use of shared facilities (refrigerator, coffee maker, etc.).

Judicial Staff and Chambers

- Because Judicial staff members generally work closely together and may find difficulty in staying separated, courts may want to perform more frequent cleaning in these areas and more frequent screening of staff who work there.
- Use other, larger rooms as conference rooms and congregation spaces.

POTENTIAL ALTERNATIVES

- Allow certain staff to work remotely on a rotating basis and stagger days or weeks to help reduce density.
- Use technology to effectively “gather” larger groups, even if those staff members are in the office. Videoconferencing technology at each workstation or provision of hoteling conference stations may help with this.

Executive and Emergency Response Orders

Consideration 9 | Federal Executive Orders

Federal executive orders pertaining to COVID-19 are silent regarding public health directives and leave that guidance to individual states. In response, California has issued a stay-at-home order and a roadmap for how those orders will be modified over time based on key indicators.

Consideration 10 | State Executive, Public Health, and Local Orders

On March 19, 2020, Governor Newsom put in place a [Statewide Executive Order](#) and a [Public Health Order](#) directing all Californians to stay home except to go to an essential job or to shop for essential needs. The COVID-19 emergency response and reopening of the State of California will be a dynamic process in response to changing local conditions guided by a four-stage [Pandemic Resilience Roadmap](#):

- **Stage 1:** Everyone is either staying at home or a member of the essential workforce.
- **Stage 2:** Reopening lower-risk workplaces, including: non-essential manufacturing (toys, furniture, clothing, etc.); schools; childcare facilities; retail businesses for curbside pick-up; and offices where working remotely isn't possible but can be modified to make the environment safer for employees.
- **Stage 3:** Reopening higher-risk workplaces, which require close proximity to other people, including: hair and nail salons, gyms, movie theaters, sporting events without live audiences, and in-person religious services (church services and weddings).
- **Stage 4:** Ending the stay-at-home order, which would allow for the reopening of: concert venues, convention centers, and sporting events with live audiences.

LOCAL ORDERS

Local health officers will guide and direct local orders based on the four-stage Pandemic Resilience Roadmap. Operational plans for courts throughout California will vary and be informed by local conditions and orders from local public health officials, for example, local orders in some cities may require face coverings for public occupants of businesses, hence operational plans for occupying courthouses are following suit with courts adopting rules requiring face coverings. Screeners may need to turn away noncompliant visitors to the courthouse. Several counties have closed their courthouses to the public, pending movement of the geographic region into a later stage of reopening. Local court operational plans will be based on guidance from the local public health official.

As local health jurisdictions in the state begin their transition into different stages, as set forth in the Governor's order, a local health jurisdiction may implement or continue more restrictive public health measures if the jurisdiction's local health officer believes conditions in that jurisdiction warrant it.

Courts will need to follow local executive orders as they evaluate the use of their facilities. For example, modern, open office areas often have low-height workstations with staff in a closer proximity than is necessary to attain social distancing and circulation paths, and work patterns often create conditions where staff members are nearer to each other than desired.

Budgets and Expenses

As a best practice, courts should consider the fiscal impacts of implementing facilities-related changes due to social distancing. This may include costs for: physical barriers, cleaning/sanitation materials or increased janitorial costs, resources used to manage lines and common areas, items related to screening guidelines, and additional space rentals.

Personnel

Local shelter-in-place orders have required courts to make significant changes in how court personnel can continue to provide services to the public while doing so in a safe and healthy environment. Depending on the impact of the pandemic at a local level, courts have had to implement remote work plans, flexible scheduling, and protocols for handling potential and confirmed exposure. This section contains considerations when implementing plans for changes in personnel management.

Summary of Considerations

| Topic | |
|------------------------------------|--|
| 1 | <u>Assemble Team</u> |
| 2 | <u>Determine When to Return Employees to the Workplace</u> |
| 3 | <u>Determine Who Will Be Brought Back</u> |
| 4 | <u>Communicate with Employees</u> |
| 5 | <u>Train Employees on New Protocols</u> |
| 6 | <u>Develop a Preparedness and Response Plan</u> |
| 7 | <u>Workplace Safety</u> |
| 8 | <u>Sanitation Protocols</u> |
| 9 | <u>Personal Protective Equipment</u> |
| 10 | <u>Employee Screening</u> |
| 11 | <u>Work Schedule Adjustments</u> |
| 12 | <u>Telecommuting</u> |
| 13 | <u>Ergonomic and Equipment Logistics</u> |
| 14 | <u>Changes to Workers' Compensation</u> |
| 15 | <u>Families First Coronavirus Response Act and Related Leaves of Absence</u> |
| 16 | <u>Returning to Work After a COVID-19 Leave of Absence</u> |
| 17 | <u>Travel</u> |
| 18 | <u>Visitors in the Workplace</u> |
| 19 | <u>Reinforce Nondiscrimination Policy</u> |
| 20 | <u>Update Policies and Procedures</u> |
| 21 | Debriefing and Pandemic Planning |
| <u>BUDGETS AND EXPENSES</u> | |

Consideration 1 | Assemble Team

- Assemble a cross-functional, “return to work” team or point person to coordinate and/or implement COVID-19–related protocols.
- Include in the team personnel from areas such as: facilities, human resources, information technology, communications, security, and more, if applicable.

Consideration 2 | Determine When to Return Employees to the Workplace

For courts that have implemented remote work plans, identify factors to determine when to return employees to work onsite. Some factors to consider are:

- Requirements under state and local shelter-in-place orders.
- Guidance from state and local public health officials.
- Judgment of leadership.
- Virus case counts/statistics/trends.
- Geographic considerations (employees who work in different locations may need to return on different dates based on local conditions).
- Availability of remote work.

Consideration 3 | Determine Who Will Be Brought Back

As you prepare to reintegrate the workforce, identify business functions and positions that require physical attendance in the workplace. Consider allowing some employees to continue to work remotely until new protocols have been successfully implemented and tested. Consider the following factors, making sure to discuss these logistical considerations with any representative labor union, and follow any applicable memorandum of understanding (MOU) or legal obligations to meet and confer with representative labor unions regarding any changes to the terms and conditions of employment and the impact of those changes:

- Determine whether to start with pilot groups to evaluate and adjust protocols.
- Evaluate which positions have job duties that must be performed onsite and which positions can continue to work remotely.
- Identify the minimum number of onsite staff needed to sustain operations.
- Assess whether there are work areas in which the number of employees may be limited in order to maintain appropriate distancing among employees.

- Consider a phased reentry of employees versus requiring all employees to return to work onsite at the same time. Phased reentry could limit the potential spread of the virus and enable adjustment of safety measures.
- If a phased reentry is implemented, develop an approach and criteria for determining who will be brought back such as seniority, position, work location, performance, volunteers, or other factors.
- Determine when to ask employees to submit requests for medical or other accommodations related to their return to the workplace.
- Determine the availability of reasonable accommodations.
- Determine appropriate processes for handling ergonomic requests.
- Engage in an interactive process with employees who request accommodations under the Families First Coronavirus Response Act (FFCRA) or other state or federal laws.
- Request that employees submit in advance requests to work remotely based on childcare, eldercare, or other COVID-19–related reasons.
- Survey employees to gauge availability for alternate shifts and/or remote work.

CONSIDERATIONS FOR EMPLOYEES IN VULNERABLE POPULATIONS

The Centers for Disease Control and Prevention (CDC) defines “vulnerable workers” to include:

- Employees over the age of 65.
- Employees with underlying medical conditions, particularly if not well-controlled, including:
 - Employees with chronic lung disease or moderate to severe asthma.
 - Employees who have serious heart conditions.
 - Employees who are immunocompromised.

The CDC recommends encouraging vulnerable employees to self-identify and employers to avoid making unnecessary medical inquiries. Employers may take particular care to comply with relevant Americans with Disabilities Act (ADA), Fair Employment and Housing Act (FEHA), and Age Discrimination in Employment Act (ADEA) requirements.

Generally, employers should not ask employees whether they have disabilities that will put them at higher risk for severe illness from COVID-19. The US Equal Employment Opportunity Commission (EEOC) recently clarified that it is the employee’s obligation to inform the respective employer of the need for an accommodation due to a medical condition (i.e., the underlying condition). If the employee identifies a disability and/or requests an accommodation, the employer may then ask questions or seek medical documentation to assess whether the employee has a disability under the ADA or FEHA and if restrictions caused by that disability can be reasonably accommodated. Consider if the employer has any policy or procedures that may put employees—and particularly vulnerable populations—at risk (such as

policies or procedures that might not allow for appropriate social distancing), and whether those policies need to be revised in consultation with any representative labor union.

Consideration 4 | Communicate with Employees

Determine how and when to communicate with employees regarding a reentry plan. Review any applicable MOU or legal obligations to meet and confer with any representative labor unions regarding changes to working conditions upon reentry. Possible topics include:

- Reentry timeline.
- Notifying individual employees of their expected reentry date and asking them to contact the Human Resources department if they need FFCRA leave and/or special consideration (e.g., childcare issues, health issues, etc.).
- Describing steps the employer is taking to ensure safety.
- Explaining changes that will be implemented in the work environment and any new expectations.
- Providing information on new protocols and training requirements.
- Identifying if working remotely will require employees to collect equipment from the worksite and/or receive training on the equipment, taking into consideration how the training can be conducted.
- Reminding employees of the symptoms of COVID-19, and further reminding them not to report to work if they have symptoms related to COVID-19 or within the past 14 days have been exposed to someone who has the virus.
- Recommending protocol(s) for employees to follow if they become sick.
- Describing the process for employees to make requests for medical accommodations.
- Ensuring that managers/supervisors know to send employees to the Human Resources department to engage in the interactive process.
- Identifying the process for employees to request to work remotely based on childcare, eldercare, or other COVID-19–related reasons.
- Considering placing an end date on certain accommodations made specifically because of COVID-19, and/or approving them on a temporary basis to be revisited at a specified period (e.g., 30, 60, or 90 days). These accommodations may then be reevaluated at regular intervals as part of the interactive process, allowing the employer to consider changed public health circumstances, changed work environments, and changed health circumstances of the employee to determine if the accommodation is still reasonable and effective, or if it should be modified.
- Promptly addressing any health and safety concerns.
- Reminding employees of employee assistance program (EAP) resources.

- Reminding employees that discrimination and retaliation are prohibited, including for COVID-19–related illness or accommodations.
- Soliciting employee feedback; considering establishing a way for employees to communicate anonymously.

See the [Communications](#) section for more information about providing information to internal and external audiences.

Consideration 5 | Train Employees on New Protocols

- Prior to actual reentry to the workplace or as soon as possible after reentry, train employees on requirements for social distancing, proper use and cleaning of face coverings, changes in the workplace (for example, one-way walking patterns, use of elevators, closure of breakrooms, limitations in the number of people in particular areas, requirements for cleaning equipment, requirements to report symptoms, etc.). See the [Facilities](#) section for more information regarding these issues.
- Identify who will train employees on new protocols and ensure that those trainers are appropriately trained on new procedures.
- Identify how the training will take place (live in-person, remotely, or by dual options).
- Train supervisors regarding new protocols, anti-discrimination/harassment policies, procedures for handling employees showing symptoms, etc.
- Provide updated training when changes will be implemented.
- Maintain training agenda/document training attendance.

Consideration 6 | Develop a Preparedness and Response Plan

Develop a written preparedness and response plan addressing the COVID-19 pandemic and address:

- The expectation that employees stay out of the workplace if they are sick or if they notice symptoms prior to arriving at work.
- Protocols for what to do if employees become symptomatic in the workplace.
- Protocols for who an employee should notify if they are symptomatic.
- Protocols for addressing incidents of confirmed or suspected COVID-19 cases, including any differences on how to handle confirmed vs. suspected cases.
- Protocols for employees who have been diagnosed as presumptively positive.
- Protocols for employees who have potential exposure but no symptoms.
- Protocols for notifying employees impacted by potential exposure, including sample notice. Consider what notice may be required to any representative labor union.

- Protocol for who employer should notify after a report of a positive test result of employee or someone else in the workplace (e.g., visitor, attorney, party, or juror).
- Sanitation measures for disinfecting the work areas of impacted employees.
- Triggering events for quarantine procedure.
- Duration of employee quarantine and conditions for return, including whether medical certification will be required.
- Reentry protocol for employees who tested positive for COVID-19.
- The point of contact for reporting and questions.
- EAP resources.

Consideration 7 | Workplace Safety

Employers have an obligation under the Occupational Safety and Health Administration (OSHA) to furnish each worker “employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm.” 29 USC Sec. 654(a)(1).

Employers should monitor OSHA guidance and CDC guidance to meet their obligations in response to the COVID-19 pandemic and communicate with any representative labor unions regarding workplace safety or facility-related issues. Options to implement social distancing measures include:

- Maintaining a physical distance of six feet.
- Implementing staggered shifts.
- Spacing out desks.
- Limiting in-person meetings.
- Minimizing physical contact (handshakes, hugging, etc.).
- Establishing cough and sneeze etiquette.
- Limiting gatherings in common areas (breakrooms, elevators, bathrooms, etc.).
- Reconfiguring workstations, seating arrangements, and breakrooms.
- Installing plexiglass guards in reception areas, courtrooms, or other high-traffic areas where social distancing is not possible or is impractical.
- Providing floor markers to facilitate social distancing.
- Designating one-way paths.
- Spacing out use of bathroom stalls and sinks (i.e., close every other stall or sink).
- Limiting the use of shared equipment, such as telephones, staplers, and copy machines.

Keep in mind that state and local orders may require compliance with more specific workplace safety mandates.

See the [Facilities](#) section for more information on workplace safety.

Consideration 8 | Sanitation Protocols

Consider implementing enhanced cleaning and disinfecting protocols in the workplace. This may involve coordination with any landlord to implement more frequent and robust janitorial sanitation of common areas, and discussions with any representative labor unions. Suggested best practices include:

- Posting signage regarding handwashing practices and social distancing.
- Educating employees regarding best hygiene practices (via posters, email, and training).
- Encouraging use of virtual conferencing tools as much as possible.
- Considering ways to introduce more ventilation into the worksite.
- Responding promptly to any safety-related concerns.

Some questions to consider regarding sanitation protocols are:

- Is there a need to retain an external safety consultant?
- Will the employer perform a deep cleaning of the workplace prior to returning employees to work onsite?
- Is there adequate ventilation in work areas or does the ventilation system need to be adjusted?
- Will the employer or the employee provide hand sanitizer, disinfecting wipes, tissue, and cleaning supplies so employees can regularly clean their own workstations?
- Do janitorial contracts need to be updated to reflect enhanced and more frequent cleaning?

See the [Facilities](#) section for more information on workplace safety.

Consideration 9 | Personal Protective Equipment

Determine if face coverings, gloves, or other types of personal protective equipment (PPE) will be mandatory or optional in the workplace, and be prepared to discuss the impacts of any such decision with any representative labor union.

- If mandatory, will the employer provide the PPE directly to employees or will the employer reimburse employees for purchasing their own? If the employer will provide

PPE, who will be responsible for distributing it to employees and how will that be communicated to them?

- If mandatory, evaluate whether training on proper use/maintenance of PPE will be required.
- If mandatory, determine how often PPE must be cleaned or replaced.
- If optional, will the employer place any limitations or restrictions on the type of PPE permitted? For example, will manufactured or homemade face coverings (i.e., bandanas, scarves, towels, neck gaiters, or similar items) be allowed?
- When will employees be expected to wear face coverings? (When interacting with the public or coworkers; in their cubicles when others are nearby; when in common areas such as hallways, stairways, stairwells, breakrooms, bathrooms, or elevators; or in areas that the public regularly visits? Will a face covering be required when an employee is alone in the employee's own office? Will a face covering be required when an employee is in the employee's own office while engaging with others in person?)
- Who will be responsible for monitoring that employees have and use adequate face coverings when in the workplace?
- Employers may consider expanding any dress code policies to cover face coverings so that the employer may prohibit face coverings with obscene prints or messages, or face coverings that are otherwise inappropriate for the workplace.

Determine if voluntary use of N95/respirator masks will be allowed in the workplace. If an employer permits employees to voluntarily wear N95/respirator masks at work, the employer must comply with the [Voluntary Use Requirements under The Division of Occupational Health and Safety \(Cal/OSHA\)'s Respiratory Protection Standard](#), which requires the employer to do the following:

1. Determine whether there is a hazardous condition that requires wearing a respirator mask.
2. Determine that the employee is not creating a new or different hazard by wearing a respirator mask in the workplace (e.g., the mask cannot get caught in a moving part or machinery or otherwise obscure the employee's vision and thus create its own hazard).
3. Establish and implement elements of a written respiratory protection program necessary to ensure that any employee using a respirator mask is medically able to use that respirator, and the respirator mask is cleaned, stored, and maintained so that its use does not present a health hazard to the user.
4. Provide respirator mask users with written information contained in [Section 5144 of Cal/Osha regulations](#).

If employees are allowed to voluntarily wear N95/respirator masks while at work, determine who will be responsible to ensure the employer complies with the voluntary use requirements for use of such masks, as mandated by law.

Consideration 10 | Employee Screening

Decide if the employer will require temperature checks or the completion of health and symptoms self-assessment forms by employees and/or visitors. Any screening conducted must be done in a nondiscriminatory, safe, and legally compliant manner. If screening is implemented, keep all results and records confidential and separate from personnel files.

Medical inquiries are generally prohibited unless they are job-related and consistent with business necessity. The EEOC recently published guidance on medical inquiries and examinations. The current EEOC guidance is that employers may obtain information about COVID-19–related symptoms. During this pandemic, employers may ask employees whether they have COVID-19 symptoms such as: fever, chills, cough, shortness of breath, sore throat, or inability to smell/taste. Inquiries should be limited to COVID-19 symptoms identified by the CDC, EEOC, and/or public health authorities. Given that this guidance may change, employers are advised to check for updated EEOC and CDC guidance before asking employees about any COVID-19–related symptoms.

Employers may consider the following factors when deciding to implement employee screening measures and should also be prepared to discuss the impacts of any decisions regarding these factors with any representative labor union.

- Is there a need for testing, including any local requirements for testing?
- What is the feasibility of doing so?
- What will be the protocols for testing?
- Who will conduct the temperature checks or screenings?
- Will temperature checks be administered onsite by a designated person(s) or will employees be requested to take their temperatures at home?
- Is it possible to have county health personnel administer temperature checks or health screenings?
- If administered onsite, what PPE and other protections will the employee administering the temperature checks/screenings be provided?
- Is screening time compensable, and if so, how much time is compensable and how will it be tracked?
- Is time spent waiting for results compensable?
- What will the protocol be if an employee who is screened has a fever or other symptoms?
- How will information from screening/testing be used?
- How will confidentiality of any medical records that result from screening/testing be protected?

- Will employees be required to complete a health questionnaire or form to attest that they do not have symptoms and to screen out potential sources of exposure before reporting to work onsite?
- Is a health questionnaire an acceptable alternative to any local health department requirement to conduct temperature screenings?

Consideration 11 | Work Schedule Adjustments

Consider making changes to employee schedules to reduce the number of people in the workplace at one time. Determine the process to request a schedule adjustment and criteria for evaluating those requests and be prepared to discuss such adjustments with any representative labor union. For example, will personal preference or convenience be sufficient? Some options to consider include:

- Staggering work schedules.
- Allowing earlier/later start/stop times.
- Rotating the weeks when employees are in the office (e.g., week 1: onsite; week 2: work remotely).
- Rotating the days when employees are working remotely within a regular work week.
- Giving employees the flexibility to work non-traditional schedules to accommodate their needs related to medical care, childcare/eldercare, or anxiety about returning to work.
- Requiring non-exempt employees who are approved to work non-traditional schedules to track time accurately. Enact measures to ensure that non-exempt employees take rest and meal periods while maintaining safe social distancing.

Consideration 12 | Telecommuting

- If the court has previously decided that working remotely is a viable option, and the employee's position is one that can facilitate remote work, determine what portion of the job can be performed remotely. Within those positions/classifications, determine if some employees will be allowed to continue to work from home or from an alternative work location because: a) they are at greater risk for severe illness due to contracting COVID-19; or b) they have other COVID-19–related reasons for not wanting or being able to work at their regular location. Consider and be prepared to discuss with any representative labor union whether the option to work from home or from an alternative work location will be given to:
 - Employees who are 65 and over.
 - Employees with medical conditions that place them at higher risk of contracting COVID-19 or experiencing serious side effects.

- Employees who live with or care for persons in vulnerable populations.
 - Employees with childcare/eldercare issues.
 - Employees with anxiety about returning to work.
 - Employees with logistical problems or other barriers to return to work such as reliance on public transportation.
- If the option to work remotely is offered to an employee because of the above-listed considerations, evaluate how long working remotely will be needed or when it is appropriate to reevaluate. Approving remote work for shorter periods of time may allow the employer to engage in more frequent reevaluation of the appropriateness of continued remote work.
- Establish a process to request to continue to work remotely and methods for evaluating those requests.
- Establish how remote work and related leaves will interact.
- If developing new remote work assignments, consider whether any rules of court or similar policies preclude certain tasks from being performed remotely. Evaluate if changes can be made to the process to add remote work opportunities.
- Establish requirements for documentation that will be required to support the request, if any (doctor's note, notice of childcare closure, etc.).
- If the employer has multiple work locations, evaluate whether employees who are normally assigned to one location can be given the option to work from alternative locations.
- Evaluate how to handle requests to work remotely due to personal preference. (In this scenario, the request is from an employee who does not fall into a vulnerable population and does not have other COVID-19–related reasons for requesting to work remotely.)
- Evaluate whether the employer's regular remote-work policy should be revised.

Consideration 13 | Ergonomic and Equipment Logistics

Employers should determine and be prepared to discuss with any representative labor union how they will address requests for ergonomic equipment from employees who work remotely. Some considerations are:

- Is the remote work mandated by the employer or being voluntarily allowed? In the case of mandatory remote work, the employer may have additional responsibilities and requirements.
- Will the employer provide ergonomic equipment to be used to work remotely?

- Will requests for new ergonomic equipment be treated the same as requests to take existing ergonomic equipment from the office to use while working remotely?
- Who will be responsible for the costs of purchasing and transporting the equipment?
- Will prior approval be required before incurring expenses?

When employees return to working onsite, the employer should identify if employer property used at home while employees were working remotely needs to be returned. Arrange for return of property and means of sanitizing property.

Consideration 14 | Changes to Workers' Compensation

Governor Newsom recently signed Executive Order N-62-20 into effect which creates a rebuttable presumption that employees who test positive for or are diagnosed with COVID-19 contracted the virus while at work, for purposes of receiving workers' compensation benefits. Under the order, if an employee tests positive or is diagnosed within 14 days after performing work at the employer's workplace at the employer's instruction, there is a rebuttable presumption that the employee contracted the COVID-19-related illness while at work. The effective date of this order is retroactive to March 19, 2020 and covers employees whose date of injury is within 60 days of the issuance of the order, meaning on or before July 5, 2020.

Consideration 15 | Families First Coronavirus Response Act and Related Leaves of Absence

Consider if new COVID-19-related policies which affect the employer's current leave policies will be implemented for an ongoing or temporary duration and be prepared to discuss the impacts of any such changes with any representative labor union. There are two components to the Families First Coronavirus Response Act (FFCRA) and related leaves:

A. Emergency Paid Sick Leave Act (EPSLA)

Covered employees: All employees

Effective Dates: April 1, 2020 through December 31, 2020

- Provides up to 80 hours of paid sick leave for full-time employees in a two-week period. Part-time employees are entitled to the number of hours they would normally work on average in a two-week period. The amount of pay varies depending on the reason for the leave.
- Obtain the date for which leave is requested, the qualifying reason, and a statement that the employee is unable to work because of a qualified reason for the leave, such as:

- Employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
- Employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
- Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- Employee is caring for an individual who is subject to a quarantine or isolation order or has been advised by a healthcare practitioner to self-quarantine.
- Employee is caring for a child whose school or childcare provider has been closed, or whose childcare provider is unavailable, due to COVID-19 precautions.

B. Emergency Family and Medical Leave Expansion Act (EFMLEA)

Covered Employees: Employed at least 30 days

Effective Dates: April 1, 2020 through December 31, 2020

- Employees are entitled to receive paid leave of not less than two-thirds their regular rate of pay, up to a cap of \$200 per day, for the number of hours the employees would normally be scheduled to work.
- Expands the FMLA to provide paid leave for a new purpose:
 - To care for a child under 18 if the school or place of care has been closed, or the childcare provider is unavailable due to COVID-19.
 - After first 10 days (for which employee may elect paid sick leave under the EPSLA), employer must provide paid leave for remaining 10 weeks of emergency FMLA (if employee's full FMLA allotment remains available).
 - Can be taken intermittently with employer approval.

The Department of Labor recently issued a Q&A for employers addressing various aspects of paid sick and family leave and the FFCRA. Employers may consider consulting with their legal counsel before making changes to employee leave policies or deciding what documentation will be required from employees to support their leave requests.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT POSTING REQUIREMENT

Confirm posting and distribution to employees. By April 1, 2020, employers should have:

- Posted the notice in a conspicuous place (including emailing notice to employees or posting on internal or external website).
- Distributed the notice if employees do not have online access.

Consideration 16 | Returning to Work After a COVID-19 Leave of Absence

The employer is advised to consult all public health guidance upon an employee's return to work after a positive COVID-19 test. Evaluate whether to require clearance from a healthcare practitioner to return to work following a positive COVID-19 test. Evaluate whether to require an employee who has been exposed to someone in the household who tested positive to get a COVID-19 test and clearance to return to work. If a return to work certification process is implemented, the employer should review the information provided on the certification to determine if the employee is able to resume working onsite.

Consideration 17 | Travel

Determine guidelines and approval procedures for essential business travel. Some considerations include:

- Will travel restrictions be implemented on work-related travel depending on purpose/job related duties?
- How will "essential" travel be defined?
- Will travel be restricted to places heavily impacted by the pandemic?
- Will employees be required to report personal travel? Will the employer encourage employees to limit personal travel?
- What measures can be put into place to increase effective contact tracing if needed?
- Will employees be required to stay home for 14 days after any travel?
- Will the employer encourage the use of virtual conferencing tools as much as possible?

Consideration 18 | Visitors in the Workplace

Determine if changes to policies or procedures regarding visitors in the workplace are needed. Some considerations include:

- Will visitors or vendors be limited to certain areas or hours?
- Will visitors be given advance notice of protocols impacting them such as screening, testing, or social distancing?
- Will temporary agency employees, contractors, or others who perform any work on behalf of the employer, who enter the workplace, be required to follow any or all of the employer's COVID-19-related protocols? If so, how and when will the required protocols be communicated to them?

- Will these changes be applied to any labor union representatives accessing the workplace? If so, the changes should be discussed with the affected representative labor unions.

Consideration 19 | Reinforce Nondiscrimination Policy

- Anticipate employee anxiety and rumors.
- Remind employees of zero tolerance of discrimination or harassment, including for COVID-19–related reasons.
- Remind employees that no employees or third parties are allowed onsite if they are known to be sick.
- Reassure the employees that employees under quarantine can only return to work after meeting the criteria to end self-isolation.

Consideration 20 | Update Policies and Procedures

- Periodically review all personnel policies, MOUs, and COVID-19–related protocols/procedures to ensure ongoing compliance with new laws and public health guidance.
- Update the existing Illness and Injury Prevention Plan (IIPP) consistent with Cal/OSHA guidelines.
- Update protocols in response to new laws or guidance and communicate those updates to employees.
- Use ongoing monitoring of public health information to watch for trends in COVID-19 cases.
- Check local county public health orders for guidance as well as updates from the following (click each link below to access its respective webpage):
 - [CDC](#)
 - [OSHA](#)
 - [Cal/OSHA](#)
 - [US Department of Labor](#)
 - [EEOC](#)
 - [State of California Coronavirus Site](#)
 - [California Employment Development Department](#)
 - [California Department of Fair Employment & Housing](#)
 - [California Labor & Workforce Development Agency](#)
 - [California Division of Labor Standards & Enforcement](#)

Consideration 21 | Debriefing and Pandemic Planning

Periodically evaluate with team members the effectiveness of the employer's pandemic response plan. Debrief with the following objectives in mind:

- Identify COVID-19 responses that worked well.
- Identify opportunities for improved pandemic responses and protocols in the future.
- Begin the planning process to incorporate "lessons learned" into existing continuity of operations Plan and/or IIPP.

Budgets and Expenses

Consider fiscal impacts related to policy changes or employees' work environments. Personnel costs may include costs for remote work equipment, increased security, and overtime. Additional work environment considerations and costs are provided in the [Facilities](#) section.

Jury Management

Jury management presents additional challenges toward minimizing exposure to infection due to the high level of social interaction and dependence on public participation. As such, courts may wish to consider a variety of practices in order to remain flexible as local, state, and federal guidelines and the nature of the pandemic change over time. Additionally, courts will need to balance public health orders and prospective jurors' concerns with the need to conduct trials and ensure individual due process rights are upheld. The following section is structured based on the overall process of the summoning and selection of jurors and the completion of jury service, including resuming jury trials. The Trial Jury Selection and Management Act, codified at Civil Code Procedure (CCP) sections 190 through 237, govern the primary aspects of jury operations.

Summary of Considerations

| Topic | |
|---|---|
| <u>JURY SUMMONSING</u> | |
| 1 | <u>Estimate Juror Availability in Anticipation of Challenges</u> |
| 2 | <u>Juror Postponements, Excusals, Disqualifications, and Failures to Appear</u> |
| 3 | <u>Jury Management System and Software</u> |
| <u>JURY SELECTION</u> | |
| 4 | <u>Options for Jury Department and Court Staff</u> |
| 5 | <u>Options for Judges and Attorneys</u> |
| <u>JUROR MANAGEMENT DURING TRIAL</u> | |
| 6 | <u>Accounting for Withdrawal of Jurors</u> |
| 7 | <u>Public Viewing of Jury Trials</u> |
| 8 | <u>Cleaning and Hygiene Protocols</u> |

Jury Summoning

Prior to summoning, expect that the court's juror yield will be noticeably reduced from pre-pandemic operations. This may be further impacted by shelter-in-place orders, phased county-by-county reopening, and other restrictions at the federal, state, and local level. The business of the courts is considered an essential activity, including jury service.

Consideration 1 | Estimate Juror Availability in Anticipation of Challenges

Jury departments will need to work closely with judicial officers to determine estimated numbers of jurors per case type and per trial, and then summons jurors accordingly to adapt to challenges presented by COVID-19. Some options to assist with this endeavor include:

- Summoning 25 to 50 percent more jurors than typically summonsed based on case type, trial scheduling, and previous juror yields.
 - The Judicial Council Jury Improvement Program (JIP) can provide you with your jury yield for a given fiscal year upon request.
 - Consider utilizing alternative source lists, such as customer mailing lists, telephone directories, and utility company lists (CCP section 197(a)) to improve yield.
- Contacting your local and state health departments to understand the rates of infection in your area.
- Maintaining communication between court leadership and jury department staff to determine day-to-day changes to juror yield and tailor your protocols accordingly.
- If the court's juror yield proves insufficient to empanel sufficient sworn jurors necessary for a given trial or multiple trials, the court may wish to consider increasing summoning relative to the number of jurors still needed at a ratio of at least three-to-one (i.e., three prospective jurors summonsed in order to reach one sworn for a jury). A "good cause" finding to continue jury trial due to lack of jurors may be an option courts can explore.
- Encouraging increased use of internet, phone, and text-based communications with jurors, including:
 - Emergency alerts.
 - Reporting instructions.
 - Modified security screening announcements.
 - New court rules or standing orders for jurors.

- Other necessary information, such as the use of face coverings or recommendations to bring personal hand sanitizer and policies for bringing bags of personal belongings.
- Encouraging modifications to in-person jury assembly rooms and/or designate alternative areas for jury assembly.
 - When using assembly rooms, consider measuring and marking six feet (social distancing) areas for seating and standing.
 - When using assembly rooms, consider providing hand sanitizer, disinfecting wipes, face coverings, and gloves, when available, to jurors that require them.
- Coordinating with facilities staff to regularly clean high-traffic surfaces where jurors congregate (courtrooms, deliberation rooms, overflow areas, and designated alternative trial locations), and that prospective jurors see this occurring to increase their confidence in the court's ability to maintain a clean environment.
- Encouraging the increased use of on-call and telephone standby procedures.
 - Prospective jurors placed on-call and telephone standby would receive day-of reporting instructions sufficiently in advance of their reporting time and location.
 - Prospective jurors placed on-call and telephone standby can be directed to appear at the courthouse, courtroom, overflow area, or designated alternative trial location to minimize grouping.
- Requesting jurors serve at another courthouse in the same county.
- Instituting a phased system based on a court's usual operating hours, case scheduling, and trial calendar. For example, summoning small groups at two-hour intervals of 8:00 AM, 10:00 AM, 12:00 PM, and 2:00 PM; or summoning jurors in morning and afternoon groups.
- Assisting prospective jurors in navigating to specific courtrooms, overflow areas, or designated alternative trial locations through electronic communications, signage, maps on the court's website, and limited frontline or security staff when necessary, to avoid crowding.
 - This may be especially important in high-congestion areas within a given courthouse, courtroom, overflow area, or alternative trial location, such as elevators, stairs, and narrow corridors.
 - Coordinate with your facilities staff to preempt any crowding before jurors appear for service.
- Placing notices, instructions, and announcements regarding the court's efforts to protect public health for all visitors while resuming day-to-day operations.
 - Information regarding specific protocols can be included with the jury summons, the court's interactive voice response (IVR) system, jury portal, and/or on the court's website.

- The court can draft a public service announcement and partner with local news media to assist.
- Ensuring that information provided by the court attempts to make it sufficiently clear that prospective jurors must have received instructions from the court or contacted the court before they arrive in person. (Many people do not respond to jury summonses and may instead just show up, which is not recommended.)
- Preparing and planning for a gradual rollout. These are unprecedented times, so there will be challenges, even for courts that perform jury management well.
 - General information that courts may wish to review, including reference materials from other states, is available from the National Center for State Courts' (NCSC) Center for Jury Studies COVID-19 resources webpage.
 - Case prioritization is discussed in the [Case Management and Processing](#) section.
- It will be especially important to work on public messaging about jury service to assure jurors that courts are taking precautions to protect their health and safety, and to emphasize the importance of jury service to the justice system.
- Conveying other messages to jurors during the epidemic or pandemic:
 - Jurors are our heroes! Jurors should be particularly lauded for fulfilling their civic duty during this trying period.
 - Appeal to the public's civic-mindedness, altruism, moral courage, and other positive characteristics to foster a sense of community togetherness in continuing our lives despite current conditions.
 - Jury service remains a right and obligation of citizenship. When jurors don't respond when summonsed, access to justice for the public is put at risk. The public may assume that they are not required to appear for jury service if a public health order or other seemingly conflicting protocol is in effect. Courts can endeavor to communicate that, in fact, jury service is an essential activity that is not suspended during a shelter-in-place order and there is no legal conflict between observing such orders and responding to a jury summons.
- Implementing a remote process to complete juror prescreening for eligibility, hardships, and/or to time-qualify.
 - Utilize the court's website, jury portal, IVR system, and/or summons to help jurors begin this process.
 - Changes and/or updates to a court's jury management system (JMS) software may be required.
- Exploring juror prescreening that includes questions designed to determine whether individuals have COVID-19 symptoms, exposure to COVID-19, or are in self-quarantine.

See the [Facilities](#) section for more information related to jury rooms, cleanliness, equipment, and other issues discussed above.

Consideration 2 | Juror Postponements, Excusals, Disqualifications, and Failures to Appear

Juror eligibility is addressed in CCP section 203. Juror postponements/deferrals and excusals are addressed in California Rules of Court, rules 2.1004, 2.1006, 2.1008, and 2.1009.

Courts should expect increased requests for postponements and excusals. It is usually preferable to follow up with and/or postpone/defer a given individual's service rather than leave them listed as a failure to appear (FTA). Options to consider are:

- Utilizing a system to consider and grant all requests for postponements and excusals remotely without requiring additional documentation (e.g., a doctor's note), or the juror's appearance, when the request is made under penalty of perjury and through the court's established written or electronic means.
- Modifying the deferral/postponement period to meet the need for jurors.
 - Consider periods greater than 30, 60, or 90 days or shorter periods of 5, 10, or 20 days. The appropriate interval should balance the need to maintain day-to-day operations with a prospective juror's need for scheduling accommodations.
- Reviewing disqualifications to ensure eligible jurors are not being summarily denied the opportunity to complete jury service, including those with criminal histories, English as a second language, and who have temporarily relocated during the pandemic.

Consideration 3 | Jury Management System and Software

Jury department operations rely heavily on the capabilities of, and their staff's expertise in, the JMS and software used by the court.

Due to the unique challenges facing jury departments and the equally unique, possible solutions, courts will need to work closely with their JMS vendor and in-house technology staff to ensure their software can accommodate their needs. This includes related information technology products, such as automated kiosks, IVR systems, online jury portals, as well as printing and mailing providers. Options include:

- Consider contacting your JMS vendor and confirming the version of their software/product you are using and ensuring they are prepared to provide you with tech support with relatively short notice when needed.
 - If you are not using the most recent version of their software/product, confirm whether you are still covered for tech support.
 - During shelter-in-place or stay-at-home orders, will your JMS vendor be available, and are they able to provide remote assistance?

- Your court may wish to complete a screening of your jury department and jury trial needs with your JMS vendor to determine what capabilities and deficiencies your JMS and related products have in meeting those needs. For example:
 - Transfer of jury service location.
 - Adjustment of summoning and screening or prescreening questionnaires.
 - Moving all jurors to on-call and/or telephone standby.
 - Suspension of FTA protocols.
 - Disabling or modifying automated kiosk services.
 - Automating jury panel sizes.
- If using a third-party vendor for printing, mailing, and information technology services, consider contacting them to ensure they can work with your JMS vendor or any other vendors your court's jury department contracts with to manage specific needs. For example, consider whether your JMS vendor can:
 - Change the automated content of your court's summons and screening or prescreening questionnaires and then have that information correctly communicated to the printing vendor prior to mailing.
 - Automate a queue for jury service verification form requests that would be automatically directed to your printing and mailing vendor to then be sent to the address on file for those jurors that have requested a form.
 - Make adjustments to send customized notices, questionnaires, alerts, and other communications to jurors via text, automated phone message, or other electronic means (e.g., email, jury portal message notifications, automated recordings of reporting instructions for jurors calling in to the court's IVR system).
 - Determine if your printing and mailing vendor will remain open and able to send notices, if required, during shelter-in-place or stay-at-home orders.
- Obtain enough copies of user manuals for distribution or schedule live demos with jury department staff to complete any necessary training and fill any potential knowledge gaps regarding the full capabilities of your JMS and other information technology products.
 - The JIP will be able to provide limited assistance in navigating these issues, such as coding questions or troubleshooting statistical tracking and reporting.
- Adopt written JMS data governance policies, such as consistent coding practices, entry of jury service data, and automated reporting formats. Such policies might include:
 - Utilizing a coding designation to correctly report and count jurors who are assigned to a panel and sent for selection but then dismissed, as outlined in the Judicial Council's Jury Data Report (JDR). (This will allow the JIP to provide better cross-checks on court data.)

- Checking the automated reporting format for your court's JDR to ensure old codes are no longer used or now refer to updated codes, and that there are new codes to calculate jury data metrics that have been added.

Jury Selection

Due to the increased risk of COVID-19 infection among large groups of people within enclosed spaces, courts will need to develop plans for minimizing exposure and protecting public health by limiting groups of people to the minimum number necessary to complete essential operations within each courtroom, overflow area, or designated alternative trial location.

Consideration 4 | Options for Jury Department and Court Staff

- Courts may wish to request that an external party perform a review of their facilities and obtain a list of recommendations from their local county public health department.
 - For example, coordinating with experts from the county public health department to complete a walkthrough and review of court facilities in order to provide specific recommendations, such as:
 - Using remote temperature checks of individuals entering a courthouse, courtroom, overflow area, and/or designated alternative trial location.
 - Developing a health screening questionnaire for court visitors.
 - Identifying types of temporary barriers and/or other infrastructure that can be installed to increase safety to all persons.
- Implement social distancing in all areas of the courthouse.
 - In courtrooms, seat jurors in cordoned off sections of the gallery and jury box and use markings for six-foot social distancing.
 - Provide larger conference rooms or other spaces for jurors to use as:
 - Overflow area for additional panels.
 - Waiting rooms during court recesses.
 - Deliberation rooms.
- Provide hand sanitizer and antiseptic wipes in strategically placed locations and make available a limited number of face coverings and gloves in areas where jurors will be located.
- Temporarily discontinue providing physical copies of flyers and pamphlets.
- Implement a schedule for all areas used by jurors and visitors to be cleaned and disinfected daily.

- It may be beneficial for some of this cleaning to be observable by jurors to maintain their confidence in the court's ability to protect public health while maintaining day-to-day operations.
- Ensure that notebooks provided to jurors are not reused.

See the [Facilities](#) section for other information related to maintenance and cleaning protocols.

Consideration 5 | Options for Judges and Attorneys

Judges and attorneys may wish to consider the following options during the jury-selection phase:

- Tailor jury panel sizes to the limits of the specific courtroom, overflow area, or alternative trial location (for example, a misdemeanor case with three panels of twelve, with only one panel at a time socially distanced throughout the courtroom during selection). Coordinate with your jury department's staff for implementation.
- Link to different areas via video (courtrooms, assembly rooms, or overflow areas) to allow judges and parties to speak with more jurors at the same time. Coordinate with your jury department's staff for implementation.
- Use designated alternative locations for holding jury selection requiring a greater number of potential jurors (e.g., high-profile trials). Examples include:
 - School theaters and gymnasiums.
 - County fairgrounds.
 - Concert and theater venues.
 - Sports arenas/stadiums.
 - Hotel conference halls.
 - County and city council rooms.
 - Other municipal buildings.

If utilizing this option, please coordinate with your jury department's staff for implementation and review your court's security needs and capabilities in coordination with your facilities staff and county sheriff's office.

- Use temporary juror badges that can be discarded at the end of each trial or selection process or collect badges at the end of each day to allow jurors to leave immediately from the court when excused.
 - Collecting badges will require storage in a secure location and a process for jurors to remember their badge number or have the court provide a copy for them to leave at home.
 - Coordinate this process with the jury department to ensure consistency and accurate tracking of jurors' service.

- Modify courtroom schedules to reserve the first half of the day for all non-jury-related matters, such as:
 - Pleas agreements.
 - Settlements.
 - Motions for a continuance.
- For civil cases, increase the use of expedited jury trials, pursuant to CCP Chapter 4.5, sections 630.01 through 630.11.
 - The court may also wish to contemplate closer review of civil cases to determine whether they qualify as a mandatory expedited jury trial, pursuant to CCP Chapter 4.6, sections 630.20 through 630.29.
- Use questionnaires to facilitate voir dire:
 - Judicial Council jury questionnaires for civil, criminal, and expedited jury trial cases (optional forms Jury-001, Jury-002, and Jury-003).
 - Online jury questionnaires from third-party vendors:
 - Integrated questionnaires coordinated with court's JMS vendor(s).
 - Online survey platforms.
 - Allow questionnaires to be returned to the court without the need for prospective jurors to do so in-person.
 - Specifically for hardcopy questionnaires, consider methods to reduce the number of individuals touching each piece of paper, including logistics of making and distributing copies (e.g., gloves or other hygiene protocols).
- For voir dire, coordinate protocols for social-distancing sidebars or to permit prospective jurors to answer certain questions outside the hearing range of other prospective jurors.
- Release jurors from the courtroom, courthouse, overflow area, or designated alternative trial location in stages to avoid group congregation.

See the [Facilities](#) section for more information regarding safe jury practices.

Juror Management During Trial

Consideration 6 | Accounting for Withdrawal of Jurors

Courts will need to account for the possible withdrawal of a portion of sworn jurors due to various circumstances, including infection, exposure to infection, financial emergencies, changes to dependent care arrangements, updates to local, state, or federal health orders, and other unforeseeable or exigent circumstances. Options include:

- Using more than the usual number of alternate jurors when possible and if space allows (for example, use at least two more alternates than usual per case type, per trial, for a total of typically four alternates).
- Maintaining regular screening of all individuals participating in a given trial, including:
 - Remote temperature checks with infrared thermometers.
 - Verbal or written symptom and exposure questionnaires.
 - Brief check-ins regarding any changes, updates, or concerns that should be discussed.
- Judges and court leadership reviewing and considering whether they are allowed to require the wearing of face coverings, compliance with temperature checks, and completion of health screenings, based on public health orders at the local, state, and federal level.
- Judges mentioning in their jury instructions that jurors must not rush to verdict to avoid continued participation in trial, even given current conditions resulting from the pandemic or epidemic.
- Providing a deliberation room that allows sufficient social distancing, including during breaks and meals.
 - Consider advising jurors ahead of time of any limitations to onsite amenities and to pack lunches accordingly.
- Discouraging mingling after the reading of the verdict and conclusion of proceedings.
- When concluding proceedings, dismissing jurors and parties in the case in staggered groups to avoid crowding and congregating.

See the [Facilities](#) section for other information regarding jury rooms.

Consideration 7 | Public Viewing of Jury Trials

During a pandemic, public access to court proceedings may be impacted by considerations that protect public health. To that end, review whether courtrooms to be used for jury trials will have space to ensure necessary social distance between jurors, the parties, witnesses, and members of the public, including victims and family members. When space may be limited, consider:

- Showing the proceedings in another courtroom for the public and others.
- Showing the proceedings in a designated area outside the courtroom via local video or webcast.
- Providing listen-only call-in lines.
- Streaming the proceedings to the internet through a secure platform.

Consideration 8 | Cleaning and Hygiene Protocols

In coordination with their facilities staff, courts are encouraged to develop plans for reducing potential transfer of infection through the consistent use of cleaning and hygiene protocols.

- Assess all multiple use items, seats, and surfaces for practicable and recommended cleaning intervals. This could include:
 - Cleaning items, seats, and surfaces between each use.
 - Cleaning items per use, seats per rotation of individual occupants, and surfaces once in the morning and once in the afternoon.
 - Requiring items to be unused, seats to remain vacant, and surfaces clear for several minutes.
 - Consider whether this will impact how panels are called and whether more frequent or longer breaks are needed.

Courts may need to consider protocols to provide and store notetaking materials to sworn jurors (see rules 2.1031 and 2.1032).

Case Management and Processing

The COVID-19 pandemic caused many courts to reduce services and hear only essential matters. This section is intended to provide guidance to courts on case management as they continue to hear essential matters and expand operations to include additional judicial proceedings.

Case management is the integration of all aspects of the court system to process court transactions and provide services to the public. Case management must be done in a manner that will promote operational efficiency and clarity of process. Courts may consider a phased approach that will allow expansion or reduction of services as necessary to address dynamic local needs and challenges.

Summary of Considerations

| Topic | |
|---|--|
| 1 | Assemble Teams |
| 2 | Suggested Criteria for Prioritizing Court Operations |
| 3 | Relief on Deadlines Affecting Case Management |
| 4 | Access to Courthouses and Alternatives |
| BUDGETS AND EXPENSES | |

Consideration 1 | Assemble Teams

During a crisis affecting court operations, a court may want to establish well-defined teams to respond to and address court operations as a whole and address case management calendars for particular divisions and locations.

In addressing the overall operation of the court, an effective response team will follow the leadership structure within the court and within affected justice partner agencies. The team should also include personnel who have expertise in the daily operation of a calendar or courthouse location. By including these subject matter experts, the overall plan for the court is ensured a practical application, and the specialized implementation of each plan is greater assured. In many instances, courts may benefit by having teams with two tiers to allow high-level policy decisions to be made quickly.

Some team guidelines follow.

- **Meet/monitor/modify.** Each individual team should meet regularly to review and monitor activities and modify interim procedures as needed.
- **Collaborate with justice partners.** Teams should collaborate with justice partners such as the district attorney, public defender, alternate defenders, sheriff, probation department, and bar representatives to establish and communicate plans when appropriate.
- **Designate team leaders.** Identify team leaders to be responsible for preparing and disseminating information specifically detailing which cases will be affected by the adopted operational plans and corresponding actions.
- **Address rules and statutes.** Teams should identify specific statutory provisions and rules that dictate how to conduct cases and execute procedures within their subject area.
- **Identify differences/share similarities.** Team members will likely see some process variability among different operational areas and, accordingly, may need to rely on subject matter experts to craft implementation procedures; however, benefits can be gained by aligning approaches and sharing plans within the court as well.
- **Coordinate with presiding judge.** Procedures and processes adopted by teams within the court should be coordinated with the court's presiding judge.
- **Coordinate with court management.** Management staff is typically responsible for implementing the administrative procedures adopted by each subject matter team and determining tasks for each employee in accordance with those procedures.

Consideration 2 | Suggested Criteria for Prioritizing Court Operations

When scheduling future proceedings, courts typically prioritize based on the urgency of the legal matters pending before the court. When determining a schedule for future proceedings, consider:

- **Court leadership involvement.** Assemble teams of court leaders and subject-matter experts to regularly review cases affected by operational modifications and recommend actions to most efficiently address all pending matters while prioritizing the most essential.
- **Resources.** Assess the availability of physical facility resources, staff resources, financial resources, and judicial resources to ensure that proceedings meet required constitutional and statutory standards as well as health and safety requirements.
- **Prioritization assessment criteria.** Identify prioritization assessment criteria, including essential, time-sensitive matters and public safety issues.
- **Prioritization of case types.** Prioritizing case types should recognize constitutional and statutory preferences that govern specific case types. (If a presiding judge or court executive officer has questions about the legal requirements that govern specific case types, they may want to consult with Judicial Council Legal Services.)
- **Backlog processing criteria.** Develop a backlog processing criteria, including:
 - Prioritizing cases that had existing dates scheduled.
 - Assessing cases that are sensitive in nature and require immediate attention.
 - Evaluating cases that could not be absorbed into existing calendars.
 - Creating an “exceptions list” for cases that require immediate attention.
 - Drafting orders to support backlog processing decisions.
- **Rescheduling cases.** Establish a realistic time schedule for setting proceedings that will reduce further continuance setting and continuance-related postage and other costs.
- **Judicial resources.** Eliminate backlogs in particular case types by shifting judicial officers assigned to other case types to higher-priority case types. After the higher priority case types have been sufficiently addressed, courts can consider redistribution of judicial officer assignments.

Consideration 3 | Relief on Deadlines Affecting Case Management

During a crisis, court operations might need to halt or be delayed or interrupted. It is critical to take stock of current caseloads and backlogs and to schedule future proceedings within a realistic timeframe that aligns with the Chief Justice's statewide orders and the Judicial Council's emergency rules. To ensure compliance with statutory deadlines, a presiding judge may need to seek additional relief from a variety of sources to manage calendars and cases in a manner that complies with statutory and constitutional rights.

STATEWIDE EMERGENCY EXTENSIONS

A summary of the relevant extensions of time in statewide emergency orders and rules of court, along with the expiration of those extensions, is shown in the following *Statewide Extension of Deadlines* table.

| Statewide Extension of Deadlines | | | |
|--|---|---|--|
| Proceeding | Extension | Expiration of Extension | Authority |
| Arraignments (Pen. Code, § 825) | Extend time to arraign in-custody felony defendant from 48 hours to not more than 7 days. | No expiration of the extension as of June 2, 2020. | 3/30/20 Statewide Emergency Order |
| Preliminary Examinations (Pen. Code, § 859b) | Extend time to hold preliminary exam from 10 court days to not more than 30 court days. | No expiration of the extension as of June 2, 2020. | 3/30/20 Statewide Emergency Order |
| Criminal Trials (Pen. Code, § 1382) | Extend time to hold criminal trial by up to 90 days from initial section 1382 deadline. | Applicable to matters with initial last-day trial deadline on or between March 16, 2020 through June 15, 2020. Courts may request authority to grant further extensions of time by making a request to the Chief Justice. | 4/29 , 3/30 , and 3/23/20 Statewide Emergency Orders |

| Proceeding | Extension | Expiration of Extension | Authority |
|--|--|---|-----------------------------------|
| Civil Trials (Code Civ. Proc., §§ 583.310 and 583.320) | Extend time by 6 months for: (a) civil trials (for total of 5 years and 6 months) and (b) retrials (for total of 3 years and 6 months). (Note: this authority effectively superseded authority granted in 3/30 and 3/23/20 statewide emergency orders to extend time by 60 days.) | Applicable to all matters filed on or before April 6, 2020. | Emergency Rule 10 |

Individual Emergency Orders Under Government Code Section 68115

If a court needs to seek a further extension of time for proceedings listed in the *Statewide Extension of Deadlines* table above, it can make a request to the Chief Justice under Government Code section 68115 by contacting Judicial Council Legal Services.

Government Code section 68115 allows a presiding judge to seek authority from the Chief Justice to, among other relief, extend statutory deadlines in some but not all proceedings. Certain sections of the Penal Code, Welfare and Institutions Code, Code of Civil Procedure, which set deadlines for certain legal proceedings, are addressed in Government Code 68115.

How to Seek Relief under Government Code section 68115

When an emergency, as defined in Government Code section 68115, occurs, the presiding judge may request authority to extend deadlines identified in the statute. The presiding judge should work with the chief executive officer of their court and contact Judicial Council Legal Services and inform them of the intent to seek relief. The presiding judge completes the request form detailing those code sections for which relief is sought.

The presiding judge should reach out to any justice partners impacted by the extended deadlines and advise them of the request. The request form asks courts to report whether they have notified justice partners of the request and whether there is any known opposition.

Any request for an emergency order for additional time in which to conduct criminal trials should describe the specific facts supporting the request, and specifically address the efforts the court is making to avoid the necessity of further extensions, including collaboration with

justice partners and use of available technology. A court may wish to consider addressing some of the following issues to support its request:

1. How many criminal cases have last-day deadlines under Penal Code section 1382 during the period for which the court is requesting a first extension under Government Code section 68115 (please provide a daily breakdown)?
2. How many criminal cases are coming up to the limit already extended for 90 days by the statewide orders (please provide a daily breakdown)? Is the court requesting a further extension of time on any of these cases?
3. What logistical or other issues prevent the court from holding trials within the time provided in Penal Code section 1382? What impact does the availability of physical facility resources, staff resources, financial resources, and judicial resources affect the court's ability to conduct trials? How is the court planning to address any of these issues?
4. How is the court planning to conduct criminal trials? Does the court intend to use technology to assist in holding criminal trials?
5. What efforts has the court made to work with justice partners to encourage and facilitate expeditious settlement, where possible, of cases pending before the court?
6. If the request comes from a medium- or large-sized court, how many judges are working trials, and why and why not?

The request is then presented to the Chief Justice as Chairperson of the Judicial Council who will either grant or deny the request in part or in full, in writing, and then the Chief Justice's order is returned to the court seeking the relief.

After the Chief Justice has issued an order, the presiding judge must author and sign an implementation order. This local order implements the relief that the Chief Justice authorized. The implementation order cannot exceed the authority provided by the Chief Justice.

A court's order implementing authority to extend deadlines must also be consistent with any statewide orders and any orders the Chief Justice issues to the court individually under Government Code section 68115. Any implementation order issued by a court should also be posted on the court's website.

OTHER SOURCES OF RELIEF

As Government Code section 68115 limits the proceedings subject to the relief stated therein and limits strictly the length of time for which relief may be granted, a presiding judge might need further relief from different resources.

Judicial Council

During a statewide emergency, the Judicial Council may adopt emergency rules providing broad-based relief that applies statewide. During a time of crisis, the Judicial Council's website

can be monitored by the presiding judge and chief executive officer for upcoming meetings and developments. Emergency rules may develop that impact courts differently. Some may have mandatory effect while others provide relief as it is needed by any court.

Office of the Governor

During a time of crisis, the Governor may issue directives or orders that impact the community and court operations. The website for the Governor's Office should be monitored daily for any broad-based, court-related orders and directives.

California Rules of Court, Rule 10.603

California Rules of Court (CRC), rule 10.603 sets forth the general responsibilities and authority of the presiding judge to manage court operations through assignments to departments, assignment of cases, calling of meetings, setting of committees, and to perform all acts necessary to accomplish the duties specified in the CRC. During a crisis, the presiding judge would benefit from consulting their authority under CRC, rule 10.603.

COMMUNICATION ON CASE MANAGEMENT

To facilitate communication of policies and progress with returning to full operations, courts may want to consider:

- Providing notice to attorneys, justice partners, and the public of a planned, phased reopening.
- Communicating the court's prioritization of case types and efforts to streamline proceedings, including the use of remote proceedings and technology.
- Providing information to attorneys, justice partners, and litigants on the status of pending matters, including notice of dates for rescheduled hearings and trials and pre-trial filings.

Consideration 4 | Access to Courthouse and Alternatives

- **Phased opening.** Identify phases for resuming full operations and consider a soft opening to allow the return of employees weeks prior to reopening to the public; allow initial and ongoing, internal adjustments to be made for distancing accommodations; and provide time for employees to resume normal processes and possibly the opportunity for court appearances/visits on a by-appointment basis to allow a gradual return to business for the court and the public.
- **Notice.** Provide notice to attorneys, justice partners, and the public of a planned, phased reopening to avoid the potential for crowds of public visitors in court facilities at one time.

- **Alternative dispute resolution.** Encourage the use of alternate dispute resolution tools to reduce the need for in-person court proceedings or trials.
- **Meet and confer.** Encourage parties to meet and confer to resolve matters before filing motions or when motions are pending.
- **Post tentative rulings.** Post tentative rulings on motions and allow parties to submit on the tentative remotely. (CRC, rule 3.1308.)
- **Remote appearances.** Continue or expand, where appropriate, the use of technology to reduce the need for in-person visits to the courthouse.
 - This could include case management conferences, informal discovery conferences, voluntary settlement conferences, and certain types of probate proceedings by remote means.
 - The increased use of any technology may have fiscal implications; the court must consider available financial resources.
 - Consider adjudicating ex-parte matters on the papers, providing an expedited briefing schedule.

See the [Facilities](#) and [Personnel](#) sections for other information related to court access and resuming work in offices.

Budgets and Expenses

Consider fiscal impacts related to case management. Costs may include purchasing new technology such as software, equipment, or systems for remote appearances/proceedings; additional postage; and moving scheduled court dates, hearing locations, and times.

Communications

Frequent, timely, and honest communication is critical during a time of crisis. Good communication will assist in simultaneously maintaining a safe court environment, successfully managing operations, and sustaining access to justice. Several communication methods will be required to ensure that staff, justice partners, and the public are regularly, consistently, and effectively informed of updates and changes to court operations. Communication best practices and communication tools and methods are discussed in this section.

Summary of Considerations

| Topic | |
|---|---|
| <u>COMMUNICATIONS BEST PRACTICES</u> | |
| 1 | <u>Assemble a Communications Team Assigned to Continuity of Operations</u> |
| 2 | <u>Create an Internal and External Communication Plan</u> |
| <u>COMMUNICATIONS TOOLS AND METHODS</u> | |
| 3 | <u>External Communications</u> |
| 4 | <u>Internal Communications from Court Leadership, Managers, and Supervisors</u> |
| 5 | <u>Training</u> |
| 6 | <u>Managing Feedback</u> |

Communications Best Practices

Consideration 1 | Assemble a Communications Team Assigned to Continuity of Operations

Team guidelines may include:

- Including individuals with different skillsets/functions to ensure that the team covers all relevant areas (human resources, facilities, communications, budget, finance, legal, information technology, etc.).
- Providing the team with clear authority related to internal and external communications and allowing the team authority to be the main provider of information to employees, justice partners, and the public.
- Creating a communications plan and developing methods to ensure consistent and frequent updates are provided to all employees, justice partners, and the public.
- Providing additional resources and contacts for information provided outside of the team.
- Monitoring updates from main sources (Center for Disease Control, Governor's office, Judicial Council, local public health officers, bar groups, attorneys, etc.).
- Meeting regularly to stay informed, and frequently sharing information.
- Mapping all messaging for each communication. Message mapping includes identification of key audience, core messaging, and key speaking points.
- Drafting/reviewing communications to the targeted justice partners.

Consideration 2 | Create an Internal and External Communication Plan

The plan may:

- Consider the needs of the target audience.
- Outline how, when, and where the information being provided will be communicated outward (emails, intranet postings, website postings, flyers/posters, FAQs, press alert, notice included in paycheck, signage in the courthouse, etc.) to ensure that those receiving the communication know where to check in to receive updates and stay informed.
- Identify how urgent communications will be relayed in addition to regular, less time-sensitive communications.

- Ensure that all communications going forward apply to the processes, guidelines, and policies being used by your individual court.
- Maintain regular and frequent communication with clients, justice partners, and the public and address any foreseeable concerns that apply to each.

Communications Tools and Methods

Consideration 3 | External Communications

One central, online location is valuable for providing updated information to all interested parties. A court's public website can include a page for public and justice partner information. Considerations include:

- Using an external webpage to communicate updated information to external audiences. Communications on the webpage should include up-to-date information on access to the courthouse and any changes to rules or policies.
- Publishing *all* resources distributed or posted from the beginning of the pandemic as well as all ongoing, updated information (similar to the page on the Centers for Disease Control (CDC)).
- Ensuring that all materials and communications are posted and updated in a timely manner.
- Conveying clearly and providing links to where the disseminated information is being obtained (CDC, etc.).
- Placing the proper signage to indicate to the public what is required in each courthouse or location upon entering and navigating throughout. This should include any required screening, social distancing requirements/guidelines, and cleaning/disinfecting protocols. See the [Facilities](#) section for more information about communicating these requirements.

Consideration 4 | Internal Communications from Court Leadership, Managers, and Supervisors

Determine how and when to communicate with court employees regarding reentry planning and continuity of operations.

- Provide regular communications to employees. It is important to regularly receive communication from court leadership, the presiding judge, or the court executive officer

providing the most up-to-date information on the status of court operations and setting expectations for employees.

- Consider that not all employees may have remote access to the court's email or intranet. Review employee communications to identify if a pared-down version of the communication can be posted in an employee communication section on the main public website, along with appropriate instructions on how to access further information.
- Provide regular communications with respective teams including regular check-ins with employees. Check-ins from supervisors may include regular one-on-one meetings, general status updates, team meetings, and celebrations of wins and accomplishments. (See the [Personnel](#) section for more information.)

Consideration 5 | Training

Consider how operations were changed or modified due to existing health directives and social distancing requirements and provide affected employees with training on those modifications. Provide training to all employees on expected social distancing requirements and any related workplace regulations.

Consideration 6 | Managing Feedback

Feedback from both internal and external sources can help courts understand concerns, identify potential solutions, and help prioritize actions. Courts can effectively manage feedback by:

- Developing a means to collect feedback from both external and internal sources.
- Determining how to manage the feedback received, including:
 - Tracking questions and suggestions.
 - Regular review of feedback received.
 - Deciding when to monitor or take action.

While not all feedback needs to be acted on, it can be helpful for courts in considering plans and next steps.

Appendices

The following list contains links to some of the primary resources used as source material for and referenced in this resource guide. The links provided will allow you to directly access these sources.

FEDERAL

[*Centers for Disease Control and Prevention \(CDC\)*](#)

[*National Center for State Courts \(NCSC\) Pandemic Planning*](#)

[*Federal Emergency Management Agency \(FEMA\) Reimbursement Information for Trial Courts*](#)

STATE OF CALIFORNIA

[*California Resilience Roadmap*](#)

[*California Labor & Workforce Development Agency*](#)

[*California Department of Industrial Relations: Division of Occupational Safety and Health \(Cal/OSHA\) Guidance for Protecting Workers*](#)

[*California Department of Public Health \(CDPH\) Guidance for Office Workspaces*](#)

[*CDPH & Cal/OSHA General Checklist for Office Space*](#)

CALIFORNIA COURTS

[*Epidemics and the California Courts Handbook*](#)