

IN THE TRIAL COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT

IN THE MATTER OF:

In-Person Court Proceedings

Presiding Judge's Administrative Order

\*Corrected\*

21-04

**PRESIDING JUDGE'S ORDER ESTABLISHING MINIMUM STANDARDS FOR  
IN-PERSON PROCEEDINGS**

This order is intended to set minimum standards for all in-person proceedings in the Fourth Judicial District for the duration of the COVID-19 pandemic. The purpose of this order is to establish minimum standards for in-person hearings based on current pandemic guidance from federal, state, and local authorities. This order provides for minimum requirements for all courtrooms, public visitors, media, parties, staff, and judicial officers for trials and hearings conducted with members of the public present. As necessary, this order refers to specific court locations and specific types of proceedings.

This order is informed by the document ["Alaska Court System: Conducting Criminal and Civil Jury Trials, and Grand Jury during the Covid-19 Pandemic, January 20, 2021"](#) available on the Alaska Court System's public website under COVID-19 Response. This order will also rely on [Special Order of the Chief Justice No. 8194](#) which contains guidance on procedures for in-person jury trials. This order will refer to three distinct types of events: Hearings (applies to all in-person hearings); Evidentiary Hearings (applies to all hearings with witnesses); Jury Trials (applies to any proceeding with a jury).

**A. Physical Courtroom Requirements** – All courtrooms in which in-person hearings are to be held with one or more members of the public present shall conform to these requirements. The Clerks of Court ("COC") in consultation with the Area Court Administrator ("ACA") or Rural Court Administrator ("RCA") shall ensure that all modifications are in place before trials commence.

1. **Numbered/Labeled Seating** – Seating shall be visually and clearly labeled in each courtroom where in-person hearings are to occur to ensure that seating is in compliance with social distancing requirements.
2. **Media** – **All previously approved ongoing media approvals are hereby SUSPENDED.** If media has been approved for a specific proceeding and can be accommodated safely, a maximum of one media representative may be permitted in the courtroom at any one

time and their location must be clearly marked. Media representatives may only be in the building for the purpose of documenting the approved proceeding. The media representative will submit a completed [Application](#) to the ACA requesting approval for in-person or remote recordings. No interviews, general filming, or other media activity are permitted inside the court building.

3. Public Seating – When public seating cannot be accommodated within a courtroom, proceedings may be joined through Global Conferencing for those who wish to listen to proceedings. Virtual viewing may be available remotely or to a different courtroom for public viewing.
4. Room Layout – Each courtroom and jury room will have signage posted with the following information:
  - a. Maximum capacity of the room given social distancing.
  - b. Assigned seating for jurors, counsel, witnesses, media, and public.
  - c. Furniture layout to accommodate social distancing, line of sight, recording needs, and emergency response.
5. Local COVID-19 Mandates shall apply to court facilities in all court locations.

**B. Personal Protective Equipment (PPE)** – These personal protective equipment requirements apply to all hearings:

1. Masks – All persons inside the courthouse and in the courtroom, including judicial officers and counsel, are required to wear a mask that covers the nose and mouth unless exempted for medical reasons. A plastic face shield does not qualify as a mask.
  - a. Witnesses testifying behind the plexiglas shield may do so without a mask.
  - b. For good-cause shown, the judge may permit a person including the judge to remove their mask if a clear public record is made explaining the good cause.
  - c. Any court location may elect to provide and/or require the use of standardized masks. If provided, such masks must be provided immediately upon entry into the court building with clear instructions concerning their use must be provided.
2. Hand Sanitizer – Hand sanitizer shall be made available in clearly marked locations for in-person attendees and shall be provided to all jurors.
3. Surface Sanitizer – Sanitizing wipes, cleaning fluids, and proper disposal receptacles shall be made available in each courtroom and at the witness stand and counsel table.
4. Disposable Gloves – Disposable gloves shall be available in all courtrooms and shall be provided to anyone in the courtroom upon request.
5. Plexiglas Shields – At a minimum plexiglas shielding shall be placed at the witness stand and at the in-court clerk work station.

### **C. Cleaning of Spaces**

1. Generally – Deep cleaning of courtrooms should be conducted on a regular basis between in-person hearings. If the court has a designated day cleaner, the COC will notify the day cleaner of any courtrooms, jury rooms, or other specified areas that require cleaning after in-person activity. Areas will be prioritized depending on timing between hearings, scheduled breaks during the hearing, number of individuals involved in the hearing, etc.
2. Multi-Day Hearings & Jury Trials – In courts with a day cleaner, the assigned trial judge may have their chamber’s judicial assistant or in-court notify the COC or ACA Office if there are lengthy breaks scheduled during trial at which time the witness stand could be deep cleaned.
3. Courts Without Day Cleaners – In courts without a day cleaner, the local employee(s) may clean the court areas as the employee sees fit. PPE will be available for court patrons who wish to wipe surfaces, sanitize hands or wear disposable gloves during transactions within the courthouse.

### **D. Social Distancing**

1. Jurors, Parties, and Public – All members of the public, jurors, parties, and counsel shall maintain social distancing. The judge shall instruct individuals in the courtroom about social distancing protocols and shall be responsible for enforcing such protocols.
2. Defendant – The defendant and defense counsel are permitted to waive social distancing protocols. Any such waiver shall be done on record. (Special Order of the Chief Justice No. 8194).
3. Prosecutor and Case Officer – The prosecutor and case officer are permitted to waive social distancing protocols. Any such waiver shall be one on record. (Special Order of the Chief Justice No. 8194).
4. Court Staff
  - a. In-Court/Courtroom Staff – Courtroom staff must be socially distanced from one another and from all other persons in the courtroom. Nobody is permitted to approach the courtroom staff unless instructed by the judge to do so. Those approaching an in-court shall approach where a plexiglas shield has been installed.
  - b. Public Service Counters – The public service counters at the Bethel and Fairbanks courts are currently available by appointment only. All members of the public present for in-court hearings should be informed that they are not to approach public service counters without an appointment.

5. Public Areas – It is expected that court patrons will follow the social distancing requirement of the visitor alert and respect the space of other court patrons and court staff while present in public areas in the courthouse.
6. Number of Persons in Building – If the ACA or Clerk of Court at any location determines that the traffic flow into a court facility has exceeded a number of manageable court visitors the presiding judge may order a temporary suspension of visitor entry.

#### **E. Communication With Parties, Jurors, and the Public**

1. Pre-Hearing Conference – Each judge shall schedule pre-hearing conference at which all parties who will be attending the in-person hearing shall appear telephonically. The judge shall instruct the parties as to the current procedures for in-person hearings.
2. Instructions During Hearing – The judge shall, at the start of each hearing day, remind all present of the rules and procedures for in-person hearings.
3. Witnesses – In-person witnesses shall be afforded the opportunity to participate in the Pre-Hearing Conference and shall have the opportunity to express any concerns they may have about participation in the hearing. To the greatest degree possible, the judge shall schedule witness testimony to minimize the number of persons in the court at any one time. Counsel or Pro Se Litigants calling a witness shall be responsible for contacting their witness, providing court expectations, and calling their witness to the courtroom when it is time for testimony.
4. Jurors – Jurors shall be given clear instructions at the outset of any in-person trial about COVID-19 procedures and shall be reminded throughout trial about the importance of following such procedures.

#### **F. Exhibits**

1. Form of Exhibits – To the greatest degree possible all documents, exhibits, and evidence shall be presented in a form that does not require the exchange of materials between parties, witnesses, jurors, judicial officers, or staff.
2. Handling Exhibits – Gloves should be worn when handling exhibits that are to be handled among multiple court staff, parties, witnesses, or jurors.
3. Submission – Paper exhibits must be provided at least 2 business days in advance of a hearing or trial. The submission of exhibits shall comply with all court rules, orders, and administrative bulletins concerning the submission and handling of exhibits. To the greatest degree possible exhibits should be submitted in electronic form.
4. Copies – Whenever possible, paper exhibits should be provided as individual copies to each person expected to review the document.

5. Use of Sealed Exhibits – The following is an example of an acceptable procedure for handling exhibits during a trial or hearing to avoid exchange of documents and to facilitate social distancing. The trial judge may establish different procedures and use of technology to achieve a similar degree of social distancing and restricted exchange of documents between parties and staff:
  - a. Copies of paper exhibits may be provided to jurors or witnesses by placing copies at each juror’s seat and/or the witness stand in separate sealed envelopes (one per exhibit) clearly marked by exhibit number and witness name or juror number. Such copies may be provided at the beginning of trial or testimony with explicit instructions that they are not to be opened until further instruction from the judge.
  - b. Such copies may be used for identification and publication during the trial and shall remain sealed until the judge orders them opened by each witness or juror for identification by a specific witness or publication to the jury.
  - c. Exhibits provided to witnesses and jurors in this fashion are “copies” per Alaska Court Administrative Bulletin No. 9 (“AB9”) II C (2), Criminal Rule 26.1, and Civil Rule 43.1. These copies may consist of copies of marked exhibits but shall not have the original exhibit sticker affixed to them.
  - d. The original exhibits with the physical exhibit stickers must be provided to the clerk in advance of trial and will be the only exhibits “offered into evidence” and “placed in the custody of the clerk” subject to safekeeping per AB9 VII.
  - e. Copies provided under this provision may not be removed from the courtroom and should remain either at the witness stand or the juror’s seat during the trial day.
  - f. At the end of each trial day the judge may instruct the jurors to leave the exhibits at their seats for collection and/or disposal by court staff. Published exhibits may be properly disposed at the end of each trial day. Unopened exhibits may remain in a suitable location in the courtroom.
  - g. Copies of exhibits are not to be used for deliberations unless all parties stipulate otherwise on record with the approval of the court.
  - h. Disputes as to the identification, publication, authenticity, or accuracy of exhibit copies shall be raised, argued, and ruled upon by the trial judge on record in the same manner as any other mid-trial objection.

## **G. Security and Enforcement**

1. Judicial Services (“JS”) and Security Screeners - Judicial Services (JS) shall be consulted and informed of these procedures for all in-person

- hearings. The COC or ACA will provide JS and any onsite Security Screeners with a list of in-person hearings each week.
2. Entry to Court - In courts with onsite Security Screeners, Screening Staff will enforce social distancing and limit traffic flow through security checkpoints while ensuring visitor screening protocols. Court visitors will provide contact information on sign-in sheets along with answering the courthouse visitor alert questions and taking a temperature reading prior to security screening. Courts without onsite Security Screeners will utilize the same sign-in sheets for visitor screening. The sign-in sheets are kept for 30 days in case of future contact tracing.
  3. Enforcement of Procedures – Individuals not following procedures will be asked to leave the court facility. Courtroom staff will enforce procedures in courtrooms and may request JS assistance if needed. The ACA and COC will be responsible for enforcing procedures in public areas of the building and may request JS assistance if needed.

#### **H. In-Person Jury Trial Management**

1. Generally – Jury trials are permitted per Special Order of the Chief Justice No. 8235 and only by permission of the Presiding Judge. All in-person hearing requirements apply to jury trials. Telephonic or zoom jury selection is permitted by agreement of the parties.
  - a. Telephonic Screening – Where appropriate, the trial judge may schedule a telephonic or Zoom hearing for the purpose of screening prospective jurors for cause relating to a specific case. Unless the parties have consented to telephonic jury selection, jurors may only be excused for cause at this telephonic/Zoom hearing by stipulation of the parties.
  - b. Management of Prospective Jurors – The jury clerk at each court location or the Clerks of Court where no jury clerk is present shall be responsible for calling prospective jurors to the courthouse. In accordance with COVID-19 protocols and in consultation with the Presiding Judge and the ACA the jury clerks shall limit the number of jurors entering the courthouse to minimum number necessary to facilitate jury selection.
  - c. Assignment of Prospective Jurors – At the conclusion of the pre-hearing conference, the trial judge shall inform the jury clerk that a specific case is proceeding to trial and the estimated number of prospective jurors needed to select a jury. The jury clerk shall be responsible for assigning jurors to respective jury panels. The default number of prospective jurors on a panel for a felony trial shall be 40 and for a misdemeanor trial shall be 20. The trial judge may request more jurors based on the particular facts of a case.
  - d. Movement of Prospective Jurors – The jury clerk shall give prospective jurors a date and time to arrive at the courthouse that ensures limited flow of persons through security screening.

Prospective jurors are required to comply with all COVID-19 protocols when in the courthouse, including social distancing. The judge shall notify the jury clerk at the outset of jury selection when prospective jurors may be sent to the courtroom and what number of jurors should be sent. The judge must repeat this process each time more jurors are needed.

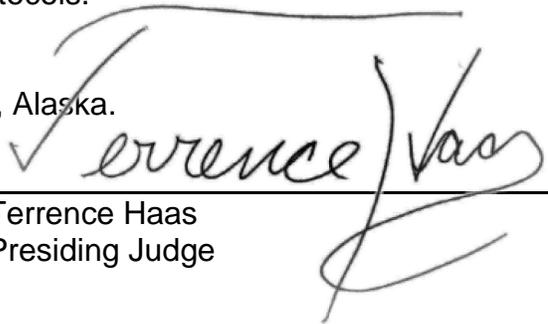
- e. Communication With Jurors -- Jurors shall be informed at all stages of trial regarding social distancing rules and other COVID-19 related protocols, beginning with the initial notification to appear. In consultation with the jury office, the trial judge shall ensure that jurors are informed of the trial schedule and arrival times.
- f. Scheduling Trial – Trials shall be scheduled so that no more than one trial jury arrives at the courthouse within a 30 minute period. The trial day should not be scheduled to exceed 5 hours. The judge may permit the trial day to extend longer than 5 hours only if the judge determines it is necessary to avoid substantial inconvenience to the participants or to avoid significant delay.
- g. Deliberations – Jury deliberations shall be conducted in accordance with all social distancing requirements.

## 2. Fairbanks

- a. Simultaneous Jury Trials – A maximum of **one jury trial per floor**, not including grand jury, shall be permitted at the Fairbanks courthouse with no more than 2 trials in simultaneous active jury selection. Additional trials may be permitted only by order of the Presiding Judge in consultation with the ACA and Administrative Judge.
- b. Scheduling Meetings: The Administrative Judge for the Fairbanks court shall calendar and coordinate periodic scheduling meetings attended by all judges with trials approved by the presiding judge at which the judges shall set the trial order for all trials currently pending.
- c. Notice of Trial Order: At the conclusion of each scheduling meeting, the Administrative Judge shall provide the COC with a list of the current order of trials. The COC shall publicly post a notice of the current order of trials and shall distribute that notice to all parties in all scheduled cases.
- d. Scheduling Cases For Trial: No case may be tried before a jury at the Fairbanks courthouse unless it has been scheduled according to the process described in this order.
- e. Central Trial List: The ACA, in consultation with the COC and the trial judges, shall keep the official centralized list of active and pending jury trials and shall periodically distribute that list to judges and staff.

- f. Trial Proceedings: Each chambers shall be responsible for monitoring the list of pending trials and shall issue orders and schedule pre-trial hearings accordingly.
  - g. Notice of Trial Status: Each chambers shall notify the Jury Office within a reasonable time when any case on the list for trial:
    - 1. Settles or folds;
    - 2. Commences jury selection;
    - 3. Commences evidence;
    - 4. Concludes.
3. Bethel
- a. Simultaneous Jury Trials – A maximum of **one jury trial per floor**, not including grand jury, is permitted at the Bethel courthouse. Additional trials may be permitted only by order of the Presiding Judge in consultation with the Clerk of Court.
  - b. The Presiding Judge’s Judicial Assistant in consultation with the Clerk of Court and the trial judges shall keep the official centralized list of active and pending jury trials and shall periodically distribute that list to judges and staff.
  - c. The Bethel trial judges shall meet periodically and set the trial order.
4. Other Courthouses
- a. The Clerk of Court at each location, in consultation with the presiding judge and the RCA, shall work directly with the assigned trial judge for any case set for jury trial to ensure that jury trials are conducted in accordance with social distancing and other COVID-19 protocols.

Dated this 24th day of February at Bethel, Alaska.


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 Terrence Haas  
 Presiding Judge

Distributed via email:  
 Fairbanks Judicial Officers  
 Fairbanks Judicial Assistants  
 Area Court Administrator  
 Rural Court Administrator  
 Fairbanks Area Magistrate Judges  
 Fairbanks Area Clerks of Court  
 Administrative Director’s Office  
 Bethel Judges  
 Bethel Area Magistrate Judges  
 Area Court Administrator  
 Bethel Area Clerks of Court  
 Bethel Judicial Assistants  
 Bethel District Attorney’s Office  
 Criminal Supervisors  
 Fairbanks District Attorney’s Office