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December 11, 2020

The Honorable Michael T. Garrett, Chief Judge
Amherst County Circuit Court
P. O. Box 462
113 Taylor Street
Amherst, VA 24521

Dear Chief Judge Garrett:

A panel of three Justices in consultation with the Office of the Executive Secretary has approved your plan for the resumption of jury trials in the Amherst County Circuit Court. You may begin jury trials effective today, provided the jury trial is consistent with and in reasonable conformity with the plan. This approval is subject to a change in circumstances including failure to carry out the plan you have submitted.

The Supreme Court is aware that communities in Virginia are different and more importantly, courthouses are different. As we have reviewed proposed plans, our concerns were that major issues have been addressed and that users of the courthouse have knowledge of what is expected of them. An undertaking of this magnitude is likely to require changes to the plan as participants discover that some practices do not work well and need further consideration. Of course, the plans cannot be subject to significant changes every time there is a jury trial. Furthermore, the plan cannot recite the solution to every problem that may arise. We are now learning that "strict conformity" with the plan should not be expected in all of the details.

We also know that the plans will need to have some room for adjustments as we learn about how certain aspects of the plans work or don't work. This letter is not an Order. The various emergency orders forbidding jury trials until a plan is submitted to and approved by the Supreme Court are clearly orders. As we have learned, from time to time there will be deviations from strict conformity to the plan. If and when this is so, it is the presiding judge who must make the decision. If the deviation is substantial and is likely to reoccur, the locality may need to resubmit a plan for approval.

The Honorable Michael T. Garrett, Chief Judge
December 11, 2020
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The presiding judge must and does have the authority to make decisions that must be made to effectuate a trial. Should there be changes made to the plan that have long term significance, the plan should be modified and resubmitted.

Sincerely,



Donald W. Lemons

AMHERST CIRCUIT COURT

JURY TRIAL PREPAREDNESS PLAN

This jury trial preparedness plan has been developed by Michael T. Garrett, Judge, Amherst Circuit Court's presiding judge, in consultation with: the judges of the 24th Judicial Circuit; Deborah C. Mozingo, Clerk of the Amherst Circuit Court; Sheriff of Amherst County E. W. Viar, Captain Jeuit Renalds Head of Courthouse Security for the Amherst Sheriff's Office; Lyle Carver, Commonwealth's Attorney of Amherst County; numerous litigators of the local bar practicing before the court; Buddy Jennings, Building Maintenance for Amherst County; David Proffitt of the Purchasing Office for Amherst County and the courthouse's third-party HVAC service provider, Southern Air, Inc.

This plan incorporates and shall comply with the following authorities:

Supreme Court of Virginia Orders of Judicial Emergency in Response to COVID-19 Emergency: <http://www.courts.state.va.us/news/items/covid/scvemergencyorders.pdf>

Virginia Governor Ralph S. Northam's Executive Orders: <http://www.virginia.gov/coronavirus/>

16 VAC 25-220 EMERGENCY TEMPORARY STANDARD – Infectious Disease Prevention: SARS-CoV-2 Virus that Causes COVID-19

Guidance Document for Judges and Clerks Re: Standard Adopted by the Safety and Health Codes Board of Labor and Industry

Online Guidance of the Virginia Department of Health:

<https://www.vdh.virginia.gov/coronavirus/>

Online Guidance of the Centers for Disease Control and Prevention:

<https://www.cdc.gov/coronavirus/2019-nCoV/index.html>

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I. General Requirements Before Resumption of Jury Trials

The following have been considered in developing the Amherst Circuit Court’s plan to resume jury trials:

(1) The health, safety, and comfort of all participants in a jury trial, including the jurors, litigants, witnesses, attorneys, bailiffs, clerks, judges, and other Court employees as well as other members of the public accessing the courthouse. This will be accomplished through prescreening, use of personal protective equipment (PPE), proper social distancing, cleaning and disinfecting surfaces, and maintaining air quality;

(2) The constitutional and statutory rights of the parties, including but not limited to the right to a jury trial, the right to a speedy trial, the right to a public trial, the right to confrontation, and the rights of crime victims;

(3) The parties’ opportunity to fairly and fully litigate the case in as normal a fashion as possible; and

(4) The comfort of jurors and other participants as to the Court's health and safety measures and any necessary modifications so that the jurors are not distracted and can fully focus their attention on the case.

(5) The costs and budgetary effects of the acquisition of masks, gloves, sanitizers, and additional cleaning products. Sufficient supplies have been obtained by using CARES funding. This will not impact local budgets, except to the extent that since March 2020, Amherst County has purchased and provided sanitizing and cleaning supplies to all county buildings, including the courthouse.

II. General Information and Protocols

A. The Courthouse

The Amherst Circuit Court is located in the Town of Amherst, Virginia at 113 Taylor Street, Amherst, Virginia. The courthouse is a two-story building that opened in 1998. The first floor houses the General District Court and Clerk's Office, Juvenile & Domestic Relations District Court and Clerk's Office, Court Service Unit, Voter Registrar and the security station for the public entrance. The second floor contains the Circuit Courtroom, Judge's Chambers, Circuit Court Clerk's Office and the Commonwealths Attorney's Office.

There is one public entrance into the courthouse. The entrance faces a large parking lot connected to Taylor Street. The front of the building is accessed by very wide steps (separated into three sections by handrails) and a long handicap ramp that provide access to the front porch which is covered by a large portico. Trial participants enter the courthouse through the Taylor Street entrance. This entrance includes a security station manned by deputies from the Amherst

Sheriff's Office. There are signs at each entrance alerting entrants that masks are required upon entry to the courthouse. Signage at the entrance doors of the Courthouse, Sheriff's Office basement and throughout the courthouse also communicate the policies regarding masks, social distancing, recommended procedures and instructions if a person becomes ill. See Exhibit C.

Sheriff's deputies have been instructed to question all entrants regarding potential exposure to COVID. These questions mirror the COVID screening questionnaire included as Exhibit A. Failure to answer these questions or providing an answer that confirms a risk of exposure, results in entrance to the courthouse being denied. After satisfactorily answering the required questions, each entrant is required to step over to an automated thermal scanning machine that takes their temperature and provides an audible and visual result to the deputy as to whether their temperature is below 100.4°. See Exhibit D. Anyone with a temperature of 100.4 or higher is denied entry to the courthouse.

Any person who is refused entry into the building by reason of a COVID-related risk will receive written instructions with names and telephone numbers of the contact person at the Court or the office with which he or she had business, so that they can to inform the Court or office of the situation. If a necessary party or witness is denied entry, the courthouse security will obtain their cellphone number, give them written contact information for the Clerk's Office as well as Polycom or WebEx instructions and direct them to return to their car to await further instructions. Upon refusing entry to a witness or party, the Courthouse Security will immediately radio the courtroom bailiff who will notify the judge, so the attorneys may be so advised. The attorney for the party or the attorney who summonsed the witness will immediately be given an opportunity to speak by phone with that person to arrange their appearance by Polycom or WebEx. This is discussed below in the sections relevant to witnesses.

Masks or face coverings are required for anyone entering the courthouse. Masks must be worn at all times in the courthouse unless specifically excused by a judge in accordance with the specific policies contained herein. When such permission is given, the person removing his or her mask will be asked to move ten (10) feet away from others before removing the mask in order to comply with proper distancing. If someone does not have a mask or face covering, one is provided to them at the courthouse entrance. In addition, replacement masks are available to all courthouse visitors and trial participants upon request to a bailiff. Jurors who are unable to wear masks for medical reasons, or who refuse to do so, will be dismissed or deferred, depending on their specific medical issue.

The courthouse entrance, Sheriff's Office Building entrance, lobby and elevator have floor markings at least six (6) feet apart to ensure proper social distancing. Sheriff's deputies will direct, oversee, and monitor the flow of traffic in the lobby and at elevators to ensure proper distancing.

There are strategically placed touchless sanitization stations around the courthouse that provide access to hand sanitizer. See Exhibit E. Jurors and all participants in a jury trial will always have access to restrooms in the courthouse where they can safely wash their hands. Jurors will have two private single person restrooms that only they have access to as discussed below. Jurors will be permitted to bring a small individual bottle of hand sanitizer and keep it on their person throughout the trial as well.

Access to the upper floors can be accomplished using the public stairway or the public elevator. The stairway is located just beyond the security check point and is separated from the lobby by a wall that runs the course of two floors. Signs are posted on the entry doors to the stairwell and the stairwell is marked with clear traffic patterns to ensure proper directional flow

to promote social distancing. See Exhibit F. Security personnel will be directing the public to the stairway to encourage its use over the elevator. The entrance of jurors is detailed in Section III (B) – Jury Arrival below.

The elevator is well-marked with signs limiting elevator occupancy to no more than two riders and reminding users that social distancing is required. The floor in the elevator is marked to promote social distancing. See Exhibit G.

Seating for the public outside the courtroom is spaced six (6) feet apart to ensure proper social distancing is maintained. See Exhibit H.

A corridor runs along the west side of the circuit courtroom. Two (2) witness rooms are located between the corridor and the courtroom and can be accessed from either side. The witnesses will be directed to the two witness rooms between the courtroom and the private corridor. Each of the circuit court witness rooms are 12 feet by 10 feet 6 inches and may be accessed by either a door to the courtroom or a door to the corridor. The doors on the private corridor side shall remain open for additional ventilation when occupied. Each room is marked for occupancy by only two persons. See Exhibit I. For additional details see Section III (E) - Witness.

Signage will be located in the courthouse lobby and in the halls on each floor reminding visitors of the requirement to wear masks, wash their hands, use sanitizing stations and observe social distancing. In addition, signs will direct them to call the Circuit Court Clerk's Office if they feel ill during their visit or during the trial. See Exhibit C.

B. The Courthouse's HVAC System

The courthouse's HVAC system is served by four air handlers, one of which exclusively serves the Circuit Courtroom area (courtroom, jury room, two witness rooms and judge's chambers). All conditioned air is pulled through pleated MERV 8 filters, which are replaced every two months per a service plan with the third-party HVAC service provider, Southern Air, Inc. Amherst County has contracted with Southern Air, Inc. to clean all duct work in the courthouse and to install an air purification system utilizing CARES Act funds. This involves installation of an Ionization Air Purification System for each air handler in the courthouse building (including the Circuit Courtroom air handler) as well as 44 ionization air purification fan coil units. The work cleaning air ducts and installation of the ionization air purification systems has begun and will be completed by December 28, 2020.

C. Courthouse Cleaning Protocols

Public areas in the courthouse, including common areas, elevator, restrooms, courtroom, witness rooms, and jury room, are cleaned regularly throughout the day. Courtroom bailiffs already clean the witness stand with disinfectant between each witness. Additional cleaning staff will be available for all jury trials, with instructions to clean all high-touch surfaces approximately every two hours. Specifically, the courtroom and jury area will be cleaned in the morning, during the lunch break, and in the evening. After the evening cleaning, the courtroom will be sealed until the following morning. Mid-trial cleaning procedures are further discussed in the "Recess and Meal Breaks" section below. The courtroom is equipped with cleaning sprays and sanitizing wipes.

D. Jury Lists and Summonses

In appropriate civil cases, and in an effort to lessen the number of jurors required for trial, the court may discuss the availability of three-person jury trials as contemplated by Va. Code § 8.01-359(D) and summary jury trials as contemplated by Va. Code § 8.01-576.2.

Currently, the Court sends out approximately fifty (50) summonses a month. For various reasons, that total is pared down to a pool of approximately twenty-five (25) potential jurors. This is a yield of approximately 50%. This yield is anticipated to decrease under post-COVID conditions to approximately 30%. It is anticipated that the number of summonses sent to potential jurors will increase to prevent the jury pool from being too small. Only one (1) jury trial can be conducted at a time as there is only one (1) Circuit Courtroom.

The summonses will include information as to the steps the Court has taken to mitigate the risk to the public, litigants, and employees, including but not limited to the requirement to wear masks and to maintain proper social distancing of at least six (6) feet. The summonses will recommend that jurors “self-screen” by completing and responding to an additional screening questionnaire, consistent with the “COVID-19 Screening Questionnaire” and “COVID-19 Risk Factors Assessment,” attached as Exhibit A and Exhibit B, respectively. Finally, a URL to this plan will be included. Excuses will be liberally granted to jurors for good cause, and jurors may defer service to a later date if they are in a high-risk category or take care of someone who is in a high-risk category.

Approximately one (1) day prior to trial, each juror will be contacted by phone by Sheriff’s Office personnel to remind them of their appearance, to review the additional screening questionnaire and to prescreen them. Prescreening questions will follow the COVID-19

Screening Questionnaire” and “Risk Factors Assessment”. Sheriff’s Office personnel will direct any juror who answered “yes” to any question on either, or who expresses concern with jury service, to call the judge’s Judicial Assistant. The Sheriff’s Office personnel will report all screening results to the Judge presiding over the trial. The Judge will instruct the Judicial Assistant to notify any juror whose answers indicate a current health risk not to report. The Judicial Assistant will notify the clerk of those jurors excused by the Judge, so that the Clerk will summons the next juror to replace the excused juror, if necessary.

E. Pretrial Conferences

A mandatory pretrial conference will be held by telephone or video conferencing two (2) or three (3) days prior to each scheduled jury trial. At a minimum, the Court will address this jury plan, courtroom protocols, the use of alternate jurors, the screening and scheduling of witnesses, and the handling of exhibits and jury instructions. As part of its discussion regarding the scheduling of witnesses, the Court will advise counsel to coordinate the arrival of witnesses to ensure staggered times. Staggering witness times is discussed further in Section III (E) – Witnesses.

Counsel are expected to have conferred prior to this conference to discuss stipulations, agreed exhibits, and any outstanding pretrial issues. Counsel are also expected to have screened their clients and witnesses using questions that mirror the COVID-19 Screening Questionnaire and the COVID-19 Risk Factors Assessment. Counsel are also expected to have cell phone numbers for their clients and witnesses. All parties will be required to certify at the pretrial conference that the case is ready for trial, that all sides have made every good faith effort to resolve the case, that they have considered alternatives to a jury trial, that they have screened

their clients and witnesses, and that they have read this plan. This will mitigate the risk of a last-minute settlement or continuance and forestall the need to bring in a group of potential jurors only to have the case not move forward.

III. Trials

A. Trial Scheduling

Only one(1) jury trial will be held in the courthouse at a time as there is only one (1) Circuit Courtroom. No jury trial will begin until the prior jury is concluded and jurors, counsel, etc. have left the courthouse. A thorough cleaning of all relevant areas, including the courtroom, witness rooms, all high touch areas, the jury room, and juror bathrooms will be completed before any additional jury trial.

B. Jury Arrival/Assembly/Departure

Prospective juror panels will be summonsed for staggered arrival times. Multiple panels will be summonsed depending on the number of potential jurors needed, which will depend on the length and other specifics of the trial. Panels will be summonsed to report at staggered times, for example, one group may be summonsed to appear at 8:45 am, second group at 10:00 am and third group at 11:15 am. The jurors in each group will be randomly selected. The staggered arrival times will enable the jurors to maintain better social distance and limit their exposure to other potential jurors.

The panels of potential jurors will be notified to report to the east entrance to the basement of the Sheriff's Office Building for screening and to await jury selection. The basement area is separated from the general offices of the Sheriff's Department and can only be accessed by card keys. On jury trial days, only the card keys held by Circuit Court bailiffs and cleaning staff will

function to allow access to the basement area. Utilizing the Community Room and the Training Room will allow jurors to be screened separately from the general public during high traffic times for persons entering the courthouse for morning district court cases.

The potential jurors will be screened at the east entrance to the basement of the Sheriff's Building by Circuit Court bailiffs. Signs posted alert jurors of the mask requirements, pre-screening questions and temperature scans. Floor markings insure six (6) feet of social distancing. The Bailiffs will monitor the jurors to ensure they maintain proper social distancing of at least six (6) feet while entering the building and during the screening process.

When potential jurors arrive, they will be asked a series of questions that mirror the screening questionnaire (Exhibit A) to determine if they or someone they have come in close contact with has been exposed to the COVID-19 virus. They will be required to be screened by an automated Thermal Temperature Scanning machine at the entrance that will automatically take their temperature and gives an audible and visual response to notify the bailiff's whether their temperature is below 100.4°. Entry shall be denied to any prospective juror with a temperature exceeding 100.4°. As discussed above, masks will be required, and they will be provided for those who do not have one. Refusal or inability to wear a mask will result in dismissal or deferment, as is appropriate under the circumstances. Potential jurors will also be screened for weapons by hand-held metal detector wands.

After each juror has been successfully pre-screened, they will be seated in the basement of the Sheriff's Office Building in either the Community Room (can accommodate 52 persons) or the Training Room (can accommodate 26 persons). See Exhibit J & K. The chairs in both rooms will be prearranged six (6) feet apart with a marking on the floor under the position of each chair. There are two (2) bathrooms for the potential jurors.

After twenty-five (25) potential jurors has been pre-screened the accompanying bailiff will notify front security and the courtroom bailiff that they are ready to proceed to the courthouse. The potential jurors will be escorted the short distance to the side door of the courthouse to avoid contact with the public. These potential jurors will skip the security screening area and immediately be admitted without delay, as they will have been fully screened by the bailiffs. Circuit Court bailiffs will clear the stairwell of all persons before the jury reaches the stairwell of the courthouse. The potential jurors will proceed up the cleared stairwell to the second floor. Also, the bailiffs will pre-determine the number of persons needing to use the elevator before proceeding to the courthouse, so they can insure social distancing at and in the elevator. The bailiffs will direct, oversee and monitor the potential jurors to insure proper social distancing.

Upon arriving on the second floor, the potential jurors will be directed immediately into the circuit courtroom where they will be seated in the gallery and jury box in pre-marked seats six (6) feet apart to ensure that jurors maintain social distancing. See Exhibits L and M. The number of jurors in any single room will be limited so that social distancing of at least six (6) feet can always be maintained.

If additional panels are needed, they will be directed to arrive at the Sheriff's Office Building at staggered times and screened as set forth above. These potential jurors will then be escorted and admitted in the same manner as the first panel.

The Circuit Courtroom can hold a maximum of twenty-five (25) potential jurors at one time while maintaining proper social distancing of at least six (6) feet. The Circuit Court Bailiffs will bring only panels of twenty-five (25) potential jurors (or less) at a time for *voir dire*. The

remaining panels will be escorted to the Circuit Courtroom as needed in the same manner as outlined above.

As described below, once *voir dire* is completed with each panel, the potential jurors will be released and either excused or notified of the time to report for the commencement of the trial. This will clear the courtroom for the subsequent panels.

When excused, the potential jurors will be directed by Sheriff's deputies to depart the courtroom through the main courtroom doors and directed to use the precleared stairway to the first floor where which are the closest doors to the parking lot. In the event that there is congestion at the front Courthouse entrance, Sheriff's deputies will escort the jurors to the side door on the west side of the Courthouse to exit the building. At all times, the Sheriff's deputies will monitor the jurors as they exit to ensure that they maintain proper social distancing of at least six (6) feet.

C. Voir Dire

During *voir dire*, to comply with proper social distancing guidelines, no more than twenty-five (25) potential jurors shall be present in the courtroom to maintain social distancing of at least six (6) feet. This general policy will be aided because the arrival times of potential jurors will be staggered throughout the morning (and early afternoon if necessary) as discussed above.

The *voir dire* process itself will take place in the normal fashion, but with the twenty (20) potential jurors located in the in the gallery of the courtroom (Exhibit L) and five (5) potential jurors seated in the jury box (Exhibit M). After the first panel of potential jurors complete *voir dire*, those potential jurors will be released. Those selected to the jury will be instructed to return for the start of the trial. This will clear the way for the next panel of potential jurors to go

through the *voir dire* process. All courtroom seats, and jury box seats are marked at six (6) foot intervals to ensure social distancing.

Jurors will always wear face coverings, except that the Court expects to permit individual jurors to lower the cover briefly during *voir dire* if requested by counsel, while ensuring proper social distancing of more than ten (10) feet from all other persons.

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. Likewise, while jurors will be required to wear face coverings at all times, the Court expects to permit individual jurors to lower their cover briefly, if requested by counsel, while ensuring proper social distancing of at least ten (10) feet from all other persons.

To balance judicial efficiency with the need for precautionary measures, the court will consider selecting one or more alternate juror for every trial or in civil cases have counsel stipulate that if a juror must later be excused for reasons not related to COVID-19, the trial will continue with one (1) less juror.

This method of conducting *voir dire* will allow the Court to ensure that the process remains open to the public. Free spaces in the gallery will be made available to the public. The Circuit Courtroom is equipped with Polycom cameras, so the audio and video of the proceeding can be streamed live to the waiting area immediately outside the Circuit Courtroom to a wall mounted monitor for the public to view the proceedings. When needed and available the proceeding will be streamed to the General District Courtroom (See Exhibit N) or the Juvenile and Domestic Relations District Courtroom in order to allow for additional members of the public to attend. Seats in all courtrooms and the waiting area are marked six (6) feet apart. Public access is discussed in greater detail in Section III (I) below.

D. Trial

The gallery will be the seating area for the jury and seats have been marked to ensure that at least six (6) feet is maintained between the jurors, and all trial participants, at all times.

Depending on the number of jurors needed (and alternates) one (1) to three (3) rows in the back of the courtroom will be designated for the public. Limited members of the press may also use pre-marked seats in the back row of the original jury box, if necessary.

The witness box will face the jury seated in the gallery so they are able to see the witness and for the witness to be able to effectively communicate with the jury. The witness will be at least six (6) feet from the nearest juror, attorney or party. A plexiglass barrier will stand between the judge and the well of the court. See Exhibit L.

Counsel tables in the courtrooms have been rotated ninety degrees (90°) so they are perpendicular to the bench and facing the witness stand as depicted in Exhibit L. Counsel for the defendant will be seated at the end of the table closest to the jury and the defendant at the opposite end. If there is more than one (1) Attorney for the Commonwealth, then one (1) will sit at the end closest to the jury and the other at the far end. Counsel and litigants will remain six (6) feet from the jury. The court will require counsel to maintain social distancing with co-counsel and his or her client at all times. Counsel and their client (or co-counsel) will be permitted to communicate at counsel table and/or employ alternate methods of communication, such as note-writing, texting between devices, etc. The Court will permit counsel whatever recesses are necessary for the purpose of facilitating private communication.

Once the trial begins, the Court will direct that all attorneys and witnesses restrict their movement in the courtroom to maintain social distancing at all times. Absent express permission from the judge, attorneys will not be permitted to approach witnesses, opposing counsel, the

jurors, or the judge. Counsel will question witnesses and address the court and jury from counsel table or the podiums. The podiums will be spaced six (6) feet from other persons and will be sanitized by the bailiff between each use. If face coverings impair the ability of a lawyer to communicate with the witness or with the Court, the Court may grant the attorney permission to remove his or her face covering as necessary, ensuring that the attorney remains at a distance of more than ten (10) feet from other persons.

Sidebars will be conducted in the jury room, where participants and the court reporter will be at least six (6) feet apart. See Exhibit O. The court reporter will be present for all sidebars, arraignments, motions, arguments as to objections, and other matters taken up outside of the presence of the jury. The jury will remain in place in the courtroom under the care of bailiffs during these short sidebars.

If there are any lengthy sidebars, arraignments, motions, arguments, objections, and other matters to be taken up outside of the presence of the jury, then the matter will be taken up in the Courtroom after the jury has been escorted to the Community Room, the General District Courtroom or Juvenile and Domestic Relations District Courtroom, if available. The Community Room, General District Courtroom and Juvenile and Domestic Relations District Courtroom have all been pre-marked so that the jurors maintain at least six (6) feet of social distance. See Exhibit M. See Section III (G)-Recesses below.

E. Witnesses

Prior to the pretrial conference, parties shall have screened their clients and witnesses using questions that mirror the COVID-19 Screening Questionnaire and the COVID-19 Risk Factors Assessment. Before admission to the courthouse, the witnesses will be screened by front security in the same manner as outlined above.

There are two (2) Circuit Court waiting rooms. No more than two (2) witness shall be permitted in a witness room at a time. The witness rooms are each 10 feet 6 inches wide and 12 feet long. There are only two (2) witness chairs on opposite sides of each room spaced nine (9) feet apart. The witness room door to the private corridor shall remain open at all times that the room is occupied to promote ventilation. Witness rooms have signs limiting occupancy to two (2) persons. Each witness room has a private restroom. See Exhibit I. The witnesses shall wear masks at all times except as otherwise provided herein. The witness room shall be cleaned between uses.

If additional witness rooms are needed, then the three (3) witness rooms behind General District Court will be utilized. The three (3) witness General District Court witness rooms are as large as the Circuit Court Witness rooms and shall be subject to the same occupancy restrictions and marked as described above. The doors to the private corridor shall remain open for ventilation when occupied. The witness room shall be cleaned between uses.

Witnesses may be called to the courtroom during jury *voir dire* and if so, will be seated in marked spots in the back row of the courtroom. During jury *voir dire*, prospective witnesses may be asked to remove masks to determine if they are known by any prospective juror, but only for as long as is necessary and provided they are more than ten (10) feet from any other person in the courtroom. In the alternative, counsel may display a photograph of the witness to the jury on the monitor using either the Elmo or laptop device.

Parties will be required to schedule witnesses so that all witnesses do not all appear at one time, but also so that the trial is not delayed while waiting for a witness. Witnesses who are located in close proximity to the courthouse and whose testimony is dependent on the course of the trial shall be placed on an “on call” status.

While on the witness stand, which is distanced from all other participants as shown in Exhibit L, the judge may allow the witness to pull his or her mask down and testify with face exposed provided they are ten (10) feet from other participants. If a bailiff needs to approach a witness to hand him something, the Court will instruct the witness to re-cover his or her face before allowing the approach. The witness box will be cleaned after each witness.

The Court will continue to encourage the use of video depositions and/or remote testimony, via Polycom or WebEx, in an effort to limit the exposure of jurors to COVID-19 from in-person witnesses. Necessary parties or witnesses that are denied entry to the courthouse due to answering “yes” to a COVID screening question or a temperature over 100.4° will be given written instructions as to method to access to Polycom and/or WebEx by the security officer when denied admission and additional oral instructions by the attorney (who represents them or summonsed them as a witness). The court will immediately take a break to give the attorney an opportunity to talk to the party/witness about coordinating their appearance by Polycom/WebEx.

Criminal defendants may be required to lower their masks briefly for the purpose of enabling a witness to see his face and answer whether the witness can identify the defendant. Any time masks are removed for any reason, the distance between the unmasked person and all others will be more than ten (10) feet as recommended by the Virginia Department of Health.

F. Evidence/Exhibits

In advance of trial, the Court will encourage counsel to exchange potential exhibits and to agree upon their admission to the extent possible to reduce the need for sidebars. During the trial, jurors will not be permitted to physically handle any exhibits. All documentary and photographic exhibits published to the jury will be done so by electronic means by utilizing Elmo and/or laptops to display the exhibits on the dedicated monitor.

Any exhibit to be admitted that cannot be displayed via courtroom technology, counsel shall lay it on the exhibit table. The bailiff, wearing a mask and gloves, will pick up the exhibit and approach to within six (6) feet of the witness with the exhibit and maintain possession of the exhibit while giving the witness the opportunity to observe it. After the exhibit is admitted, the bailiff will display the exhibit to the jury while socially distancing before placing the item on an exhibit table.

G. Recesses and Meal Breaks

During short breaks the jury will use the courtroom as their break room. The courtroom will be cleared of all persons, except the bailiff at the entrance doors. The streaming and recording equipment will be turned off. The doors will be propped open to promote airflow. The jury will have access to two (2) private single person restrooms located in the jury room as well as a hand sanitizing station. See Exhibits D, E & G.

The Court will take a recess at least every two (2) hours to allow cleaning and sanitizing of high-touch areas and juror areas, and to allow participants to clean and sanitize their hands. Courtroom doors will be propped open at each recess to limit the touching of surfaces and to allow increased air flow into the courtroom.

During the breaks every two (2) hours and the lunch recess, the jury will take these breaks in the Community Room and will be escorted by bailiffs. See Section III (B). Jury Arrival/Assembly. The jury will have access to two (2) restrooms adjacent to the Community Room.

Jurors will be provided bottled water rather than water pitchers and cups. Jurors may bring lunch to avoid travel outside the courthouse during trial. Jurors who opt to leave the

courthouse for lunch or for any other reason will be rescreened upon reentry to the Community Room before being escorted by the bailiff to the courtroom as detailed above.

H. Jury Deliberations

The Jury will remain in the courtroom for its deliberations and will be instructed to maintain proper social distancing of at least six (6) feet and to wear masks during the deliberations. The courtroom seats are marked to assist the jury with maintaining proper social distancing of at least six (6) feet. The court room will be cleared of all, but the jury. The streaming and recording equipment will be turned off. The glass panels in the Circuit Courtroom doors will be covered for privacy. The jury will have access to two (2) private non-public single person bathrooms in the jury room during deliberations. See Exhibit P.

The jury will be instructed on the use of the Elmo system, so that the foreperson wearing gloves may display photographs, documents and instructions for the jurors during deliberations. The jury's foreperson shall be in sole possession and control of the Elmo device, and both will be cleaned and disinfected before and after use.

The foreperson will also display physical exhibits to the jury by holding them up while wearing gloves. The jurors will be directed to physically handle exhibits and instructions only if wearing gloves, which shall be provided, along with hand sanitizer. Bailiffs will provide training to the jurors as to the proper use of gloves, both in how to prevent cross-contamination and how to safely remove and dispose of them. A lined wastebasket will be provided for the jurors to safely and properly dispose of the gloves after use.

The Court will receive juror questions from the foreperson in writing. The foreperson will be directed to wear gloves while preparing the written question. The foreperson shall place the written question on the table used to display exhibits and notify the bailiff there is a question.

The bailiff, while wearing gloves, will retrieve the written question and deliver it to the judge (also wearing a mask and gloves) in chambers while maintaining six (6) feet of distance. The judge will wear gloves while handling the written question. The judge shall convene a sidebar in the jury room with counsel, the parties and the court reporter, and read the question, before the judge determines the response to the question.

When the jury has reached a verdict, the foreperson shall complete the verdict form(s) while wearing gloves. The foreperson shall then place the completed verdict form(s) in a large envelope, place it upon the exhibit table and notify the bailiff that the jury has reached a verdict. After all necessary persons are convened back in the courtroom, a bailiff wearing gloves and a mask shall pass the verdict envelope under the plexiglass to the judge who will also be wearing a mask and gloves when taking the verdict envelope from the bailiff.

I. Public Access

The right to a public trial, including *voir dire*, will be preserved. Members of the media will be permitted, including cameras if ordered, in accord with the First Amendment, Virginia statutes, and the prevailing practice in this Court, so long as social distancing of at least six (6) feet can be achieved and masks are worn. As provided herein, areas of the courtrooms have been designated for the public, and seats have been marked to provide social distancing of six (6) feet. Members of the same household may be seated together. As mentioned above, part of the jury will be seated in the gallery. The remaining room in the gallery will be used to seat the press and public. A limited number of press seats are available in the back row of the jury box.

If the need arises, the proceeding will be live streamed to the waiting room and if available to General District Court or Juvenile and Domestic Relations District Court.

Consideration will be given to the notoriety of a trial and the public interest generated by it, the number of interested individuals such as victims and family members likely to attend, and the number of gallery seats taken up by the jury.

J. Illnesses Occurring During Trial

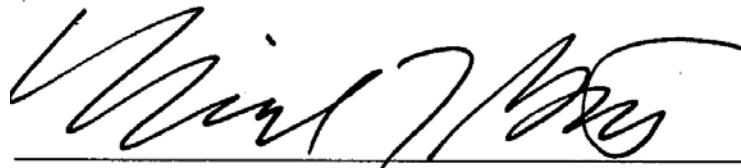
All trial participants, including a jurors, counsel, litigants, witnesses, bailiffs, clerks, and courthouse employees shall be instructed that if they become ill during trial, they should immediately notify the judge, or a bailiff who will have been instructed to immediately notify the judge. Participants will be given written instructions as to how to notify the judge if they become ill after leaving the courthouse, both during and after normal court hours.

Immediate steps will be taken to either isolate the person until they can safely exit the building or have them isolate if they are out of the building when they become ill. All affected areas of the building will be vacated and thoroughly cleaned and disinfected before subsequent use. All persons who had close contact for an extended time, as defined by the Centers for Disease Control and Prevention, will be notified within twenty-four (24) hours by phone call by Clerk's Office personnel of their possible exposure and urged to contact their health care provider or the Virginia Department of Health for further instructions. Sheriff's deputies will gather contact information from jurors, litigants, attorneys, and other trial participants at the beginning of the trial in order to facilitate notification of those potentially exposed. These policies are believed to be consistent with the requirements of the Emergency Temporary Standard – Infectious Disease Prevention, promulgated by the Department of Labor and Industry (16 VAC 25-220), which this plan incorporates.

If an illness occurs, the Court will consult with attorneys and 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 the trial, the length of the delay, and the continued availability of the jurors, witnesses, and litigants.

IV. Constant Evaluation

The Court is aware that the current pandemic requires courts throughout the Commonwealth to adapt to recommended and required safety guidelines. Accordingly, the judge of this Court is prepared to update or modify this plan, as necessary, to comply with Orders of the Supreme Court of Virginia as well as any appropriate recommendations from health officials. Any plan updates or modifications will be submitted to the Supreme Court of Virginia for approval.

A handwritten signature in black ink, appearing to read "Michael T. Garrett", written over a horizontal line.

Michael T. Garrett, Presiding Judge and
Chief Judge of the 24th Judicial Circuit

EXHIBIT A

COVID-19 SCREENING QUESTIONNAIRE

Anyone coming into the courthouse must complete this questionnaire. Please circle either “yes” or “no”. If you answer “yes” to any of these questions, you must **immediately** contact the Clerk of the Lynchburg Circuit Court (434-455-2620) to report all affirmative answers.

Within the last 14 days

Yes No Have you had close contact, without the use of appropriate personal protective equipment, with someone who is currently sick with suspected or confirmed COVID-19?

Yes No Have you traveled outside of the country/internationally?

Have you experienced, or are you experiencing, any of the following (other than from a pre-existing non-COVID diagnosis):

Yes No Fever? **Yes No** Muscle or body aches?

Yes No Chills? **Yes No** Headaches?

Yes No New loss of taste or smell? **Yes No** Sore throat?

Yes No Congestion or runny nose? **Yes No** Diarrhea?

Yes No Shortness of breath? **Yes No** Cough?

Yes No Difficulty breathing? **Yes No** Nausea or vomiting?

Yes No Fatigue?

Yes No Have you been in close proximity to anyone who was experiencing any of the above listed symptoms?

Yes No Have you had a temperature at or above 100 degrees?

Yes No Have you experienced loss of taste or smell that you cannot attribute to another health condition?

Yes No Have you, or a co-worker, or a member of your immediate family been directed to quarantine, isolate, or self-monitor?

Yes **No** Have you been diagnosed with, or had contact with anyone who has been diagnosed with COVID-19, or resided with someone who has been diagnosed with, or had contact with someone who has been diagnosed with COVID-19?

Yes **No** Do you believe that your health or that of a relative or person with whom you reside may be endangered by you serving on a jury?

Yes **No** Have you been tested for COVID-19 and are awaiting results?

Please retain this form for future reference during your term of service as a juror!

EXHIBIT B

COVID-19 RELATED JUROR INSTRUCTIONS

In accordance with the COVID-19 Emergency, the Court asks that you familiarize yourself with the juror expectations and requirements set forth below. These measures are being taken to protect participants in the trial process, as well as, provide safety protocols and guidelines for both jury service and entry into the courthouse.

When you arrive at the courthouse, you will have your temperature taken, you will be asked a series of questions to determine if you or someone you have come in close contact with may have been exposed to the COVID-19 virus.

You will be required to wear a mask or face covering while in the courthouse. You will only be permitted to remove the face coverings as directed by the court when you are ten (10) feet from any other person.

Entry shall be denied to all prospective jurors with a temperature exceeding **100.4°**.

Sanitation stations will be located throughout the courthouse, but you may bring your own small individual bottle of hand sanitizer.

All jurors leaving the courthouse **for any reason** shall be required to comply with all precautionary measures upon re-entry to the courthouse.

Social distancing measures will be implemented within the courthouse. The courtroom will be marked to ensure that prospective jurors can maintain social distancing of at least six (6) feet.

You will be asked to properly social distance while eating lunch and taking breaks as well. Please contact the Judge's Judicial Assistant (434-946-9329) in advance should you be aware of an inability to comply with all safety requirements related above.

COVID-19 RISK FACTORS ASSESSMENT

Our screening process also includes the following questionnaire. Your answers will help us better understand your health risks and needs. Please answer to the best of your ability by circling "yes" or "no." If you answer "yes" to any of these questions, you must **immediately** contact the Judge's Judicial Assistant (434-946-9329) to report all affirmative answers.

Yes No Are you over the age of 65?

Yes No Do you have a condition that makes you at higher risk for COVID-19 virus? (Including, but not limited to high blood pressure, chronic lung disease, diabetes, obesity, asthma, liver disease, severe obesity, chronic kidney disease, heart conditions, etc.)

Yes No Do you care for someone or people who are at higher risk?

Yes No Does someone or do people at higher risk live in your household?

Yes No Are you the sole caretaker of a child?

Yes No If yes, do you have childcare available to you?

Yes No Do you interact with high-risk people for work?

Yes No Do you work in a long-term care facility or other healthcare environment?

EXHIBIT C



Sample Notices at Entrances Hallways and Waiting Areas

EXHIBIT D



Automated Thermal Scanner



Visual Approval of Temperature Check on Thermal Scanner

EXHIBIT E



Sanitation Stations are Available to Attorneys, Witnesses, Jurors and the Public

EXHIBIT F



Stairwell Notices and Stairway Flow Markings

EXHIBIT G



Elevator Occupancy Notice and Floor Markings

EXHIBIT H



Seating in Waiting Area Outside of Courtroom

EXHIBIT I



Witness Room Occupancy Signs, Seating, Ventilation and Restrooms

EXHIBIT J



Community Room

EXHIBIT K



Training Room

EXHIBIT L



Circuit Courtroom View from the Bench-Red Tape Marks Seats



Circuit Courtroom View from Back

EXHIBIT M



Jury Box with 5 Chairs Marked with Red Tape for *Voire Dire*

EXHIBIT N



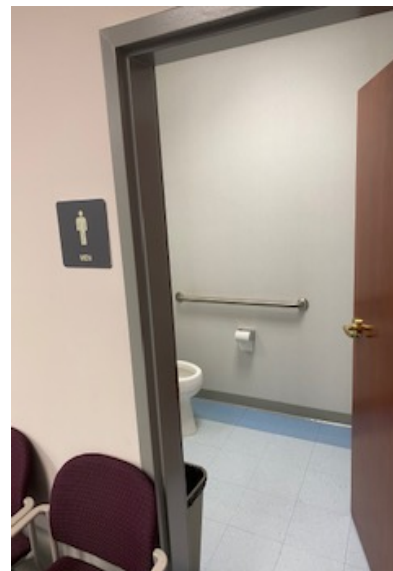
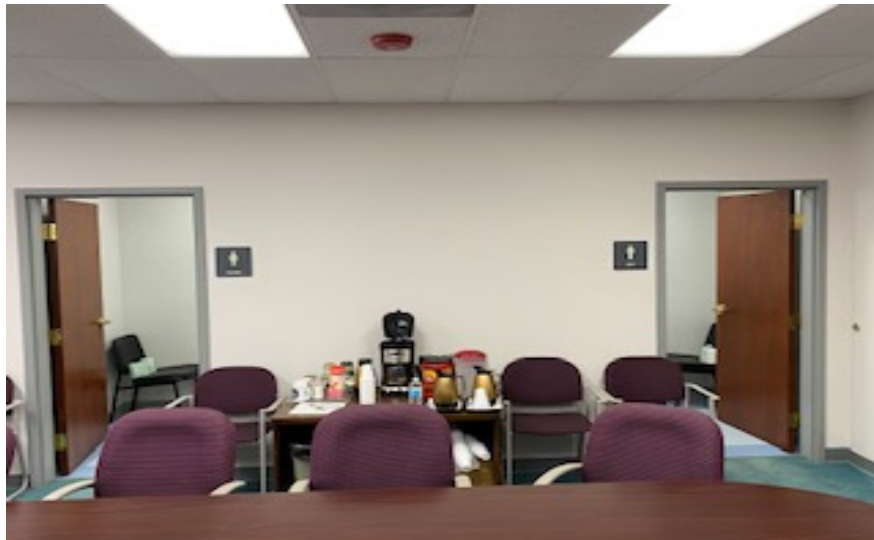
White and red markings for seating with social distancing for public viewing of streaming trial into General District Courtroom

EXHIBIT O



Jury Room for Side Bars with Sufficient Space for Social Distancing

EXHIBIT P



Restrooms for Jurors adjacent to the Original Jury Room