



## NORTHEASTERN JUDICIAL CIRCUIT

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# HALL COUNTY GUIDE FOR RESUMING JURY PROCEEDINGS Phase 2

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March 22, 2021

**COMMITTEE MEMBERS:**

Chief Judge Kathlene F. Gosselin, Chair  
Hon. Jason J. Deal, Superior Court Judge  
Hon. Clint G. Bearden, Superior Court Judge  
Hon. B.E. Roberts, III, Chief Judge, Hall County State Court  
Dr. Zachary Taylor, District 2 Director, Georgia Department of Public Health  
Mr. Lee Darragh, District Attorney  
Mr. Brad Morris, Circuit Public Defender  
Ms. Stephanie Woodard, Solicitor General, Hall County  
Mr. Charles Baker, Clerk of Courts, Hall County State and Superior Courts  
Mr. Justin Power, Clerk of Courts, Dawson County Superior Court  
Capt. Kelley Edwards, Hall County Sheriff's Office  
Lt. Johnny Holtzclaw, Dawson County Sheriff's Office  
Ms. Natalie Teston, President, Gainesville-Northeastern Bar Association  
Mr. Clint Teston, Gainesville-Northeastern Bar Association  
Mr. Matt Leipold, Assistant Public Defender  
Mr. Chris van Rossem, Assistant Public Defender  
Ms. Wanda Vance, Chief Assistant District Attorney  
Mr. Conley Greer, Senior Assistant District Attorney  
Mr. Jonathan A. Pope, Attorney, Hasty Pope Trial Lawyers  
Mr. Zack Tumlin, Attorney, Tumlin Law Group  
Mr. Jason Stephenson, Court Administrator  
Mr. Joshua Thompson, CIS Director

## PHASE 2 – THREE TRIALS AT TWO LOCATIONS

By Order entered July 15, 2020, Chief Judge Kathlene F. Gosselin established and appointed a COVID-19 Jury Committee to assist the courts with conducting in-persons proceedings, in particular jury trials and grand jury proceedings. The Committee was charged with seeking to ensure the health and safety of all persons involved in the court system, while protecting constitutional and statutory rights for defendants, witnesses, and victims. The Committee was expanded with additional appointments by Order entered September 18, 2020.

These plans seek to apply previously adopted “COVID-19 Safe Operating Guidelines” to the specific context of jury proceedings. The Safe Operating Guidelines, dated July 15, 2020, are incorporated by reference and attached as “Exhibit A.”

Prior to resuming Phase 1 proceedings (Grand Jury and One Trial Jury at a Time), the Committee met as a whole on three occasions, August 7, 2020, September 4, 2020, and September 25, 2020. A Phase 1 Guide was adopted by email consent of all committee members on October 1, 2020. The Committee then met a fourth time on March 17, 2021, and this Phase 2 Guide was approved by email consent on March 22, 2021.

Phase 2 provides for two, and only two, simultaneous trials conducted at the main courthouse, and one misdemeanor trial off-site at an alternate location.

## GENERAL CONSIDERATIONS

### Summons

When jurors are initially summoned, whether for grand jury or trial jury, the Clerk will mail:

- A Summons directing jurors to report to either the Jury Assembly Room in the main courthouse or the temporary State Court site at the North Hall Community Center, with staggered report times if necessary. It will also provide a contact number to call with health-related questions or concerns.
- A COVID-19 Letter from the Court, signed by the five Superior Court Judges, that expresses how much they are appreciated, assures them that the court understands their concerns for safety, and provides a contact number to call with health-related questions or concerns.
- A COVID-19 Insert highlighting the steps taken by the courts to ensure their health and safety, with a web address where they can view a health and safety video and a contact number to call with further questions or concerns.
- A modified Excusal Request Form that temporarily waives the requirement that it be notarized before submission.
- A COVID-19 Questionnaire that includes their contact information (name, address, cell phone number, and email) and a series of questions to determine whether they are in a category of persons identified by the CDC as being at an increased risk for severe illness from COVID-19.
- An existing Information Form that requests information generally asked by attorneys when selecting a jury.

## Excusals and/or Deferrals

Prior to jurors reporting on the date of their service, the court and Clerk's office will work cooperatively to determine whether any prospective juror should be excused or have their service deferred due to medical concerns. Any deferral or excusal will be solely at the discretion of and upon approval of the trial judge.

- The existing *Summons* will be modified to encourage any prospective juror at high-risk for COVID-19 to seek a deferral, and to direct State Court jurors to report to the temporary site at the North Hall Community Center.
- The existing *Excusal Form* will be modified to temporarily waive the requirement that it be notarized before submission. Jurors will be excused on having answered yes to any of the statutory questions included on the form.
- The *Letter, Insert, and Questionnaire* will instruct prospective jurors to call the Jury Division line if they have COVID-19 related questions and/or are seeking an excusal for COVID-19 related reasons. They will also instruct prospective jurors that in order to be considered for a deferral or excusal, the form must be returned 10 days prior to their date of service.
- Ms. Robin Jones, Jury Division Supervisor, will provide training for all Jury Division employees to equip them to answer health-related questions. Jury Division staff will then vet any excusal or deferral request before forwarding the person's contact information and excusal request to the first trial judge's office.
- The trial judge will decide whether to grant the deferral or excusal request based on the form submitted, and may opt to conduct either a phone or Zoom call with the prospective juror prior to making a decision. The judges' office will alert Ms. Jones of any decision to defer or excuse.
- Ms. Jones will be available by phone on the day of the reporting as well, so that prospective jurors who wake up feeling ill can receive instructions *before* coming to the courthouse.

## Check-In

On the morning of service, jurors will encounter the following safety precautions:

- Staggered Reporting Times – At the main courthouse, only the Jury Assembly Room and Courtroom 102 will be available for jury check-in (total capacity of 72 persons). Therefore, on any day that more jurors than 72 are required, the report times will be staggered throughout the day.
- Health Screenings. Everyone entering the courthouse is screened for illness and COVID-19 exposure. Any prospective juror prohibited from entering on the date of their service will be instructed to fill out an information form that includes their name, address, phone number, and juror number. The form will be given to Jury Division so that service can be deferred.
  - If any juror reports having been diagnosed with COVID-19 in the previous 14 days, or in contact over the previous 14 days with someone who has been diagnosed with COVID-19, or that they are concerned they may have been exposed or infected, they will not be permitted to enter.
  - If any juror reports having experienced a persistent cough, difficulty breathing or fever above 100.4 degrees within the previous three days, they will not be permitted to enter.

- Masks – All visitors are required to wear masks to enter the courthouse, and they must remain in proper position over nose and mouth, unless instructed by the judge to remove them. All courthouse deputies, bailiffs, and other staff will remain vigilant and politely ask anybody in the courthouse seen without a mask to put it back on. Any jurors that arrive without a mask will be provided one at the checkpoint. The specific mask preferred and provided by the courts, is a KN95.
- Hand Sanitization Stations – Hand sanitizer dispensers are available prior to and after security check-in, as well as outside the courtrooms.
- HVAC Modifications – The courthouse HVAC system has been modified to allow in more outside air, with high efficiency filters that are monitored and changed regularly.
- Social Distancing – The Jury Assembly Room (JAR) has been set up with a reduced capacity of 40 jurors, with chairs placed 6 feet apart. Courtroom 102, on the first floor, will also be used, with a capacity of 32.
- Controlled Check-In – Jurors will check in at the Payments window on the 1<sup>st</sup> floor, with Clerk staff and/or bailiffs directing traffic so as to prevent jurors from standing too near one another.
- Physical Barriers – Jury Division will check-in jurors from inside the first floor receipt room, behind glass.
- Badges – Jurors will proceed to the table outside the jury room to pick up their juror badge off the table instead of staff handing it to them.
- Transparent Masks – Transparent masks generally are not used; however, court personnel will have them on if needed to accommodate hearing-impaired or language-challenged jurors.
- Daily Disinfecting – Building Maintenance will sanitize the JAR, trial courtrooms, jury deliberation rooms, and other publicly-used areas each morning prior to opening.
- Health and Safety Video – The health and safety video posted to our website will also be played for jurors in the JAR and courtroom.

## GRAND JURIES

### Impaneling Process

The objective is to identify and impanel 26 qualified jurors.

- Jury Division will summon 150 total jurors.
  - Grand Jurors should be summoned for either Monday afternoons or Tuesday mornings, so that Monday mornings are reserved for trial jurors.
  - Based on Phase 1 turnout, one-third of summoned jurors will request excusal or deferral (for COVID-19 or other legal reason).
  - Grand jurors are not instructed to call an information line before coming in, so all those not excused should be expected to appear.
- Check-In
  - The first 40 jurors will be seated in the JAR and the next 32 in Courtroom 102.
  - After all jurors are checked-in, Jury Division will notify the assigned judge to come first to the JAR and then Courtroom 102.
  - Non-qualified jurors will be excused and their service concluded, as well as any qualified jurors in excess of the first 26.

- Remaining jurors, up to and including 26 persons, will be gathered in the JAR, sworn in, and given further instruction from the District Attorney regarding when and where to report for the first session.
- At least 1 bailiff will provide support for the Jury Division in all of the procedures outlined.

### **In Session: Gainesville Municipal Courtroom**

In order to reduce the number of persons in the courthouse and the need to make use of a courtroom otherwise available for non-jury proceedings, the District Attorney will conduct grand jury sessions off-site at the City of Gainesville's Municipal Court.

- On December 10, 2020, Hall County Government passed a resolution "providing" such space to the courts in compliance with OCGA 38-3-60 and 61.
- The same health measures employed at the Hall County Courthouse will be required at the Municipal Courtroom:
  - All persons will be screened at the door by Hall County deputies and their temperatures taken;
  - All persons will be required to wear a mask in the courtroom;
  - DA staff will have hand sanitizer stations available at the entrance and restrooms;
  - Jurors will be seated at least 6 feet apart in the courtroom, and witnesses will socially distance in the lobby area until their appearance is required.
- Witnesses will be permitted to appear remotely, via Zoom or other video technology.
- The municipal courtroom is located in the Gainesville Justice Center at 701 Queen City Parkway SW, Gainesville, Georgia

## **TRIAL JURIES (MAIN COURTHOUSE)**

### **Impaneling Process**

The objective is to qualify 40-60 jurors per trial, divided into panels of up to 20 jurors each for purposes of Jury Selection (voir dire).

- Jury Division will summon approximately 150-175 jurors per trial, in consultation with the trial judge.
  - Based on Phase 1 turnout, one-third of summoned jurors will request excusal or deferral (for COVID-19 or other legal reason)
  - By use of the information line, jurors will be directed to report at staggered times so as to bring in no more than 72 expected persons at one time.
- 8:30am Check-in
  - Jurors will begin entering the building shortly after 8:00am, and directed to check-in at the payments window.
    - The first 40 jurors on the list will be seated in the JAR and the next 32 in Courtroom 102.
    - Any legally non-qualified jurors will be excused and their service concluded.
  - Seated jurors will be shown two videos:
    - Jury Orientation video
    - COVID-19 health and safety video.

- Panel Division
    - The first 20 qualified jurors will be escorted by a trial bailiff up to Courtroom 402, and Jury Division staff will alert the trial judge that they are ready to begin Jury Selection (voir dire).
    - The next 20 qualified jurors on the list will be escorted by a trial bailiff up to Courtroom 201, and Jury Division staff will alert the trial judge that they are ready to begin Jury Selection (voir dire).
    - Any remaining jurors will be reserved for the next round of jury selection and may be seated in Courtroom 401 until needed. (Or the trial judge may opt to allow them to leave the courthouse and return at a designated time.)
- 10:00am Check-in
  - At the same time that Jury Selection is being conducted in the trial courtrooms, a second wave of jurors will report and check in on the 1st floor.
    - The above process will repeated, with a second round of two panels filled with up to 20 jurors each.
    - At the direction of the trial judge, Jury Division staff may assign a third round of up to 20 additional jurors – for a total of up to 60 qualified jurors.
  - Jurors in the second panels may be seated in either the jury deliberation courtrooms (401 and 202) or in the 1<sup>st</sup> floor JAR and 102.
    - These jurors will begin their own voir dire after the first panel of 20 is compete – perhaps in the morning, but dependent on how quickly jury selection moves along for the 8:30AM panels.
    - Trial judges may opt to allow waiting jurors to leave the courthouse and return at a designated time.
- Once both trial judges have the number of requested, qualified jurors, any remaining jurors will be released subject to recall.
  - Jurors placed “on-call” will be instructed that they are to report on 1-hour notice and will receive reporting instructions by telephone.
  - They will also be instructed that they are to call in after 6 p.m. for instructions.
  - These jurors, even if not called back, will be checked-in for attendance purposes and given verification of attendance for their employers.
- At least 3 bailiffs will provide support for the Jury Division in all of the procedures outlined.

## **Jury Selection**

Jury Selection (voir dire) will take place in panels of up to 20 jurors at a time due to the limited seating capacity of the courtroom. More complex cases may not lend themselves to the exact times described below, and jury selection may take two days or more. However, these procedures can be modified by the Judge and Jury Division, with appropriate communication to the jurors.

- Jury Selection Panels
  - 9:15am – Panels 1A (Courtroom 402) and 1B (Courtroom 201)
  - 11:15pm – Panel 2A (Courtroom 402) and 2B (Courtroom 201)
  - 3:15pm – Panels 3A and 3B (if necessary)

- Panel 1A will report immediately to courtroom 402 after the 8:30am check-in, taking the elevators two at a time with a bailiff escort. Panel 1B will do the same and report to courtroom 201.
- Each judge will conduct jury selection in a manner appropriate for the case, but general considerations include:
  - Given the public access afforded by the livestream, judges should remind attorneys to only address jurors by their numbers and *not* their personal names.
  - Wireless microphones may be placed in a mic stand and jurors directed to step up when they speak, or the mics may be passed between persons and wiped and disinfected by a bailiff before being handed to the next person. Disposable mic covers will also be available.
  - OCGA § 15-12-131 requires that the court place a panel of 12 in the jury box “upon the request of either party.” The jury box, under this plan, is the traditional gallery.
  - During individual voir dire, the remaining 19 jurors may be excused to the jury deliberation room located in the neighboring courtroom.
  - Each panel may be excused for the day after being questioned at the determination of the judge.
- Approximately 1 hour per panel per side would be 2 hours per panel. With this schedule, it would be possible to begin striking a jury at 5:15pm.
- The attorneys will strike the jury without bringing the panels back in.
  - Jurors will be instructed to call in after 6:00pm to learn if they were selected for the jury, with those being selected told to report back the following morning for service on the case.

## FELONY TRIALS (MAIN COURTHOUSE)

### General Protocols

The judge is to conduct proceedings in accordance with all constitutional and statutory requirements, seeking to ensure a fair and impartial trial while doing so within the confines of public health guidelines.

- Masks are required.
  - Judges, court staff, bailiffs, lawyers, and jurors will all wear masks during the trial *unless otherwise instructed by the judge*.
  - The preferred and court-provided mask will be a KN95.
  - Attorneys may be permitted to remove their masks while speaking, so long as adequately distanced from the jurors and only at the direction of the judge.
  - Jurors will generally not be ordered to remove their mask but may be permitted to do so during questioning, so long as adequately distanced from other jurors and only at the direction of the judge.
  - Witnesses will testify without a mask, from behind a plexiglass barrier.
- Bailiffs
  - Each trial will require 1 bailiff assigned to the Public Viewing Room, 1 bailiff assigned to the hallway at the secured door nearest the elevators, and 2 bailiffs in the courtroom.
  - Bailiffs will meet the jurors in the hallway just past security and escort them to the 2<sup>nd</sup> or 4<sup>th</sup> floors. Due to limited elevator capacity, it will require the use of two

- Any juror capable of taking the stairs who desires to do so, will be directed to the stairwell and they may take the stairs to the 4th floor.
- Jurors may use the restrooms in the secured hallways as well the main hallway restrooms.



## **Jury Deliberation Room**

Existing jury deliberation rooms will not be utilized due to the space restrictions. Instead, jurors will use the neighboring courtroom, either Courtroom 401 or 202, as jury deliberation rooms.

- Seating will be marked so as to encourage the jurors to sit facing each other, socially distanced throughout the room.
- Personal Items and Lockers
  - At the determination of the trial judge, jurors may be permitted to use the lockers relocated to the secure hallway behind the deliberation courtrooms.
  - If opting to use the lockers, bailiffs should encourage jurors not to crowd around and enter them at the same time.
- Supplies
  - The bailiff will have a supply table with extra KN95 masks, hand sanitizer, paper towels, gloves, tissues, juror pads and individually wrapped pens, bottled water, and disinfecting spray.
  - Jurors should keep up with their own items, so as to prevent sharing.
- Meals
  - Jurors will be permitted to leave at lunchtime and return, or the judge may decide to bring in a meal. Jurors will be permitted to bring in their own food, however there will be no community refrigerator available.
  - Jurors with dietary restrictions, or who prefer to bring their own food, should do so in a personal size cooler bag which will remain in the jury room.
  - Jurors should abide by social distancing guidelines when consuming food.
- Daily Disinfecting
  - The deliberation courtrooms will be included in the daily disinfecting done by Building Maintenance.
  - If the lockers are not being used, the judge should instruct jurors to take home any notes and items so that the room is empty when custodial staff enter to disinfect.
- Bailiffs will be stationed outside the door to the jury room and shall keep the area secure.

## **Public Viewing Rooms**

Due to the jury being seated in the traditional gallery, the public will not be able to attend and view the proceedings in person. Recent technology upgrades have placed new livestream cameras in the trial courtrooms. These livestreams will be available on the circuit website, [nejc.org](http://nejc.org), and displayed on site in viewing rooms accessible by the public

- On-site Locations
  - 4<sup>th</sup> floor trials will be livestreamed to the Grand Jury Room on the 3<sup>rd</sup> floor.
  - 2<sup>nd</sup> floor trials will be livestreamed to a new room behind Court Administration.
- Livestreams
  - Generally speaking, livestreams will be publicly accessible at [www.nejc.org](http://www.nejc.org).
  - In some circumstances, such as child testimony falling under OCGA § 17-8-54, the judge may temporarily disable the website livestream and convert the trial to a videoteleconference (Zoom) call that is viewable *only* in the viewing room located at the courthouse.

- Rules of Conduct
  - A standing order will be entered to govern conduct, reminding viewers that they are to behave as if in court, masks are required at all times, and food and drink should not be consumed.
  - Unruly viewers may be asked to leave or brought to appear before the respective trial judge
- Security
  - A bailiff will be assigned to each room, to remain there for the duration of the proceedings.
  - A deputy will also be assigned to each room, and physically present any time more than 1 person is in the room
  - Cameras have been installed in both rooms so that they can be viewed at all times by the Sheriff's Office

## MISDEMEANOR TRIALS (NORTH HALL COMMUNITY CENTER)

In order to reduce the number of persons in the courthouse and the need to make use of its courtrooms for 12-person juries, State Court will conduct misdemeanor jury trials off-site at the North Hall Community Center.

- On December 10, 2020, Hall County Government passed a resolution “providing” such space to the courts in compliance with OCGA 38-3-60 and 61.
- The same health measures employed at the Hall County Courthouse will be required at the Community Center:
  - All persons entering a secure checkpoint will be screened by Hall County deputies and their temperatures taken;
  - All persons will be required to wear a mask in the courtroom;
  - Hand sanitizer stations will be available at the entrance and restrooms;
  - Jurors will be seated at least 6 feet apart in the courtroom, and witnesses will socially distance until their appearance is required.
- No inmates will be tried at the site.
- The community center located at 4175 Nopone Road, Gainesville, GA 30506.

## Impaneling Process

The objective is to qualify approximately 20 jurors per trial.

- Jury Division will summon approximately 80 jurors, in consultation with the trial judge.
  - Based on Phase 1 turnout, one-third of summoned jurors will request excusal or deferral (for COVID-19 or other legal reason)
  - Additional clerk staff will be required in order to conduct simultaneous check-ins at both the main courthouse and North Hall. At the direction of the trial judge, State Court jury reporting may be shifted to a Tuesday morning and jurors given notice via the call-in number.

- 8:30am Check-in
  - Jurors will begin entering the building shortly after 8:00am, pass through a temporary security checkpoint where they will be screened, and then directed to check in with Jury Division staff.
    - The first 28 jurors on the list will be seated in the temporary Jury Assembly Room, with any overflow seated either in the hallway or the Jury Deliberation Room.
    - Any legally non-qualified jurors will be excused and their service concluded.
  - Seated jurors will be shown two videos:
    - Jury Orientation video
    - COVID-19 health and safety video.
  - After jurors are checked in and preliminarily qualified, Jury Division staff will alert the trial judge that they are ready to begin. The requested number of jurors will then be moved to the courtroom to conduct Jury Selection (voir dire).
- Any remaining jurors will be released subject to recall.
  - Jurors placed “on-call” will be instructed that they are to report on 1-hour notice and will receive reporting instructions by telephone.
  - They will also be instructed that they are to call in after 6 p.m. for instructions.
  - These jurors, even if not called back, will be checked-in for attendance purposes and given verification of attendance for their employers.
- At least 2 bailiffs will provide support for the Jury Division in all of the procedures outlined.

## **Jury Selection and Trial**

The judge is to conduct proceedings in accordance with all constitutional and statutory requirements, seeking to ensure a fair and impartial trial while doing so within the confines of public health guidelines.

- Masks are required.
  - Judges, court staff, bailiffs, lawyers, and jurors will all wear masks during the trial *unless otherwise instructed by the judge*.
  - The preferred and court-provided mask will be a KN95.
  - Attorneys may be permitted to remove their masks while speaking, so long as adequately distanced from the jurors and only at the direction of the judge.
  - Jurors will generally not be ordered to remove their mask but may be permitted to do so during questioning, so long as adequately distanced from other jurors and only at the direction of the judge.
  - Witnesses will testify without a mask, socially distanced from all others in the courtroom.
- The judge shall provide jurors with a point of contact if potentially exposed to COVID-19 or experiencing symptoms of COVID-19. They should not be required to report.
- Any juror who does not pass the temperature check or COVID screening questions will be brought to the Judge’s attention immediately.

## **Courtroom Layout and Evidence Presentation**

The temporary courtroom has been constructed in a traditional layout, except that seating has been spaced every 6 feet in order to comply with social distancing requirements.

- The courtroom includes socially-distanced seating for 28 people to attend in the public gallery.
- A plexiglass barrier has been installed on the judges' bench, and the witness stand is appropriately spaced from any other person.

Evidence should be displayed to the jurors in a digital format whenever possible, making use of the large television monitor.

- Attorneys will be asked to connect their laptops and display PDFs, digital photos, and powerpoint presentations on the television monitor, rather than passing physical items back and forth.
- There will be certain items that cannot be displayed in a digital format and the attorneys will be directed to seek guidance from the Court.

## **Jury Deliberation Room**

The area designated as the Jury Deliberation Room is across the hall from the courtroom.

- Seating will be marked so as to encourage the jurors to sit facing each other, socially distanced throughout the room.
- Supplies
  - The bailiff will have a supply table with extra KN95 masks, hand sanitizer, paper towels, gloves, tissues, juror pads and individually wrapped pens, bottled water, and disinfecting spray.
  - Jurors should keep up with their own items, so as to prevent sharing.
- Jurors will be permitted to leave at lunchtime and return or bring in their own food; however there will be no community refrigerator available.

## **DURATION**

These procedures and protocols shall be strictly adhered to for the duration of any statewide or local judicial emergency order, and until such time as the public health crisis has subsided.