

Goochland County Circuit Court Resumption of Jury Trials Plan

Preliminary Statement

This Court respectfully submits the enclosed plan for the resumption of jury trials in the Goochland County Circuit Court. In doing so, the Court seeks to achieve the dual goals of restoring the full operations of this Court while at the same time taking every reasonable step to protect the health of those whose presence is necessary to participate in such trials, and the public at large.

In preparation of this plan, the Court has considered the “Guidance and Considerations for the Resumptions of Jury Trials Memorandum” prepared by the Virginia Supreme Court and the recently promulgated Department of Labor and Industry standards to address infectious disease prevention. The Court has discussed this plan with the Clerk, Commonwealth’s Attorney, Sheriff, and County Administrator of Goochland County, as well as the general issue with its Circuit Court colleagues and certain defense attorneys. The Court is also mindful of its obligation to continue to monitor the Virginia Department of Health COVID-19 statistics as well as those set forth on the Virginia Hospital Association dashboard.

In setting forth this plan, the Court recognizes that the existence of incarcerated defendants awaiting trial and speedy trial concerns which compel the need to go forward with jury trials in criminal cases. With respect to civil jury trials, and no such concerns being generally present, and with a desire to protect the public, the Court would order that no civil jury trial be held in this Court until on or after July 1, 2021, when the Court presumes that recently developed vaccines will be widely available and the populace largely vaccinated, unless the Court makes a specific finding that such delay would negatively impact the fair administration of justice.

Pretrial Matters: Facilities

Immediately prior to the day of the commencement of the jury trial, maintenance staff will comply with all CDC guidelines regarding the cleaning and

disinfecting of the front door and lobby area, the jury assembly area, the witness waiting area, the jury room, the courtroom, and all bathrooms.

COVID-19 signage concerning symptoms, hygiene, and social distancing shall be posted on the front door of the courthouse and that of the jury assembly area, regarding the requirement to wear masks while inside the courthouse and the jury assembly area, health circumstances and factors which would warrant exclusion from the courthouse, and directions as to contacting the Clerk to receive additional instructions for those experiencing health issues.

Prior to the commencement of jury trials, county maintenance staff shall place safety tape on hallway floors, in the witness waiting area, in the jury room, and in the jury assembly area which approximates the six feet required for appropriate social distancing. Common areas in the Courthouse and in the jury assembly area shall be cleaned at least every two hours pursuant to CDC protocols.

The Goochland County Courthouse is served by a HVAC system consisting of two five-ton Trane units with one 28x23x1 pleated filter in each unit. Prior to the pandemic, the filters were replaced annually. To reduce the chance of airborne infection, the Court will require quarterly replacement of such filters while this plan is in effect. The system will cycle at night to flush contaminants. Courthouse windows cannot be opened without presenting security risks.

Pretrial Matters: Juror Summoning

Juror orientation shall be conducted by attaching a pamphlet prepared by the Virginia Supreme Court on the jury process to the juror summons. If equipment is available, the juror orientation video shall be played for the prospective jurors in the jury assembly area.

The Clerk shall consult with the Court regarding the number of prospective jurors to summon. The Court shall consider the nature of the case and the parties and the possibility of a greater than usual number of jurors seeking to be excused in arriving at the appropriate number to summon.

The Clerk shall prepare an additional pamphlet to accompany the jurors summons which addresses the COVID-19 pandemic and jury service. The pamphlet, which is to be approved by the Court, will provide information regarding COVID-19 symptoms and risk factors. The pamphlet shall identify those jurors who are in “high-risk” groups, such as those with: high blood pressure, chronic lung disease, diabetes, obesity, asthma, liver disease, chronic kidney disease, and heart conditions. The pamphlet shall also address those over the age of 65, those who care for someone in a high-risk group , or who have such persons in their household, those who are sole caretakers, those who require childcare, and those who work in high-risk environments. Those experiencing such symptoms or risk factors will be encouraged to contact the Clerk via email, telephone, or fax, as opposed to sending letters, and those seeking to be excused shall be readily excused by the Court.

Prospective jurors will also be advised to follow the Clerk’s Office Facebook page for additional information. The pamphlet will advise the prospective jurors of the general steps being taken to protect their health by the Court. They shall be advised that no food, but only water will be provided to them to limit their risk. They shall be advised that the Court will allow them a 60 minute lunch recess, during which they may return home, obtain a meal via drive-through or curbside pickup, or to be eaten in their vehicle, again to limit their risk. The pamphlet will also contain a URL link to the Clerk’s Facebook page where the jury resumption plan will be available to the public. The pamphlet will provide the name of a contact person who may answer any question of the prospective jurors.

In the event that a larger panel needs to be summoned, the Court will confer with the Clerk regarding staggered arrival times for the venirepersons. If so, the Clerk shall provide to the Court the randomized jury panel list approximately a week in advance of the first day of the trial in order that those summoned can be directed to appear in the appropriate order via telephone, email, or Facebook.

The Court will employ a relaxed standard in excusing those venirepersons seeking to be excused or deferred from jury service. Written proof of physician excuses will not be required during this pandemic period. The Court will also not issue failure to appear show cause summons for those not appearing.

Juror arrival and screening

To allow ample time for appropriate screening and orientation, prospective jurors shall be instructed to report to the Goochland County Sheriff's Office emergency operations center (which will serve as the jury assembly area) by 8:45 am. Upon arrival, they will be asked appropriate COVID screening questions delineated by the Virginia Department of Health's "Guidance for Daily COVID-19 Screening of Patrons" protocol by the court security staff and temperature screened with a laser thermometer. Any person answering a screening question which raises a health concern, or who has a temperature of 100.4 or higher, shall not be permitted to enter the building and shall have their service deferred to another time. If the person is a necessary witness or party, the Court will arrange to have the person appear via Polycom or WebEx. Any person suffering such difficulty shall be given the telephone number of the Clerk, or her Chief Deputy, to facilitate these accommodations.

Venirepersons presenting no health concerns then shall be directed to the juror assembly area. Signage in the jury assembly area shall include messages that promote proper social distancing and hygiene. Hand sanitizer shall be available for the use of venirepersons in the jury assembly area. A bailiff will be posted in the juror assembly area to assist with jury selection and to ensure compliance with social distancing and other health precautionary measures.

The County shall provide to court security staff a number of face masks at least equal to the number of prospective jurors summonsed which will be available to them, litigants, witnesses, attorneys, or other persons properly present who arrive without a face mask and which shall be worn by all persons.

Courtroom adjustments

In the event that it is determined that the Court should conduct civil jury trials during the pandemic, the only modifications to the courtroom necessary will be to add two rows of three chairs each in front of the chairs in the existing jury box. This will allow room for appropriate social distancing. The jury room is

sufficiently large to allow proper social distancing during deliberations. Enhanced cleaning, masking, and marking and signage requirements will still apply.

In criminal cases, because the existing jury box does not allow for sufficient social distancing, jurors, during voir dire and following, will sit in rows one through three of the gallery, at such locations as marked by the Court. Counsel tables will be turned to face the gallery at approximately a forty-five degree angle. If a criminal defendant requires shackles or other restraints, counsel tables shall be draped to prevent the jurors from observing such restraints. A witness chair and microphone will be placed at the corner of the existing jury box most distant from the bench, facing east. The final row on each side of the gallery will be reserved for members of the public, the right to a public trial being preserved. Seats will be marked to provide social distancing. Members of the same household may be seated together. If space is limited, priority shall be given to members of the press, crime victims, and the family of litigants..

During jury selection, venirepersons, following panel voir dire, will wait in the jury room and in the rooms customarily reserved for witnesses, with the first twelve names not excused for cause in criminal, and all thirteen in civil cases, to wait in the jury room, and the remaining venirepersons waiting in the witness rooms.

After the swearing of the jury, witnesses shall wait to testify in the usual witness rooms. Floor taping marking six feet distances shall be installed by county maintenance staff to maintain proper social distancing. The witness rooms shall be cleaned between their use by jurors, then witnesses.

Additional bailiffs will be required for jury trials conducted under these pandemic adjustments. One bailiff will monitor the jury assembly area and one will accompany panels of venirepersons to the courtroom itself. In the courtroom, one bailiff will be stationed between the defendant and the bench. One bailiff will be stationed between the defendant and each door. One bailiff will be stationed between the jury and the public area. The Sheriff will be free to utilize additional bailiffs if he determines the need to do so. The judge, clerk, bailiffs, and court reporter shall all maintain social distancing of at least six feet.

Hand sanitizer shall be placed on each counsel table and in the jury room and assembly area by the clerk.

Unless otherwise noted, all cleaning, chair setup, and marking of floors shall be conducted by county personnel in consultation with the court security staff. Signage will be accomplished by the Clerk.

Conduct of trial

Jury selection will be conducted in panels of between six to twelve venirepersons, nor more than seven in civil cases.

Venirepersons will be required to be masked. If individual voir dire is needed, the venireperson will be directed to take the witness chair, at which point his or her mask may be removed if necessary. Voir dire by the Court will include appropriate CDC COVID-19 screening questions. Those prospective jurors who are not excused will then be directed first to the jury room, and if needed thereafter, to the witness rooms. Excused jurors will be directed to leave the courthouse. The exercise of peremptory strikes will take place outside the presence of the panel due to the lack of space; however, should counsel wish to see the prospective jurors again and identified to aid them in the exercise of peremptory strikes, the Court will again have the jurors come into the courtroom in smaller panels. Once the jury has been selected and sworn, the balance of the panel will be excused and directed to leave the courthouse.

Enhanced cleaning shall occur during jury trials at least every two hours. These cleanings will focus on the witness stand (which shall also be cleaned between each witness), counsel tables, the bench and clerk area, jury area, bathrooms, and front door. CDC cleaning guidelines shall be followed. These recesses will permit the opportunity for the jurors to wash their hands in the two bathrooms available to them, with signage which will promote proper social distancing.

Certain trial procedures shall be modified. All persons, including witnesses, must wear face coverings. The witness stand, however, is sufficiently distanced from any other person in the courtroom to allow the witness to take the face covering down and testify with the face exposed. If a lawyer or bailiff needs to approach a witness to hand him something, the Court will instruct the witness to recover his or her face covering before allowing the approach.

If face coverings impair the ability of a lawyer to communicate with the witness or the Court, the Court may grant the attorney permission to remove his or her face covering as necessary, ensuring that the attorney remains physically distant from other persons in the courtroom.

A criminal defendant may be asked to remove his face covering during voir dire to ensure that prospective jurors can see him and indicate whether any know him or recognize him. He may also be asked to lower his face covering briefly for the purpose of enabling a witness to see his face and answer whether the witness can identify the defendant.

If face coverings impair the ability of a lawyer and his client to communicate at counsel table (and alternate methods of communication such as note-writing are unavailable or insufficient), the Court will permit counsel whatever recesses are necessary for the purpose of facilitating private communication. The court expects counsel to maintain social distancing with co-counsel and his or her client at all times.

Jurors will wear face coverings at all times, but the Court expects to permit individual jurors to lower the cover briefly if requested by counsel, while ensuring proper social distancing of at least ten feet from all other persons. If a mask is removed for any other reason (voir dire, identification, etc.) the distance between the unmasked and all others shall be more than ten feet, as recommended by the Virginia Department of Health.

To reduce the chance of contact, insure the making of a proper record, and to allow the Court to observe the jurors, counsel shall remain seated during opening statements, witness examinations, and closing arguments.

No sidebar conferences will be conducted; should such need arise, the jury will be excused from the courtroom.

Witnesses will be directed to enter the courtroom via the east hallway and directed by the bailiff to the witness stand. If excused, such witnesses will be directed to leave the courthouse.

To the degree possible, exhibits to be published to the jury will be displayed by computer or digital projector. A screen shall be directed towards the jury. If necessary, multiple screens shall be utilized to ensure that each juror can see the

exhibit. Counsel should also be prepared to provide multiple copies of the exhibit in order that the jurors may examine them individually. Nondocumentary exhibits shall be placed on a table for the jurors to approach individually after having been provided gloves and proper instructions for the use thereof per Virginia Department of Health guidelines.

Witnesses will be permitted, and may be required by the Court, to remove their masks, in order that they may be better understood, and in order that the Court and jury can better observe their appearance and demeanor.

To reduce the chance of infection, jurors will only be provided with bottled water, and a marker to identify their own bottles. The County shall provide at least 25 pint bottles for each day the jury is in attendance. As noted earlier, a somewhat longer lunch break will be observed to allow jurors to return home should they so desire.

Jurors, and all other person re-entering the courthouse shall be temperature screened and re-asked appropriate COVID questions prior to re-entry. During multi-day trials, the Court will advise jurors to continue COVID safety protocols (social distancing, hand washing/hand sanitizer, self-monitoring of symptoms) and of the procedure which will be conducted prior to re-entry..

At the conclusion of the evidence, and following being instructed on the law and hearing closing arguments, the jury shall retire to the jury room, which is sufficiently large to permit proper social distancing. Instructions and exhibits shall be taken to the jury room by the bailiff. A box of latex gloves and a trash can for disposal of gloves shall be provided by the County for any juror wishing to handle such exhibits or instructions. A bailiff shall be posted outside the jury room to ensure the jury is not disturbed and to notify the Court if any matter develops which requires the Court's attention. Following the rendering of the jury's verdict, the jurors will be excused.

Health issues

If a trial participant or courthouse employee becomes ill during trial, immediate steps will be taken to isolate the person until they can safely exit the building and have them isolate if they are out of the building when they become

ill. All affected areas of the building will be sealed for 24 hours if possible and the Goochland County building staff trained in such deep cleaning will clean and sanitize all affected areas pursuant to the Department of Labor and Industry's disinfection protocols. All persons who had close contact for an extended time, as defined by the CDC, will be notified of their possible exposure and urged to contact their health care provider or VDH for further instructions. Such notification shall take place via telephone call or email, where possible.

The Court will consult with the litigants, remotely, if necessary, to determine if a continuance or mistrial will be necessary. Among factors to be considered will be the availability of test results in a timely manner, the uses of alternates, the stage of trial, the length of delay, and the continued availability of the jurors and litigants.

Respectfully submitted,

Timothy K. Sanner, Resident Judge
Goochland County Circuit Court
Chief Judge, 16th Judicial Circuit