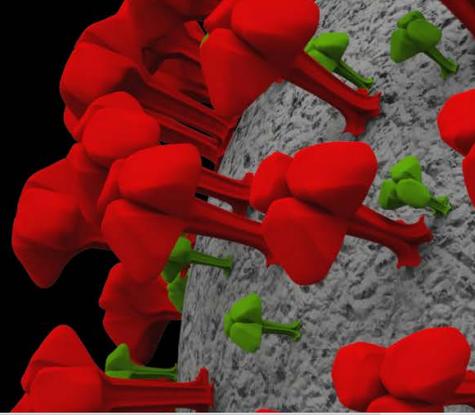


# COVID-19

## Health Safety for Prosecutors and Court Staff Webinar Q&A



On April 13, 2020, CNA and the National District Attorneys Association (NDAA) brought you a webinar focusing on COVID-19 health safety for prosecutors and court staff. During this webinar, we received a number of questions that we did not have time to answer. We have compiled those questions in this document. For additional examples of protective measures taken by courts and prosecutors, see [COVID-19: Protective Measures Taken by Prosecutors and Courts](#).

### **QUESTION: SHOULD MASKS OR OTHER PERSONAL PROTECTIVE EQUIPMENT BE WORN IN THE COURTROOM? CAN PEOPLE REMOVE MASKS WHEN SPEAKING IN A COURTROOM?**

**ANSWER:** The Centers for Disease Control and Prevention (CDC) recommends wearing cloth face coverings when in public settings, especially when it is difficult to maintain physical separation (6 feet) with other people. The use of face coverings helps to reduce viral spread between individuals.<sup>1</sup> Please be aware that states and local jurisdictions have enacted varying requirements with respect to the use of face coverings when in public, so it is important to familiarize yourself with the regulations in your area. Face coverings are not the same as surgical masks and respirators, which are critical resources for health care personnel and in short supply. They should not be used by the general public, unless specifically indicated by a medical professional. Cloth coverings are sufficient for most individuals. When wearing a cloth face covering, please ensure that your mouth and nose are covered and that the covering fits snug to your face without restricting your breathing.

Unless local restrictions indicate otherwise, the CDC does not recommend the use of masks if you can stand at least six feet away from other individuals at all times. However, wearing a mask may provide comfort and personal security to some individuals.

When donning and doffing face coverings, avoid touching your eyes, nose and mouth. Additionally, wash your hands immediately after removing face coverings, and clean your face cover after each use.

### **QUESTION: HOW LONG IS COVID-19 VIABLE ON CLOTH PRODUCTS?**

**ANSWER:** As of early April 2020, studies on the novel coronavirus typically focus on viability on hard surfaces. However, the CDC has issued guidance that the virus could be viable on clothing. Public health experts encourage individuals to wash cloth masks after each use.

### **QUESTION: MANY LOCAL COURTHOUSES HAVE POOR SANITARY CONDITIONS. UNLIKE A HOSPITAL, SURFACES (OTHER THAN COUNSEL TABLES) MAY BE CLEANED INFREQUENTLY. ADDITIONALLY, HIGH-RISK INDIVIDUALS (E.G., INCARCERATED INDIVIDUALS) COULD MOVE THROUGHOUT THE COURTHOUSE. KNOWING THAT, WOULD IT BE BETTER TO TAKE PRECAUTIONS LIKE THE ONES HEALTHCARE WORKERS TAKE UPON RETURNING HOME?**

**ANSWER:** The CDC issued guidance relating to exposure risk-level categories. Most likely, contact with individuals in the courtroom setting would fall into the low-risk category.<sup>2</sup> However, if you are in close contact with individuals (i.e., within 6 feet of someone with confirmed COVID-19 or who is exhibiting symptoms consistent with COVID-19 for a prolonged period of time),

<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html>

<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html>

you may want to take some extra precautions. Current [CDC guidance](#) on cleaning and disinfection for households does not specify the need to remove and disinfect shoes, or change and immediately wash clothing or bathe upon returning home.

While some healthcare workers have adopted these measures due to their being in close contact with COVID-19 patients throughout the day, these measures are not likely necessary for individuals who were inside a courtroom or other low-risk situation. If it provides a level of security to remove and disinfect your shoes and change your clothes, please do so.

However, the most important thing to do is to immediately wash your hands upon returning home and/or after removing clothing or shoes that you think may be contaminated, and to avoid touching your eyes, nose, or mouth. Also, practice routine cleaning of frequently touched surfaces (e.g., tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, and electronics with household cleaners and EPA-registered disinfectants that are appropriate for the surface.

## **QUESTION: HOW ARE OFFICES PRACTICING SOCIAL DISTANCING IN THE OFFICE?**

**ANSWER:** There is no single correct answer for maintaining social distancing standards in an office setting. Offices have different amounts of space and resources. Some offices are taking the following measures:

- Reducing staff to a skeleton crew to cover emergencies. When in the office, individuals are instructed to stay out of other offices and not to use equipment or supplies from others.
- Cleaning common surfaces frequently.
- Tasking managers with keeping attorneys and staff at a safe distance.
- Reducing numbers in the office by implementing flex schedules, including some working weekends and most attorneys working from home.

## **QUESTION: WHAT DOES A SKELETON CREW ACTUALLY MEAN?**

**ANSWER:** This will depend on the specific needs of your office. Examples include the following:

- Allowing a couple of lawyers in the building during shortened daytime office hours to handle bond hearings for incarcerated defendants and other emergencies. There are also a couple of clerical people in the building to assist lawyers, provide notarization, and perform other tasks.
- Implementing a rotation schedule where certain individuals come to the office and all other staff are on call to come in if necessary (while otherwise working from home).
- For a smaller office, allowing only a few attorneys (rotating) in the building: one or two attorneys come in to the office each day, plus the District Attorney or the Chief Deputy District Attorney.
- Allowing victim advocates to work remotely.
- Allowing other staff to work on flexed or modified schedules to reduce the number of employees in the office at any given time.

## **QUESTION: HOW ARE OFFICES PRACTICING SOCIAL DISTANCING IN THE COURTROOM?**

**ANSWER:** There is no “correct” answer for maintaining social distancing standards in a courtroom setting. Courtrooms have different amounts of space and resources. Some courts are taking the following measures:

- Reducing staff to a skeleton crew to cover emergencies.
- Limiting courtrooms only to the participants for the case being heard. Participants in other cases wait outside, where there is more space.
- Separating counsel tables to comply with social distancing guidelines.
- Waiving the defendant’s appearance for low-level hearings or proceedings.
- Expanding pleas in absentia for misdemeanants, include all local defendants with an agreed sentence that does not require a period of incarceration.
- Moving to virtual hearings. CNA and NDAA will host a virtual discussion focusing on technology in courtrooms and prosecutors’ offices. To register, please use [this link](#).

## QUESTION: HOW ARE COURTS DEALING WITH PRO SE DEFENDANTS, PAPERWORK, AND MAINTAINING SOCIAL DISTANCING?

**Answer:** There is no “correct” answer for maintaining social distance standards in a courtroom setting. Courts around the country are trying different methods to maintain these standards. For pro se defendants, who may require certain paper work, some courts are taking the following steps:

- Using two sets of forms: one in front of the prosecutor and one in front of the defendant. This allows the pro se defendant to read along with the prosecutor. This can also be done via telephone or video link.
- Separating counsel tables to comply with social distancing guidelines.

## QUESTION: HOW ARE ATTORNEYS AND COURT STAFF SAFELY EXCHANGING COURT DOCUMENTS?

**ANSWER:** The NIH released guidance indicating that the coronavirus can live on cardboard for up to 24 hours.<sup>3</sup> However, public health experts note that the novel coronavirus is transmitted by respiratory droplets. The best practice is to frequently wash your hands or use hand sanitizer containing 60 percent alcohol. Individuals should also avoid touching their faces.<sup>4</sup> To avoid additional contact with paper files, some courts are taking the following measures:

- Using two sets of forms, one in front of the each attorney.
- Moving to remote hearings.
- Separating counsel tables to comply with social distancing guidelines.
- Exploring case management systems that allow for an exchange of materials. For more information of the function requirements of a prosecutor case management system, follow [this link](#).

It is important to remember that while the virus may be able to live on the surfaces, you can take steps to avoid infection from shared paper products. If you are exchanging paper materials with someone else, avoid touching your face and wash your hands. Carry hand sanitizer with you if you cannot wash your hands.

## QUESTION: HOW ARE JURISDICTIONS SEATING JURIES?

**ANSWER:** This will depend on the size of the courtroom and availability of larger spaces for juries. Some jurisdictions are taking the following measures:

- Continuing already empaneled juries but not seating new juries.
- Suspending all jury trials through a certain time. Jurisdictions are considering how jurors could maintain safe distances within the courtroom when jury trials resume. For example, during jury deliberation, allowing the jurors to stay in the courtroom and requiring everyone else to leave.
- Securing alternate sites, such as large civic buildings or community centers, that have spaces large enough to accommodate jurors while maintaining social distancing standards.

## QUESTION: HOW ARE DEFENDANTS' RIGHTS TO A SPEEDY TRIAL BEING MET?

**ANSWER:** Different jurisdictions are handling this matter in various ways. Many jurisdictions have waived speedy trial time or amended local speedy trial rules during the COVID-19 pandemic. Other jurisdictions are waiving bail for low-level, non-violent defendants. Courts are also expanding the use of remote hearings and trials.

## QUESTION: HOW SHOULD OFFICES AND COURTS NOTIFY INDIVIDUALS WHEN A STAFF MEMBER TESTS POSITIVE FOR COVID-19?

**ANSWER:** The CDC recommends that when an individual in the workplace test positive for COVID-19, employers should inform other employees of their potential exposure, but maintain the confidentiality of the individual who tested positive (as required by the Americans with Disabilities Act). The CDC also recommends that employers implement flexible sick leave policies to encourage individuals who are feeling ill to stay at home. Additionally, employers should be aware of paid-sick leave requirements under the CARES Act for certain employees. For specific guidance about when stay home after contact, see the [CDC's current recommendations](#). Please do not to spread unfounded rumors about the health of others.

3 <https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces>

4 <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>



## **THE WEBINAR ANSWERED THE FOLLOWING QUESTIONS. TO ACCESS A RECORDING OF THE WEBINAR, PLEASE CLICK [THIS LINK](#).**

- Are you seeing courts request that litigants wear masks/scarves? What about taking temperatures before entering the court?
- Is the use of a mask necessary in the courtroom? If we are exchanging documents with defendants, attorneys, or court staff, do we need gloves? If so, what kind?
- Should attorneys wear PPE during required hearings?
- What can prosecutors do to lessen the risk of being infected, beyond complying with the six-foot social distance and wearing gloves?
- How can you social distance in court and/or in the office? Is COVID in the air systems of buildings?
- If the virus dies after about three days, can you just let a mask hang untouched for a three-day period before touching it again, or should you wash it after every use?
- How long is virus viable on paper? How can we decrease viability? Should we be “quarantining” mail/packages and using gloves/hand-wash precautions if others touched them? What is the quarantine length?
- What should we do in the lag time between when the court officer indicates feeling symptoms and self-isolating and when the positive test comes?
- I heard mention that folks who believe they may have been in close contact with someone awaiting test results should self-quarantine until they find out whether the person is positive. As a supervisor, what is my HIPPA ability to find out about a positive test result, and can I communicate that result to others who think they may have been infected?
- So if there is no immunity and no vaccine, and we can go back to work after the “curve is flattened,” do we still have to maintain all of the current COVID-19 recommendations?
- Are there additional recommendations for court workers over the age of 60?
- Are there different precautions for someone who is in the high-risk category or has an autoimmune disease?
- Could you please discuss any special concerns for pregnant people?

**FOR QUESTIONS, CONTACT US AT [COVID19\\_COURTS@CNA.ORG](mailto:COVID19_COURTS@CNA.ORG).**