

Second Judicial District Jury Protocols

Introduction

In March of 2020 the Alaska Court System (ACS) implemented pandemic response procedures due to COVID-19. Because of the nature of the virus, in-person proceedings were suspended. Now, as the Second Judicial District prepares to resume in-person jury proceedings in midst of continued pandemic concerns, it is important to share information on how the court plans to reopen these proceedings while protecting the health and safety of trial participants.

In order to accommodate in-person jury proceedings, parties, judicial officers, staff, and the public must be prepared to adjust to a new normal. This document outlines several new procedures, including, public access via YouTube video stream, minimal movement in the courtroom, and small groups of jurors called to the court in waves.

This document was created in alignment with Special Order of the Chief Justice 8194 and the Alaska Court System Conducting Criminal and Civil Jury Trial and Grand Jury During the COVID-19 Pandemic document prepared by the ACS Administrative Director, Stacey Marz, which was prepared after months of discussions with agencies throughout the state and nation to ensure best practices are applied at each court location. The processes outlined here were reviewed at length with judicial officers and clerks of court in the Second Judicial District to ensure smooth trial proceedings at each individual court location.

COVID-19 Health and Safety Protocols

Personal Protective Equipment. All court participants and visitors must wear a face-covering or mask in the courthouse, unless exempted for a medical reason or disability, or for defendant identification. Consideration to relax these requirements will be given to ensure making of an appropriate record, permit witnesses to remove their masks while testifying, when behind a Plexiglas screen at the witness stand, or allowing participants to wear clear masks or face shields, particularly witnesses while testifying so that they can be accurately identified, or similar necessity. Shared podiums and microphones are discouraged and will only be allowed by permission of the trial judge.

Health screening. All persons entering the courthouse will be screened. This screening will include a no-touch temperature check for temperature exceeding 100* and a series of questions regarding known exposure circumstances, recent illnesses, and quarantine status due to travel or exposure. Any individuals who do not pass the screening questions or have a fever will be denied entrance to the courtroom. Attorneys and defendants must be healthy and symptom-free to appear in-person, and must inform the court if their status changes.

Movement in courtroom not allowed. Lawyers and their clients must stay at their designated counsel table at all times except when authorized. When a lawyer is speaking, they are to stay at their designated counsel table.

Court cleaning procedure. Workspaces (countertops, tables, armchairs, doorknobs) will be wiped down frequently during the day. The in-court clerk will clean down the witness stand between each witness. Jurors, attorneys, and parties will be provided with sanitizing wipes to wipe down their personal areas during the trial. The court will hire a day porter to clean throughout the day during trial. Bathrooms will be cleaned and disinfected after the morning, and afternoon breaks, lunch and close of

court business for the day. The courthouse cleaning crew will be responsible to ensure that each courtroom undergoes cleaning each day, including but not limited to wiping down all chairs, tables, door handles, with disinfectant solution or wipes.

COVID Positive Consequences. If any participant tests positive or exhibits symptoms during the trial, the judge will consult with the Clerk of Court and Area Court Administrator. Then a discussion will be held with parties about circumstances surrounding the COVID positive case or symptoms, and a decision on how to proceed will be made (continue with the trial, mistrial, or adjournment for further information and follow up).

Pretrial Schedule

Parties

Event	Timeline	Timeline Example
Omni and Order of Trials discussion	Month before Trial Call	Wednesday, May, 5
Order of Trials due from parties	Friday month before trial call	Friday, May 7
Trial Call /Pre-Trial Checklist	Ten days before Trial Week	Friday, June 11
Provide list of jurors	Monday before Trial Week	Monday, June 14
For cause challenges due	Wednesday before Trial Week	Wednesday, June 16
Excusal requests Hearing	Wednesday before Trial Week	Wednesday, June 16
Plt exhibits and all proposed jury instructions due	Wednesday before Trial Week	Wednesday, June 16
Voir Dire/Jury Selection	Friday before Trial Week	Friday, June 18
Trial begins w presentation of Evidence	Monday of Trial Week	Monday, June 21
Defense exhibits due	Day before presentation	

Questionnaires

Event	Timeline	Timeline Example
Qualifying Questionnaire	Before term starts	April for May-Aug term
Demographic Questionnaire	Within 5 days of distribution	June 7 for trial on June 21
Distribution of DQ to parties	Monday before trial week	June 14 for trial on June 21
Health Screening Before Arrival	1-2 business days before trial week	June 17-18 for trial on June 21
Health Screening Upon Arrival	Every day of trial	June 21, 22, 23, 24, 25, etc

Trial Process

Trial seating (parties, witness, victim, jurors)

Parties All individuals in the courtroom must stay a minimum of six feet away from all others at all times. The Court may also require other measures to avoid close contact within six feet. With consent, the defendant and their attorney, and prosecutors and their case officer may be within six feet during trial. If the officer and prosecutor do not consent to being within 6' of each other, the officer will not be allowed in the courtroom, and will have to watch jury proceedings via the provided YouTube link.

Victim Victims have a constitutional right to be physically present in the courtroom during trial. If a victim is present in-person, they will be given a seat. To accommodate seating a victim, a juror may be placed in the witness stand, and witnesses may testify from the clerk area. The in-court clerk may remotely in-court proceedings from the grand jury room.

Witnesses Witnesses must be on call or scheduled for their appearance to reduce exposure and unnecessary waiting. Attorneys are prohibited from approaching any witness. Relevant exhibits should

be placed on the witness stand before the witness enters. If not, court staff will make that exhibit available to the witness. Witness questioning will be done from counsel tables. Attorneys are to advise witnesses of courtroom protocols prior to arrival.

Transport officer A transport officer will be given a seat in the gallery. The seat may be within 6' of the in-custody defendant as the transport officer naturally has close contact with the defendant during transport.

For cause excusals Prospective jurors will fill out an online demographic questionnaire or fill it out and submit to the court in person before trial service starts. The demographic questionnaires returned will be shared with attorneys the Monday before trial week. A For Cause hearing will be held with attorneys the Wednesday before trial week. Jurors who have requested to be excused will be instructed to call in-to that hearing.

Juror arrival & Voir Dire On the Friday afternoon before trial week, jurors will be called to the court in two 3 hour waves (one wave for district court trials). Each wave will have 35 jurors. Upon screening, the first 14 jurors will be assigned numbers as they are checked-in and sent to the trial courtroom to sit in their assigned seat. Jurors 15-35 will be assigned a letter (A, B, C, D, etc.) and sent to the staging area. In Utqiagvik and Nome the staging area is the district courtroom. In Kotzebue the staging area is the drill hall. Jurors in the staging area will listen to audio of trial court proceedings. As jurors are excused from the trial courtroom, and the excused juror's seat will be filled with a juror from the staging area. Parties will complete for cause excusals and peremptory challenges for the first panel before the next panel is brought into the courtroom. Jurors that are not struck for cause or not perempted from a panel will be instructed to return on Monday for the first day of evidence presentation. Once the courtroom has concluded selection with a panel, then the next panel of 35 jurors will be called to the court's staging area.

Voir dire via video conference is not available in the Second Judicial District.

Voir Dire Process		# of jurors in each group		Check in	Start
Felonies:	Friday	35/35	Group 1	10:00	10:30
			Group 2	1:30	2:00
Misdemeanors:	Friday	35	Group 1	11:30	12:00

Communicating jury strikes/peremptory challenges Peremptory challenges will be exercised after each party has concluded questioning a panel of jurors. Peremptory challenges will be emailed to the local court email mailbox after each round. Attorneys must have the ability to email via cell phone or laptop from within the courtroom.

Juror Kit Each sworn juror will be given a 25 qt tote supplied with: masks, gloves, sanitizing wipes, pad of paper, pens and an 1.5" D-ring notebook. The tote will be placed into secured storage at the end of the day, and set by their seat each morning before trial. For purposes of deliberation, jurors will place personal items and cell phones in the tote and it will be secured during deliberation proceedings.

Objections Counsel should make objections and arguments from counsel tables. Speaking objections, which waste time, are prohibited. Instead, a timely objection or motion to strike summarily stating the specific ground applicable (unless the ground is apparent from the context), properly preserves at trial a claim of error in a ruling to admit or exclude evidence (ER103(a)(1)). Arguing after a ruling is prohibited, unless made in the form of a motion for reconsideration.

Sidebars Sidebars should be kept to a minimum. Sidebar conferences will be held in a separate room, either grand jury or jury deliberation room. This will allow for social distancing of all parties involved in side-bar communications outside the presence of the jury.

Jury Instructions The state shall prepare a complete proposed general jury instruction packet (this means all applicable pattern instructions including charges, mental states, definitions, and verdict forms) in Word format. Font and font size shall comply with CR 76. Proposed special jury instructions must be submitted by the parties at the same time. All proposed jury instructions need to be submitted to the local court's email mailbox by noon on the Wednesday before trial week. Jury instructions will be discussed during breaks and draft final instructions and verdict forms will be circulated to parties electronically. Once jury instructions and verdict form are finalized, a copy will be provided by the court to each juror.

Exhibits Physical handling and transfer of exhibits is strongly discouraged. All exhibits, with the exception of physical exhibits that cannot be easily reproduced for purposes of trial, should be submitted in paper form with 19 copies. For electronic exhibits, parties should have an alternative exhibit ready in case technology doesn't work. Court personnel will assist in the proper handling and disinfecting of exhibits. Each juror will be given their own copy of exhibits unless the volume or other characteristics of the exhibit makes individual copies impracticable. If physical paper exhibits are required, 19 prenumbered copies must be submitted to the court by the filing party for:

- 14 copies for jurors
- 1 copy for the judge
- 1 copy for the witness
- 1 copy for the clerk
- 2 copies for the other party

The State's exhibits are due on Wednesday before trial week. Defense exhibits are due no later than 4:00 pm the day before seeking admission of a particular exhibit at trial.

Public Access via YouTube All superior court jury trials will be streamed via video technology to YouTube. None of the courtrooms in the Second District have the capacity to accommodate the public and trial participants while socially distanced. Instead, a video stream will be set up to the ACS YouTube channel, and the link will be available on the court calendar and court website. A defendant's family, victim's family, media, and members of the public will access the trial via this link. The video will be deleted at the end of the trial day. There will be limited seating for public at District Court jury trials.

Deliberation Jurors will remain in the courtroom to deliberate a case and decide a verdict. All other parties will be required to vacate the courtroom with all of their possessions. The courtroom will be sanitized of books, phones, and court computers locked. Jurors will place their personal items in the totes provided to them, and secured outside the courtroom. Recording equipment will be turned off.

Grand Jury

In-Person Qualification proceedings will be held telephonically. Once qualified, 16 jurors will be brought into the designated courtroom and seated by their assigned juror number. If paper exhibits are used, 16 copies must be provided.

Zoom

Technology Survey

A technology survey must be sent to jurors two weeks prior to the beginning of term or the first scheduled Zoom grand jury session. Ten days before qualification staff call jurors who have not

completed the online survey and survey them over the phone. Jurors are instructed to pick up their Zoom GJ kit from the court the week of qualification.

Qualification Day Procedure

Qualification is scheduled via Zoom at 11:00 am. Jurors are instructed to join at 8:30 am. When they join, their audio/video equipment is to be tested and the court will confirm they have their jury information sheet and placards. Once confirmed, each juror is excused from the Zoom meeting until 10:50 am. At 9:30 am, court staff contact jurors who have not appeared for service. Court staff will continue working with jurors up until 11:00 am, at which time qualification is held.

Information for Prosecutors

Prosecutors are required to give grand jurors a confidentiality notice prior to proceeding with a Zoom GJ session. The notice is attached to this document as appendix D. To share exhibits during the session, the prosecutor will be given co-host controls and can share their screen via Zoom with grand jurors.

Appendices – Court Specific Information

Appendix A – Kotzebue Trial Setup

Appendix B – Nome Trial Setup

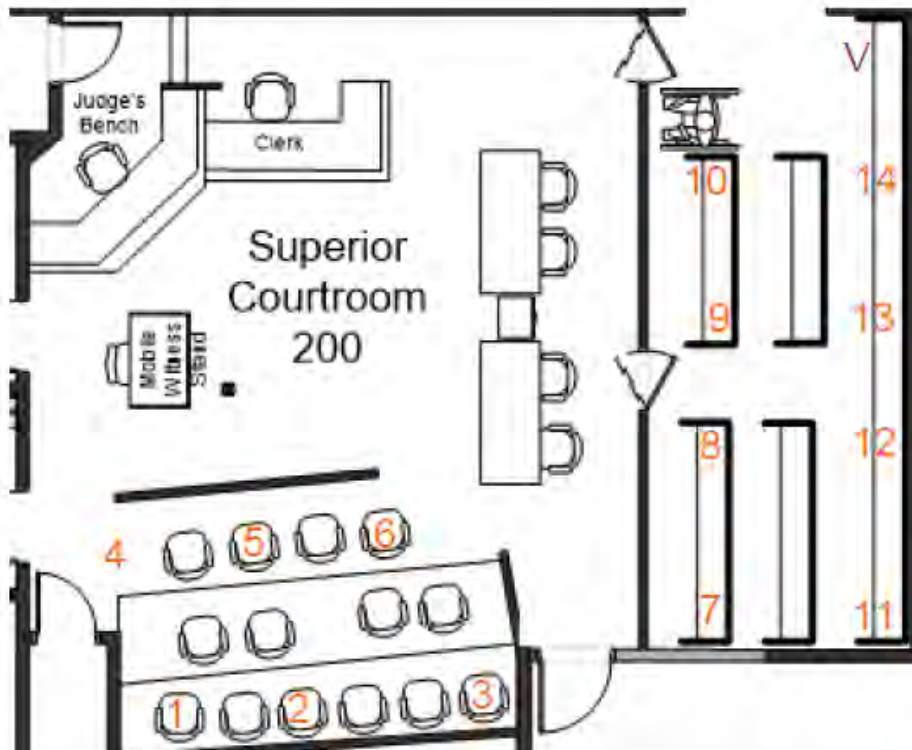
Appendix C – Utqiagvik Trial Setup

Appendix D – Zoom Grand Jury Confidentiality Notice

Appendix A | Kotzebue Jury Setup

Superior Court Jury Trial

Superior Court Jury Trial Diagram



Superior Court Jury Box



Superior Court Gallery



Seating Chart

14	13	12	11
10	9	8	7

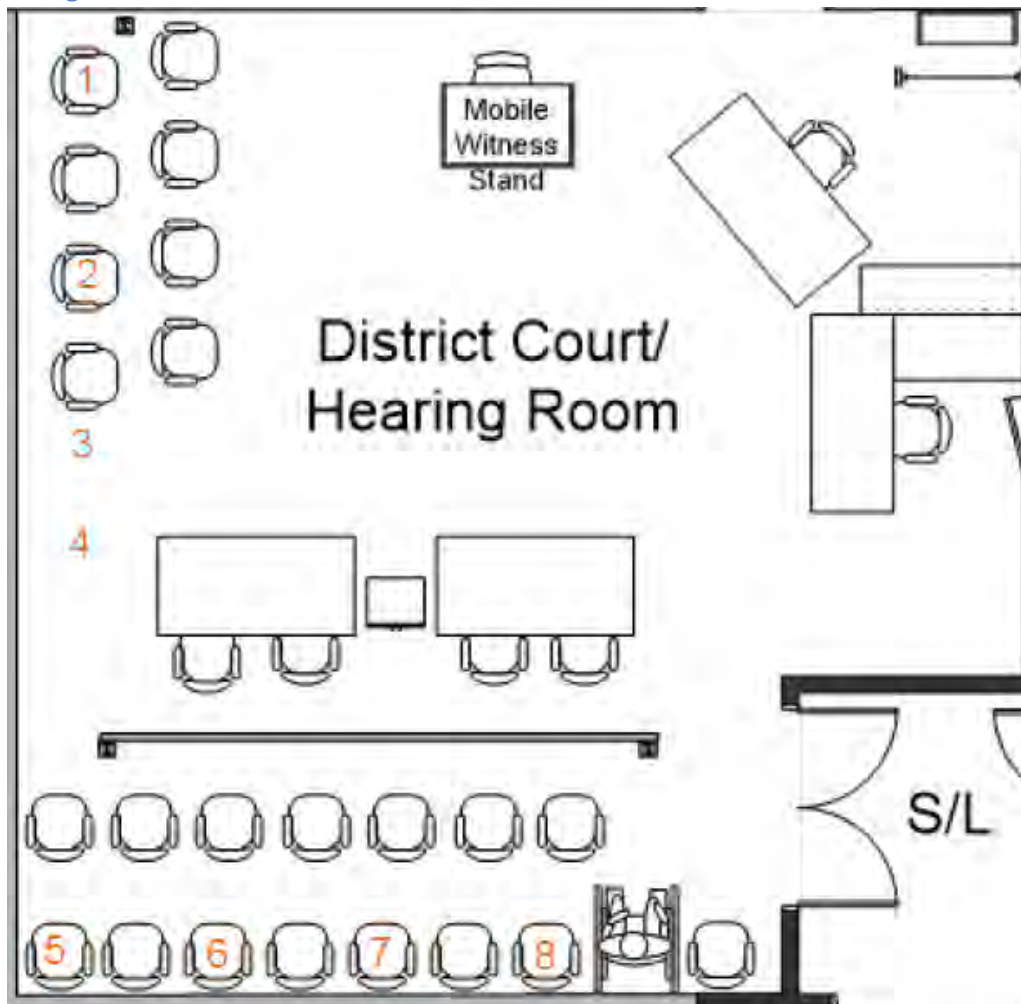
Kotzebue | COVID-19 Jury Trial Seating Chart

Sample

6	3
5	2
4	1

District Court Jury Trial

Diagram



Jury box



Gallery



Seating Chart

8	7	6	5
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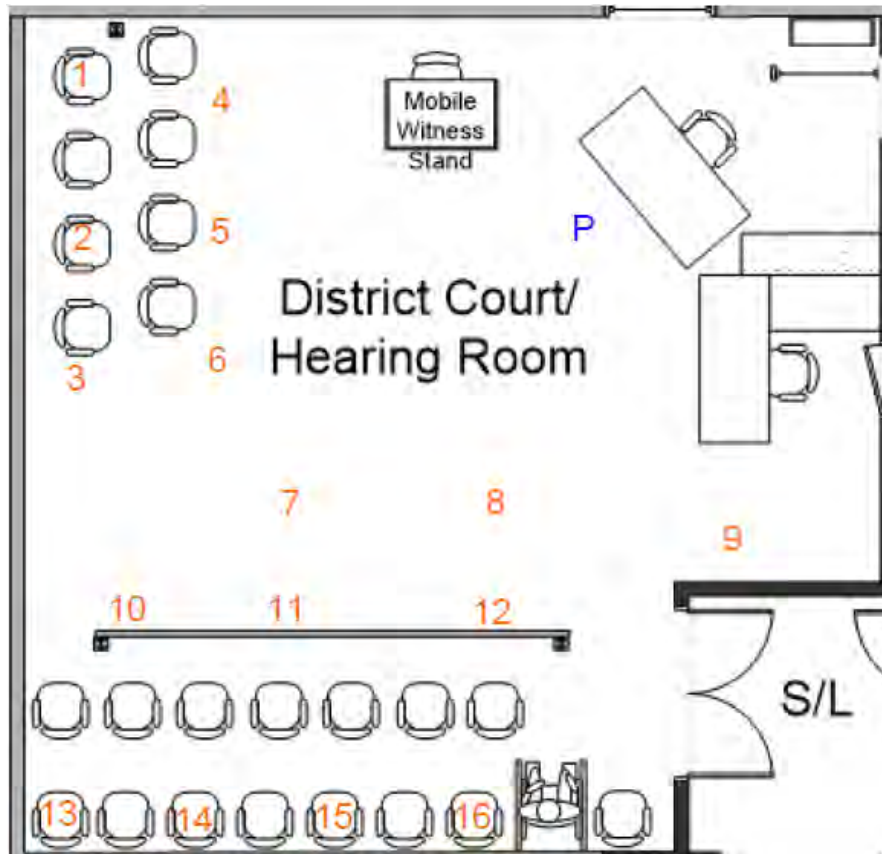
Kotzebue | COVID-19 Jury Trial Seating Chart

District Court

4
3
2
1

Grand Jury

Grand Jury Diagram



Jury Box



Gallery 1



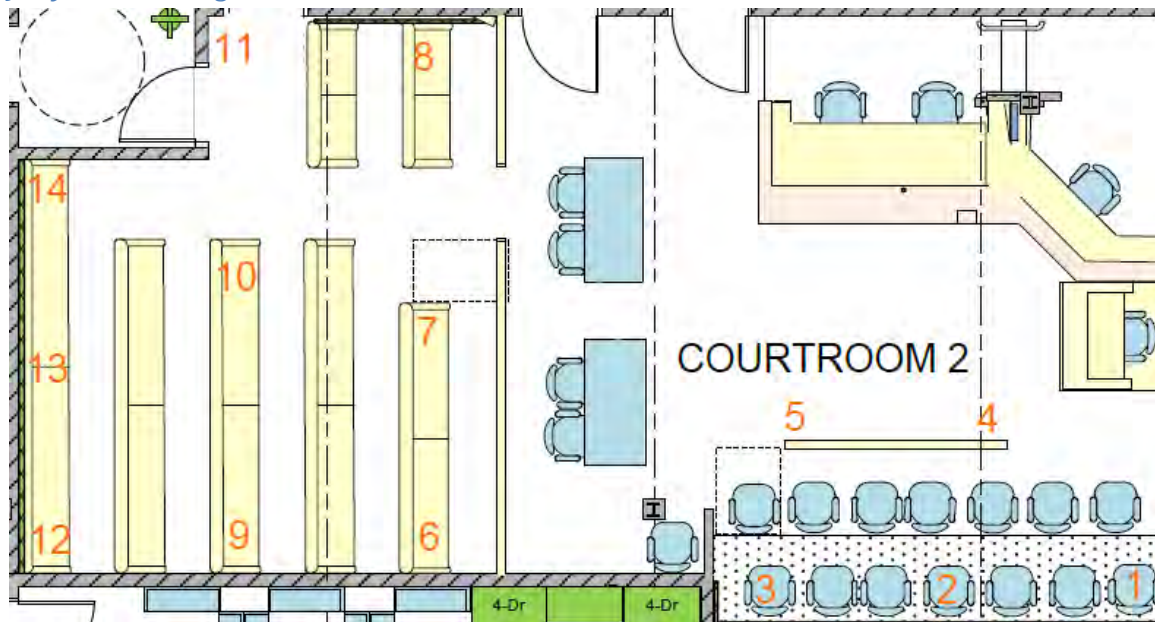
Gallery 2



Appendix B | Nome Jury Setup

Superior Court Jury Trial

Jury Trial Diagram



Jury Box



Gallery



Seating Chart

12	13	14
9	10	11
6	7	8

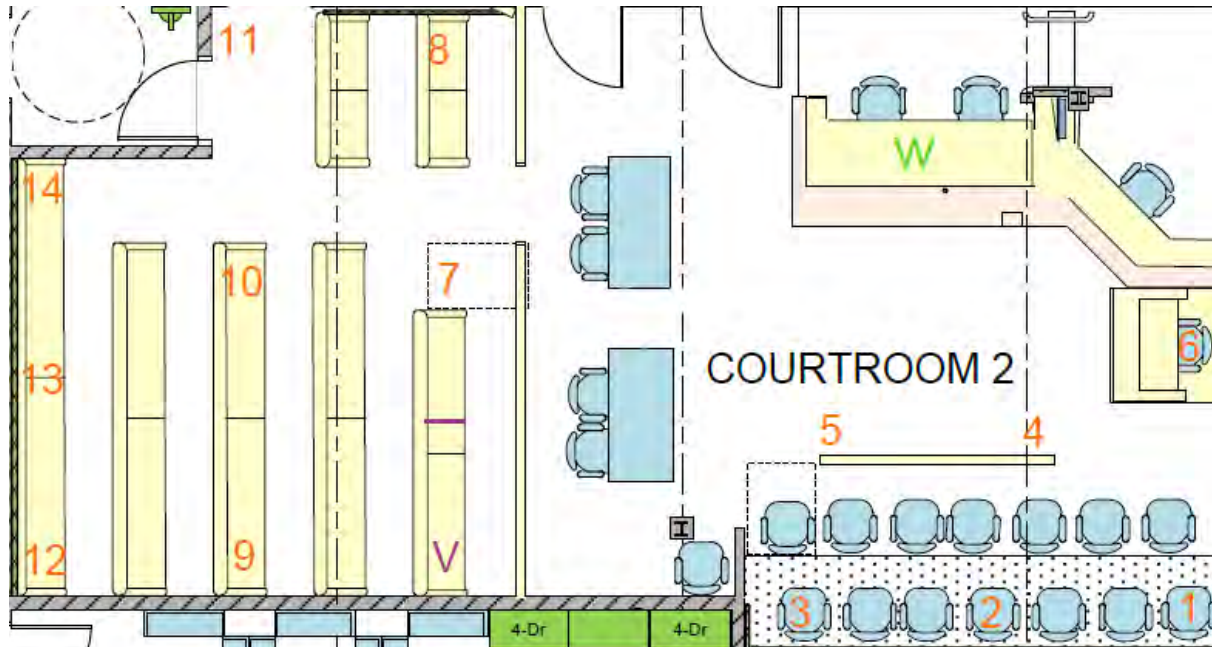
3	5
2	
1	4

Nome | COVID-19 Seating Chart

SAMPLE

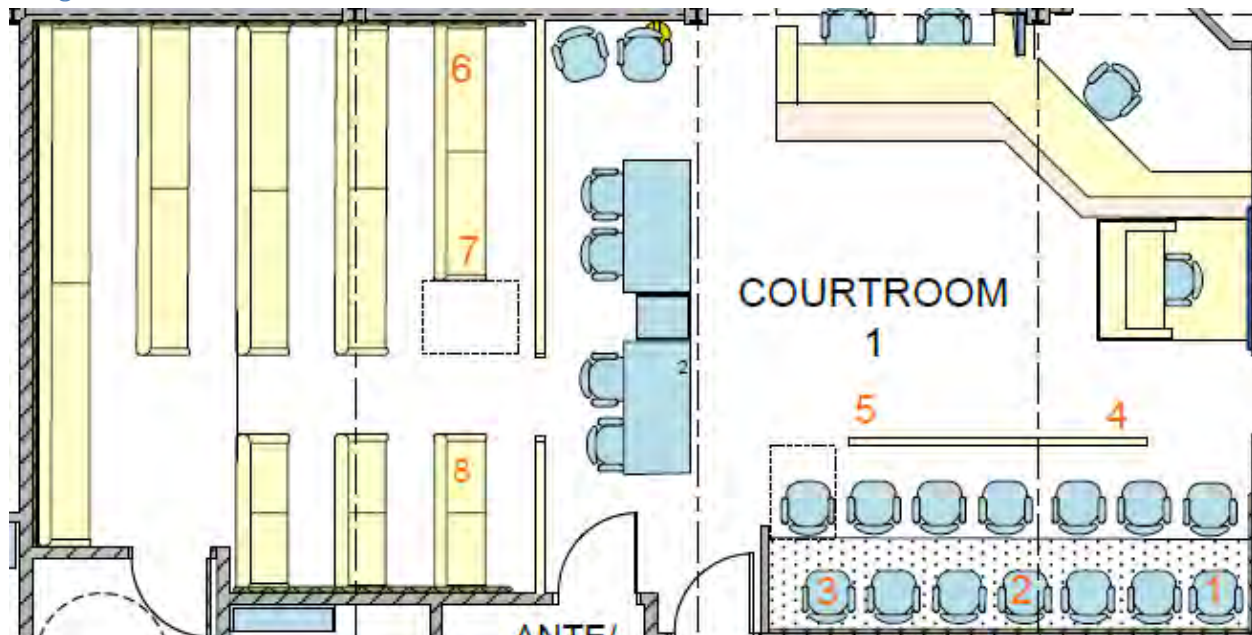
Victim consideration:

If a victim is present in-person, they will be given a seat in the gallery, a juror will be placed in the witness stand and witnesses will testify from the clerk area. The in-court clerk will remotely in-court from the grand jury room.



District Court Jury Trial

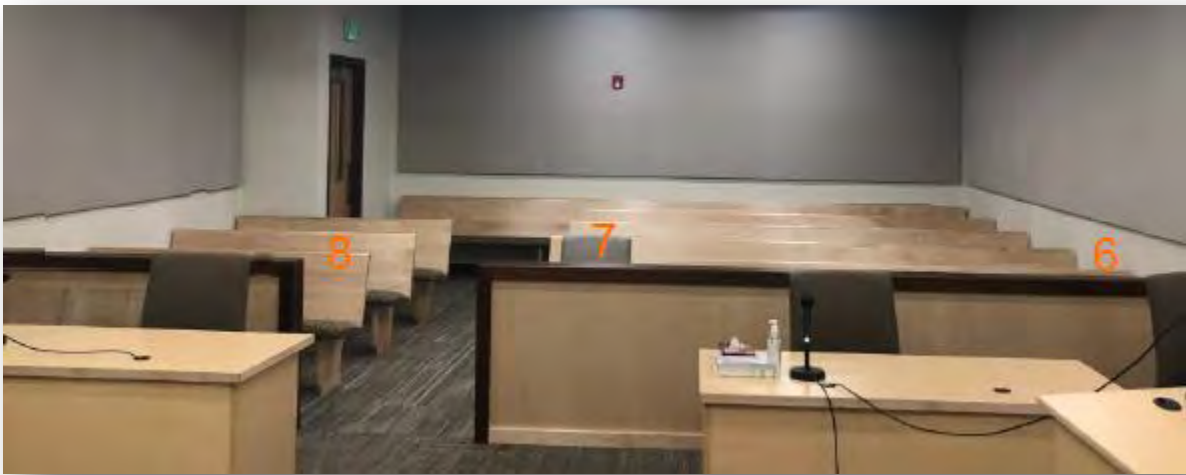
Diagram



Jury Box



Gallery



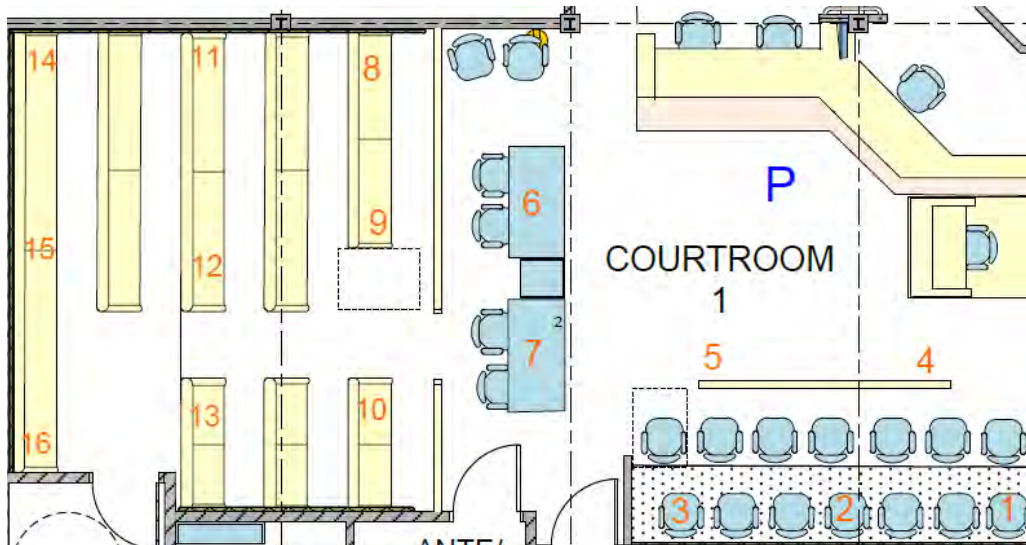
Seating Chart

NOME | COVID-19 SEATING CHART Courtroom 1

8	7	6
3	5	
2		
1	4	

Grand Jury

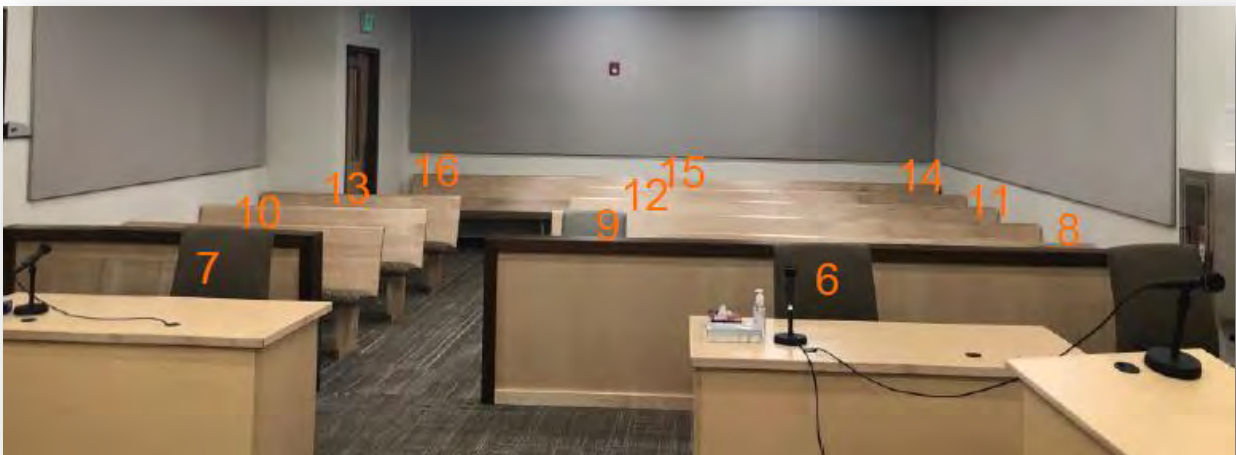
Diagram



Jury Box



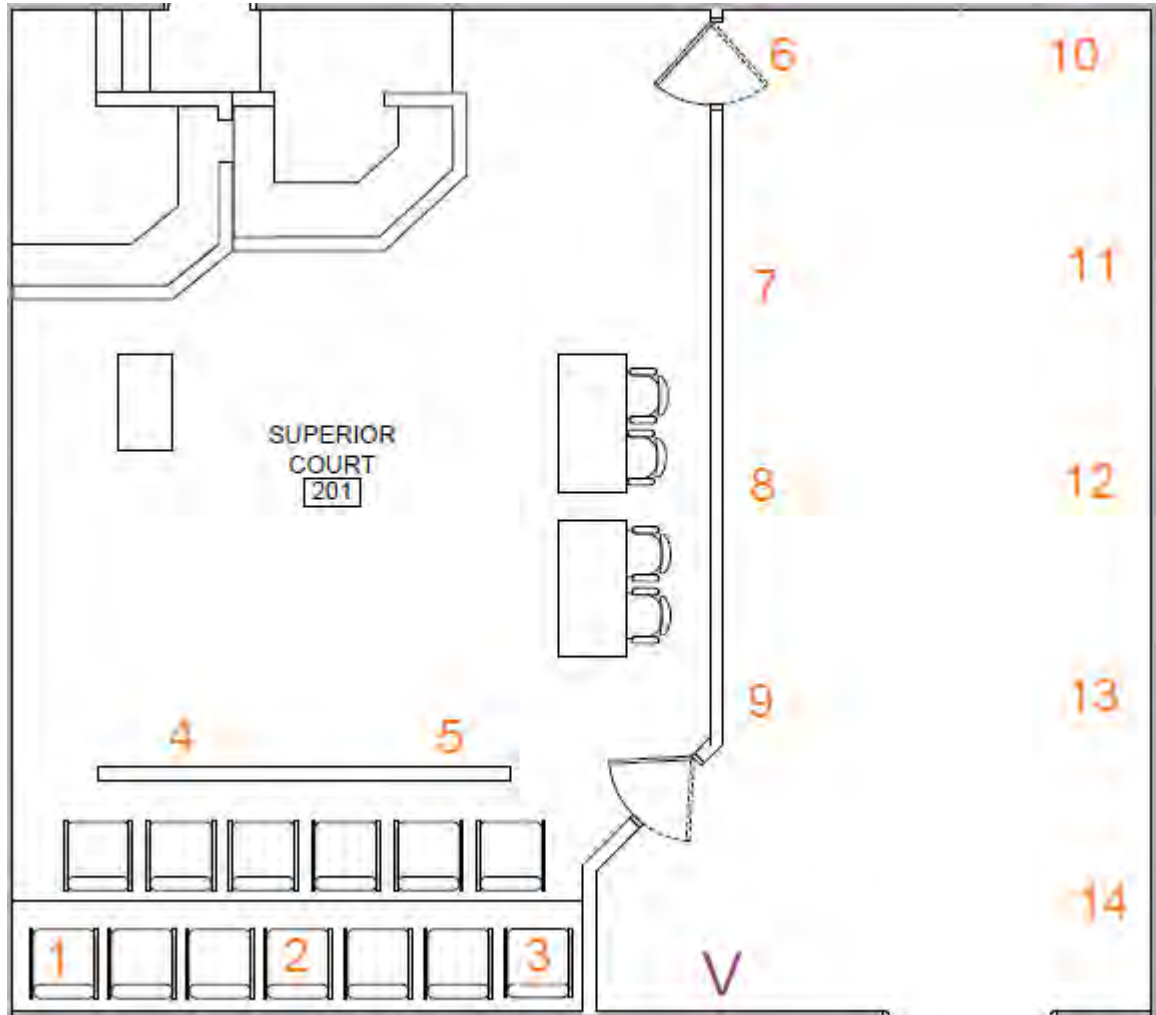
Gallery



Appendix C | Utqiagvik Jury Setup

Superior Court Jury Trial

Superior Courtroom Diagram



Jury Box



Gallery



Seating Chart

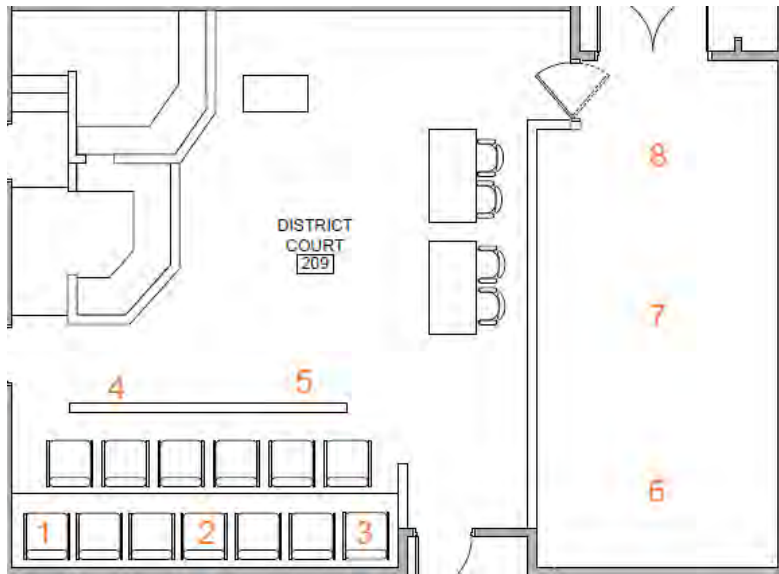
10	11	12	13	14
6	7	8	9	

Utqiagvik | COVID-19 Jury Trial
Seating Chart

	3
5	2
4	1

District Court Jury Trial

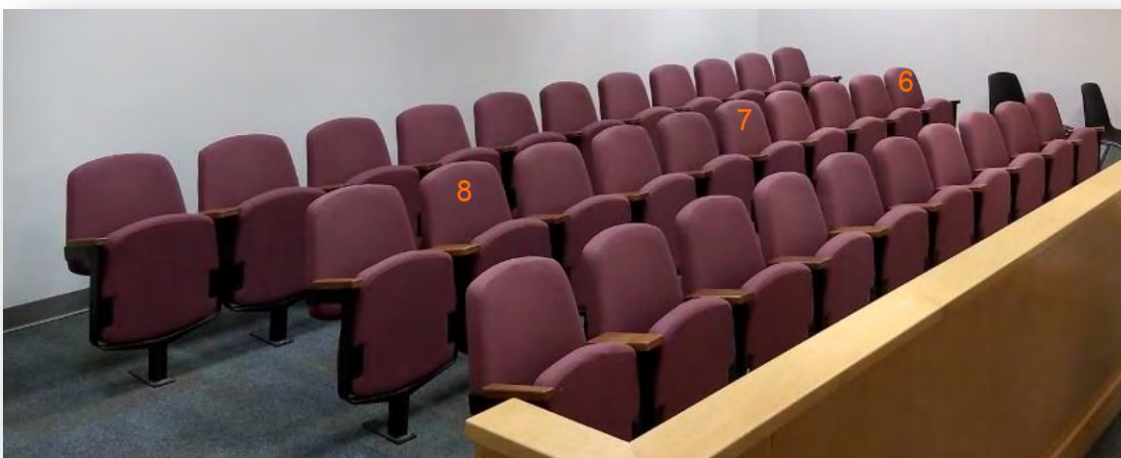
Diagram



Jury Box



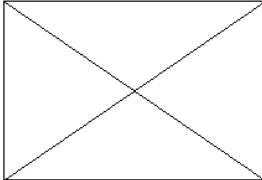
Gallery



Seating Chart

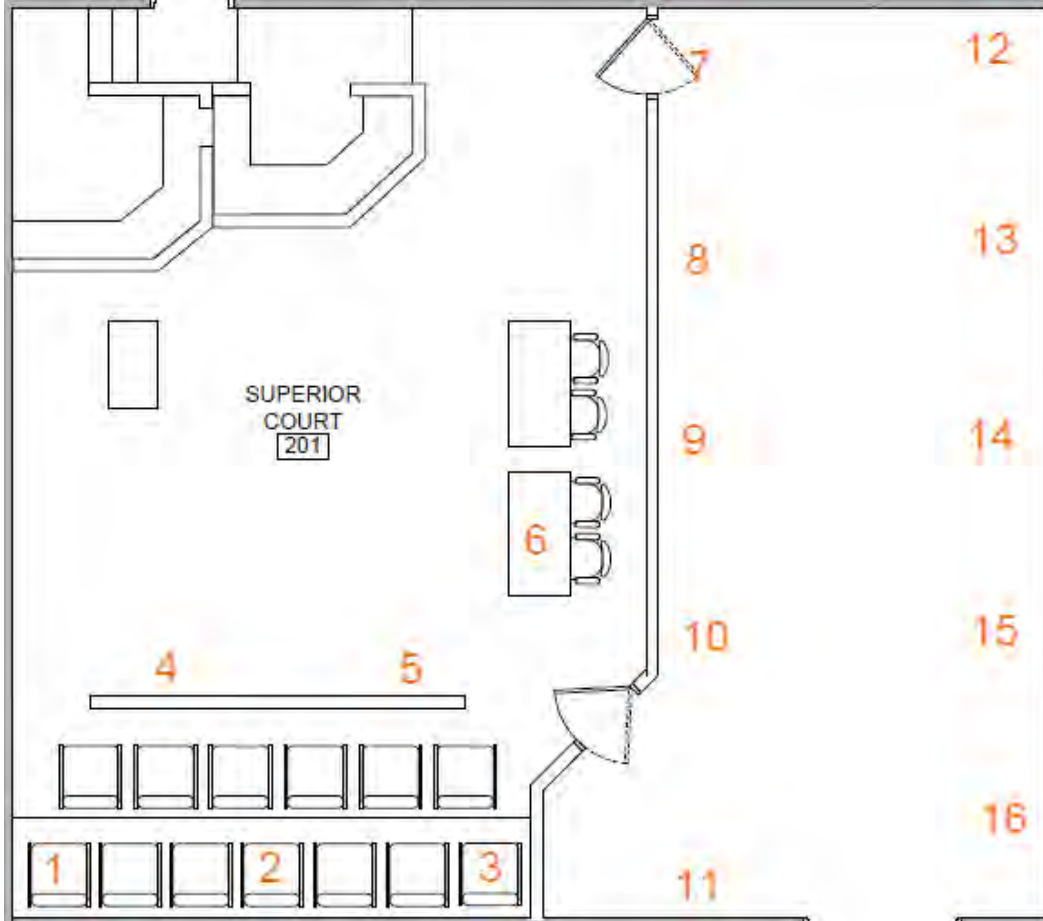
8	7	6
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Utqiagvik | COVID-19 Jury Trial Seating Chart – District Court

		3
		2
5		
4		1

Grand Jury

Superior Courtroom Diagram



Confidentiality Notice by Prosecutor

Before starting or resuming GJ proceedings.

I must now remind each of you as to the confidentiality of these proceedings, and remind you on what to do in the event of a technical problem.

Each of you were sworn in by the judge to uphold the secrecy of these proceedings. As a reminder, each of you have a responsibility to uphold the secrecy of these proceedings by making sure no one can see or hear the proceedings. If you believe someone can see or hear the proceeding, you must notify me immediately. Further, you must turn off and remove all smart speakers, and you must not share, photograph, take a digital image, make an audio or video recording or broadcast these proceeding in anyway.

It is important for each of you to see and hear the proceedings. If you have a technology issue, notify me as soon as possible, either by a placard, speaking up, or a chat message to the host. If your technology issues prevent you from doing any of these things, please call the Kotzebue Clerk's office immediately at 442-3208 ex 0 and notify the clerk of your name, that you are a grand juror serving today, and the type of technology issue you are experiencing.

Before a break

Before we go on break, I need to remind you not to discuss this case with anyone. You are sworn to uphold the secrecy of these proceedings, and must not share any aspect of the information shared with you today.