

# NOTICE TO THE BAR

## COVID-19 – CRIMINAL AND CIVIL JURY TRIALS – PUBLIC INFORMATION AND GUIDANCE PURSUANT TO THE SUPREME COURT’S MARCH 18, 2022 ORDER

This notice provides a comprehensive summary of updated protocols for in-person jury trials (criminal and civil) and for virtual civil jury trials pursuant to the Supreme Court’s [March 18, 2022](#) Order. It supersedes the [May 17, 2021](#) notice on this subject.

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### Summoning Jurors

Consistent with pre-pandemic practices, the Judiciary has resumed use of an initial green postcard jury summons. Jurors can view an image of the postcard and find up-to-date information about health and safety protocols and jury trial formats on the [Jurors](#) page of the Judiciary’s public website.

### Qualification

Jurors still are encouraged to qualify online using the eResponse Juror Portal, which enables responses to the standard questionnaire regarding eligibility to serve as a juror in general and availability to serve as scheduled.

Jurors who do not timely respond online will receive a hard copy questionnaire that can be completed and returned by mail.

Statewide, more than 80% of responding jurors continue to qualify online rather than by mail. Through the online eResponse portal, a prospective juror can request an initial deferral to a more convenient reporting date, subject to court approval.

### Pre-Reporting Disqualifications and Excusals

Jurors who do not meet the qualification criteria established by N.J.S.A. 2B:20-1 are required to contact the court and, as applicable, substantiate disqualification. A juror who seeks to be excused for any of the grounds set forth by N.J.S.A. 2B:20-10 also must contact the Jury Management Office and supply documentation as necessary to substantiate the juror's claim. The court may request additional information as necessary to decide a request for a pre-reporting disqualification or excusal.

Consistent with N.J.S.A. 2B:20-9 and pre-COVID-19 practices, pre-reporting excusals continue to be handled by the Assignment Judge or designee.

As required by the Court's [March 9, 2022](#) and [March 18, 2022](#) Orders, all jurors are also able to request an excusal during the initial virtual phase of selection. For a jury trial, any such request would be posed in the presence of the judge and attorneys.

### Pre-Reporting Notice & As-Needed Technology Questionnaire

Technology assessment and support have been critically important to sustain virtual grand juries and virtual civil jury trials throughout the pandemic. As of April 15, 2022, all grand juries will meet in person. In addition, all jurors who participate in virtual civil jury trials will be required to use Judiciary-issued tablets rather than personal technology.

The need to assess the technological resources of jurors is thus substantially reduced. Accordingly, rather than require that all jurors complete

a technology questionnaire, the approved questionnaire will only be completed by the juror if the juror indicates a need for technological support.

### Continuation of Virtual Jury Selection with Increased Flexibility

The Court in its [March 18, 2022](#) Order provided further guidance as to the options available for jury selections in civil and criminal jury trials and grand jury proceedings. Having considered relevant factors within the context of the current reduced risk posed by COVID-19, the Court provided greater flexibility so that all vicinages can best allocate their resources, including staff required to support virtual proceedings and space available for jurors with the reduced 3-ft social distancing. The Court's action will support expeditious jury selections in order to maximize jury trial activity, in particular criminal jury trials involving detained defendants.

At a minimum, the virtual phase of jury selection must include an opportunity for prospective jurors to request to be dismissed (based on lack of qualification); excused (for all grounds set forth in N.J.S.A. 2B:20-10, including those that may involve COVID-19 related circumstances); or deferred to a future date. After that initial virtual phase of selection, the judge may determine to proceed virtually or to bring the jurors in to continue voir dire in person at any point. In criminal cases, the court must continue to bring jurors into the courthouse for the in-person exercise of peremptory challenges.

There is no expectation of nor recommendation for a one-size-fits all approach to jury selection. Statewide, fully virtual jury selection is working effectively in many counties, especially for many civil jury trials. At the same time, the flexibility provided in the Court's [March 18, 2022](#) Order will enable criminal jury selections to proceed in whichever format is most workable considering local resources (subject to the requirement that peremptory challenges be exercised in person in criminal matters).

### Prioritization of Cases for Trial

As the Supreme Court has repeatedly emphasized, criminal jury trials that involve detained defendants continue to be the highest priority.

With the reduction in required social distancing in jury trials from 6-ft to 3-ft as set forth in the Court's [March 9, 2022](#) Order, all counties should have increased options to support in-person as well as virtual civil jury trials to the extent that such civil matters do not reduce capacity to conduct criminal jury trials or otherwise delay such trials.

### Locations for Jury Proceedings

Criminal and any in-person civil jury trials will be conducted on-site in a courtroom large enough to accommodate all trial participants. With the reduction in social distancing (from 6-ft to 3-ft), the number of courtrooms large enough to support criminal jury trials has more than doubled statewide.

During in-person socially distanced trials, all seated jurors will be in the same courtroom as the judge and attorneys. Additional locations in the courthouse may be used for sidebar communications, juror breaks, and real-time viewing by family, friends, media, and public observers. In many situations, the reduction to 3-ft of social distancing will make it possible to bring more on-site observers into the trial courtroom, thus making other courtrooms available for additional trials rather than as overflow rooms. While social distancing is required in the trial courtroom, individuals may be seated without social distancing in overflow rooms.

### Face Masks

The Supreme Court's [March 9, 2022](#) Order eliminated the general requirement that individuals who enter or occupy Judiciary facilities must wear a face mask and maintain social distancing. However, all participants in in-person jury trials still must wear a mask, subject to existing exceptions (e.g., judicial discretion to lower a mask when speaking to the jury or providing testimony). Observers in the trial courtroom should also wear a face mask.

A juror may use the juror's own face mask as detailed in the [January 28, 2022](#) notice. The Judiciary will continue to provide single-use face masks to anyone upon request.

## Public Access

The Court's [March 18, 2022](#) Order provides greater flexibility for accommodating members of the public who wish to observe jury trials. In a large courtroom, it may be easier to provide on-site access in the gallery (so long as observers are not too close to jurors). In other situations, it may still be necessary to use remote locations within the courthouse to accommodate individuals who cannot be seated within the trial courtroom. Virtual options, including livestreaming on the courts' website in appropriate situations as determined by the court, also remain available to support access by interested persons and members of the media and public.

Members of the media and public should continue to follow the provisions of Directive [#11-20](#) ("Supreme Court Guidelines on Media Access and Electronic Devices in the Courts") when seeking to record court events. The Guidelines incorporate the Request to Photograph, Electronically Record, or Broadcast a Court Proceeding [form](#), which remains in effect. As always, persons who seek to photograph, record, or broadcast court proceedings -- including remote court proceedings -- must in advance request and obtain permission from the Assignment Judge, Trial Court Administrator, or designee. Recording of virtual court proceedings is prohibited absent specific permission. Livestreaming of court events by outside parties is discouraged.

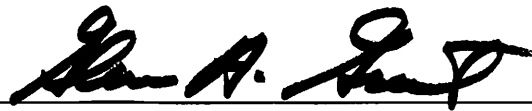
## Notification of Potential Exposure

The Judiciary recognizes the ongoing possibility that a trial participant may be diagnosed or develop symptoms consistent with the COVID-19 virus. In the event of an actual or potential exposure, the Judiciary will take appropriate steps to safeguard the privacy of individuals with COVID-19 while providing notice to close contacts and arranging for any necessary cleaning.

Jurors will be informed of notification protocols during the virtual orientation process. Judges also will reiterate COVID-19 restrictions and notification protocols at the start of trial and periodically as necessary.

The Judiciary will continue to provide information about jury trials and all court operations, including on its public website [njcourts.gov](http://njcourts.gov). Questions

about this notice should be directed to the Office of the Administrative Director of the Courts at (609) 376-3000.

A handwritten signature in black ink, appearing to read "Glenn A. Grant", written over a horizontal line.

Glenn A. Grant  
Administrative Director of the Courts

Dated: March 23, 2022