

NORTH CAROLINA CONFERENCE OF DISTRICT ATTORNEYS
BEST PRACTICES COMMITTEE – COVID-19 RECOMMENDATIONS

April 29, 2020

The Best Practices Committee – COVID-19 comprised of Elected District Attorneys, Assistant District Attorneys and Administrative Assistants from multiple and varied prosecutorial districts, has met numerous times throughout this pandemic to discuss best practices to address the unique set of circumstance facing North Carolina courts. Recognizing that restoring operations rely heavily on conditions in local communities and on objective data from local and public health officials and the Centers for Disease Control and Prevention, the committee makes the following recommendations for appropriate continuation and resumption of courts.

The Committee requests the Chief Justice consider entering orders that will promote justice while providing consistency and uniformity throughout our state while ensuring the health and safety of citizens of North Carolina and employees of the Judicial Branch.

- (1) Personal Protective Equipment (PPE) & Sanitation Guidelines – In accordance with published standards of health, the Chief Justice should provide information and guidance on what type of PPEs, health and safety procedures and products will be required in courthouses as they continue business. Considerations should address the need for masks or face coverings, temperature checks and sanitation procedures of offices, courtrooms and public spaces. Considering equal access to justice, should these materials be provided to the public as well as court participants? Guidelines should include who will provide the equipment and provisions and who will pay for them.
- (2) Continuation of Grand Juries – The Chief Justice shall clarify that any districts that have not yet resumed Grand Juries shall do so no later than June 1, 2020. Guidelines for social distancing, protective equipment and sanitation procedures should be provided.
- (3) Resumption of Jury Trials – The Chief Justice shall permit District Attorneys to calendar cases for jury trials beginning August 3, 2020. This is a target date taking into consideration that the pandemic environment continues to improve and appropriate sanitation and safety measures are provided.
- (4) Administrative Court and Traffic Court Resumption – Decisions regarding these court procedures should be made on a local level taking into consideration space availability, time constraints, availability of PPEs and sanitation supplies. Additionally, court officials are encouraged to utilize technology where legally permissible and available to minimize the population in courthouses.
- (5) Continued Authorization to Conduct Remote Proceedings – Court officials should be allowed to continue to conduct remote proceedings consistent with statutory and constitutional safeguards.

District Attorneys are encouraged to develop working groups including court leaders to develop a phased approach to continuation and resumption of operations. Following are examples of workgroup developments, objectives and responsibilities as well as a sample phased-in approach.

In Re: Work Group on Restarting Court Operations After COVID-19 Closing

A work group is hereby established to develop recommendations for restarting court operations district-wide in a manner that protects health and safety of employees and the public. This work group* shall consist of the following members: Senior Resident Superior Court Judge, Chief District Court Judge, District Attorney, Public Defender (or member of private Bar), Clerk of Superior Court, and a Sheriff's Office representative.

The group shall address each of the following phases of the reopening:

Phase 1 (in which only first appearances and matters involving local jail inmates are being addressed and court facilities are closed to in-person spectators).

Phase 2 (in which matters involving out-of-custody defendants begin to be addressed but there are still no jury trials or settings of administrative traffic court).

Phase 3 (in which jury trials and administrative traffic court can resume but with stringent rules regarding physical distancing).

The workgroup shall:

1. Propose a sequence for restarting court operations that corresponds to the three phases established by Governor Roy Cooper's novel coronavirus taskforce;
2. Propose rules regarding physical distancing and other protective measures in the courthouse, which rules shall be based on consultation with county public health authorities and should aim at the safe return of all court personnel and the public; and
3. Propose a plan for prioritizing proceedings that have been or will be delayed as a result of the pandemic.

In addressing its responsibilities, the workgroup shall:

1. Be aware that a gradual resumption of standard court operations will doubtless be required to effectively address health and safety issues and to not overburn the court system, which may be operating with limited personnel and capacity;
2. Be aware that until there are widely-available vaccines or more effective viral therapies for COVID-19, the distinct possibility exists that the whole of the state or parts of the state could go back into a lockdown situation, and so plans should be made for those contingencies as well.

*Allowances must be made for multi-county districts. Moreover, civil and family courts are not included in this work group. Composition of the work group will vary by district but should remain small to be effective.

Phase 1 (tentatively through May 8)

Statewide	Courthouse-wide	Inside the DA's Office
Stay At Home order remains in place, people can leave home for commercial activity	Superior Court Hearings: continue to only have PV first appearances, bond hearings, & in-custody pleas	Continue to work in shifts; staff may elect to work on unassigned days and must sign in (vulnerable employees continue working from home)
Those retailers and services will need to implement social distancing, cleaning, and other protocols	Superior Court Admin: require defense attorneys to file updates (similar to the homicide calendar)	Employees with shared work spaces must alternate day in, must sanitize surfaces on way out
Gatherings limited to no more than 10 people	Grand Jury: sporadic as scheduled by Senior Resident Superior Court Judge	Only individual permitted in their work space/office; document exchange occurs in common areas
Parks can open subject to gathering limits	Felony District Court: continue to only handle in-custody cases	Face coverings required when not in individual offices
Face coverings recommended in public	Regular District Court: continue to handle in-custody defendants and any other case by waiver where sentence does not result in incarceration	Restrict access to the DA's Office to only employees and use outside space for meetings/WebEx
Restrictions remain in place for nursing homes and other congregate living settings	Traffic Court: continue to promote, only handle i-plea & ECAD	
Encourage continued teleworking	Temperature monitoring and facemask distribution by nurse at entrance	

Phase 2 (at least 2-3 weeks after Phase 1)

Statewide	Courthouse-wide	Inside the DA's Office
Stay At Home order with strong encouragement for vulnerable populations to continue staying at home	Superior Court Hearings: add bench trials, hearings w/ witnesses to PV first appearances, bond hearings, & in-custody pleas	Phase in staff to supplement staggered teams to meet increased work demands
Allow limited opening of restaurants, bars, and other businesses that can follow strict safety protocols (reduced capacity)	Superior Court Admin: out-of-custody pleas & hearings resume; 30 minute plea times & number of people in the courtroom continues to be limited	Have a minimum of two teams that never meet or work together simultaneously
Allow gathering at houses of worship and entertainment venues at reduced capacity	Grand Jury: begins to resume normal schedule	Employees with shared work spaces must alternate day in, must sanitize surfaces on way out
Increase in number of people allowed at gatherings	Felony District Court: adds out-of-custody, but limit on number	Only individual permitted in their work space/office; document exchange occurs in common areas
Open public playgrounds	Regular District Court: same as FDC	Face coverings required when not in individual offices
Restrictions remain in place for nursing homes and other congregate living settings	Traffic Court: continue to promote, only handle i-plea & ECAD	Restrict access to the DA's Office to only employees and use outside space for meetings/WebEx

Phase 3 (at least 4-6 weeks after Phase 2)

Statewide	Courthouse-wide	Inside the DA's Office
Lessen restrictions for vulnerable populations with encouragement to continue practicing physical distancing	Superior Court Hearings: jury trials (with new physical distancing rules) resume	Either everyone back in the office (with new physical distancing for vulnerable) OR half-and-half (depending on expert recs)
Allow increased capacity at restaurants, bars, other businesses, houses of worship, and entertainment venues	Writs from DAC resume	
Further increase the number of people allowed at gatherings	GJ, Felony & Regular DC continue, but w/ continued distancing	
Continue rigorous restrictions on nursing homes and other congregate care settings	Traffic Court: public come in at staggered times, attorneys at their own times	