



REPORT TO THE CHIEF JUSTICE OF THE SUPREME COURT OF NORTH CAROLINA

PREPARED BY
JUDICIAL BRANCH COVID-19 TASK FORCE
JUNE 12, 2020



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About the North Carolina Judicial Branch

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent, and accessible forum for the just, timely, and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina’s unified court system operate more efficiently and effectively, taking into account each courthouse’s diverse needs, caseloads, and available resources.



INTRODUCTION

On March 10, 2020, North Carolina Governor Roy Cooper issued [Executive Order No. 116](#), the first in a series of executive orders declaring a State of Emergency to coordinate the response and protective actions to prevent the spread of COVID-19. On March 13, 2020, the Chief Justice of the Supreme Court of North Carolina, the Honorable Cheri Beasley, issued the [first in a series of emergency directives for the court system](#) aimed at protecting the health of court personnel and the public during the outbreak of COVID-19. Both the Governor and Chief Justice have issued numerous additional emergency orders since mid-March. While Chief Justice Beasley's orders have been clear since the onset of this public health emergency that the North Carolina courts must remain open for essential business, the scope of court operations and services have been significantly curtailed due to the need to minimize foot traffic and in-person contact in court facilities and courtrooms across the state.

While the public health emergency has continued to strain the state, the country, and the world, leaders in many states have begun to ease restrictions to allow more functions of daily life to resume as safely as possible. On April 30, 2020, Chief Justice Cheri Beasley created the Judicial Branch COVID-19 Task Force and charged it with working with the conferences and associations within the Judicial Branch to develop recommendations for future emergency directives, policy changes, and best practices to help courts across the state provide increased levels of service to the public during the remainder of the COVID-19 health emergency.

Effective May 8, 2020, Governor Cooper implemented the first phase of a [three-phase approach to relaxing some restrictions](#) in North Carolina. On May 22, 2020, North Carolina moved into the second phase. As we move through the phases in the Governor's plan and begin to relax some restrictions, the Judicial Branch's COVID-19 Task Force has been discussing the numerous unique challenges facing the state's court system. The Task Force's focus has been on expanding limited court operations in a manner and on a timeline that ensures the public receives enhanced services from the Judicial Branch, while continuing to protect the health and safety of court personnel and the members of the public that rely on meaningful access to the courts. As it always has, the Judicial Branch continues to work at the intersection of justice, the preservation of constitutional rights, and public safety. COVID-19 has added another lane to that intersection—public health—and requires all of us to work together to navigate an even more challenging crossing. As Chief Justice Beasley has noted, it is time to shift our focus and consider not only what matters *must* be heard, but what matters *can* be heard safely. If it is possible to proceed with a matter more safely, we must figure out new ways to do so.

The information in this report is offered as a resource for the Chief Justice and local court officials as the Judicial Branch works to balance these competing concerns and phase back toward full operations, based on research and consultation with public health authorities. The points in this report should be viewed as recommendations, not directives. While North Carolina has a unified court system, there is no one set of rules that can be implemented identically in all 100 counties in the state. Ultimately, the manner and methods for expansion back to full operations will best be made by local court officials through cooperation and communication among themselves, in light of their local courthouse designs, caseloads, staffing limitations, and infection data.



June 1, 2020 was the beginning of a “soft expansion” back to normal operations, and our court facilities and courtrooms across the state should not look like they did the day before this emergency began. All court officials must stay informed about the current state of the Governor’s Executive Orders and the Chief Justice’s Emergency Directives, as well as all public health guidance from the [Centers for Disease Control and Prevention](#) (CDC) and local public health officials.

The Task Force urges judicial officials throughout the state to communicate, collaborate, and cooperate with all local court leaders and partners—including district and superior court judges, clerks, court managers, district attorneys, public defenders (where applicable), private attorneys, sheriffs, and local county and public health officials—as we all seek to scale back toward full operations in ways that both provide for the efficient administration of justice and keep people safe. All local officials must strive to provide a safe and healthy courthouse, but also to instill confidence in that safety among the people who choose or are required to enter court facilities. Clear and consistent messages about safety precautions should be communicated to the public by local officials through both words and action.

Local communication will be particularly important in coordinating higher volumes in different courts in a staggered manner. Each district is responsible for ensuring that there is sufficient court staff and courtroom space to hold court efficiently and safely. Each district is also responsible for ensuring that the numbers of people entering and remaining in individual courtrooms, as well as court facilities in general, are manageable and allow for appropriate social distancing. This time, perhaps more than any other time in our history, will require careful coordination between divisions of the trial court with regard to scheduling and the use of courthouse space, as well as other resources that may be in high demand and short supply. Court personnel, attorneys, and the public must be cognizant that judicial offices across the state likely will not be operating at full capacity in the near future.

The COVID-19 pandemic presents rapidly changing circumstances, and there is a possibility of increased cases of infection during the coming months. Plans for expansion back to full operations must be flexible enough to allow both for “ramping up” and “ramping down” court operations as circumstances demand. The past few months have presented difficult challenges for everyone, and the next few months will present new and equally difficult challenges. On behalf of the thousands of elected and appointed officials and court staff across the state, we ask for your patience and understanding as well all navigate this “new normal.”

EXECUTIVE SUMMARY

Task Force Composition and Meetings

The Chief Justice’s Judicial Branch COVID-19 Task Force is comprised of the following members:

- The Honorable F. Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge
- The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge
- The Honorable Teresa Vincent, District 18 Chief District Court Judge
- The Honorable Billy West, District 14 District Attorney



- The Honorable Robert Evans, District 8 District Attorney
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court
- Kinsley Craig, District 27B Trial Court Coordinator
- Kellie Myers, District 10 Trial Court Administrator
- The Honorable Jason Cheek, Davidson County Magistrate
- The Honorable Jennifer Harjo, New Hanover County Public Defender
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ)
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA)
- Patrick Weede, Attorney and Appointee of the NCBA
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA)

The following North Carolina Administrative Office of the Courts (NCAOC) staff served as primary staff to the full Task Force:

- Danielle Carman, NCAOC Deputy Director of Court Programs
- Emily Mehta, NCAOC Research and Planning Associate
- Sean Callan, NCAOC Research and Planning Associate

The Task Force held its first meeting by Webex on May 1, 2020, and the full body subsequently held five additional remote meetings.

Working Group Composition and Meetings

The Task Force's first order of business was to establish the following working groups to address some of the numerous complicated challenges facing it:

1. The **Best Safety Practices Working Group** was tasked with generating a list of questions about best safety practices for public health officials, obtaining answers, and making recommendations about best safety practices that are evidence-based and appropriate for the courts. The working group was comprised of the following members:

- Kellie Myers, District 10 Trial Court Administrator, Chair
- The Honorable Marsha Johnson, Clerk of Superior Court, Harnett County
- Kinsley Craig, District 27B Trial Court Coordinator
- The Honorable Jennifer Harjo, Public Defender, New Hanover County

Advisors and staff to this working group included:

- Erica Wilson, MD, North Carolina Department of Health and Human Services
- James Clemmons, Richmond County Sheriff
- Christine Villaverde, NCAOC Safety and COOP Consultant
- DeShield Greene, NCAOC Court Management Specialist
- Cheryl Howell, Professor, UNC School of Government (SOG)



2. The **Technology and Innovations Working Group** was tasked with examining the types of proceedings that can be conducted remotely, whether there are any legislative changes needed to support that effort, and whether there are additional equipment needs, as well as identifying innovations in court scheduling and operations. The working group was comprised of the following members:

- The Honorable Chuck Henry, District 4 Senior Resident Superior Court Judge, Chair
- The Honorable R. Allen Baddour, District 15B Superior Court Judge
- The Honorable Jay Corpening, District 5 Chief District Court Judge
- The Honorable Charles Brown, District 19C Chief District Court Judge
- The Honorable Michelle Ball, Clerk of Superior Court, Johnston County
- Kinsley Craig, District 27B Trial Court Coordinator
- J. Wade Harrison, Attorney at Law, Alamance and Guilford Counties
- JD Keister, Attorney at Law, Wake County
- John M. McCabe, Attorney at Law, Wake County
- Patrick Benton Weede, Attorney at Law, Wake County

Staff to this working group included:

- Anthony Whitmore, NCAOC Chief Technology Officer
- DeShield Greene, NCAOC Court Management Specialist
- Whitney B. Fairbanks, Office of Indigent Defense Services (IDS) Interim Director

3. The **Virus Fatigue Working Group** was tasked with identifying ways that the Judicial Branch can support staff in the field, particularly those working in close contact with the public, and with creating a set of materials and resources for dissemination to those on the front lines. The working group was comprised of the following members:

- Jim Drennan, Professor, SOG, Chair
- The Honorable Teresa Vincent, District 18 Chief District Court Judge
- The Honorable Marsha Johnson, Clerk of Superior Court, Harnett County
- The Honorable Elisa Chinn-Gary, Clerk of Superior Court, Mecklenburg County
- The Honorable Jason Cheek, Magistrate, Davidson County
- Kinsley Craig, District 27B Trial Court Coordinator
- Vernon Sumwalt, Attorney at Law, Mecklenburg County
- Mebane Boyd, New Hanover County Resiliency Task Force

Staff to this working group included:

- Lori Cole, NCAOC Court Management Specialist and Disability Access Coordinator
- Terri Harris, NCAOC Employee Relations / Human Resources Policy Consultant

Each working group held a series of meetings throughout the month of May 2020.



Overview of Recommendations

The Task Force’s immediate recommendations are presented in this report and cover the following topics:

1. Recommendations on case management priorities as the North Carolina courts phase back to full operations;
2. Recommendations on best safety practices in the courts;
3. Recommendations on technology and court innovations; and
4. Recommendations on combatting virus fatigue in the courts.

The Task Force plans to continue its work over the coming months and to submit additional intermediate and long-term recommendations, including recommendations about the resumption of civil and criminal jury trials, for the Chief Justice’s consideration by the end of June 2020.

INITIAL RECOMMENDATIONS: DEADLINE EXTENSIONS

The Task Force’s initial recommendations about extensions of deadlines for filings and acts to be done in the trial courts were submitted to the Chief Justice on May 8, 2020. Those recommendations are set forth in Appendix A.

RECOMMENDATIONS ON CASE MANAGEMENT PRIORITIES AS COURTS PHASE BACK TO FULL OPERATIONS

The purpose of this section of the Task Force’s report is to provide a sample framework for case management for local courts as the Judicial Branch phases back into full operations from the emergency level of operations that existed during the Governor’s “Stay-at-Home” and “Safer-at-Home” orders. This information is intended to help equip local court officials to make informed decisions and to implement new policies as they manage the phased expansion of court operations in the wake of the COVID-19 pandemic.

As noted in numerous parts of this report, there is no one set of rules about case prioritization that can be implemented identically in all 100 counties in the state. Ultimately, the prioritization of specific case types and matters in any individual county or district are decisions that must be made by local court officials through cooperation and communication among themselves. The discussion in this section is intended to offer a framework for local stakeholders as they think through what prioritization will work best in light of their own local circumstances and needs.

Because of the uncertainties surrounding the virus’ progression, the terminology in this section will be expressed in phases of operation that can be adjusted upward or downward by local policy- and



decision-makers, depending on the level of threat and the extent of spread of the virus at any given time.

This section will refer to four phases of operations:

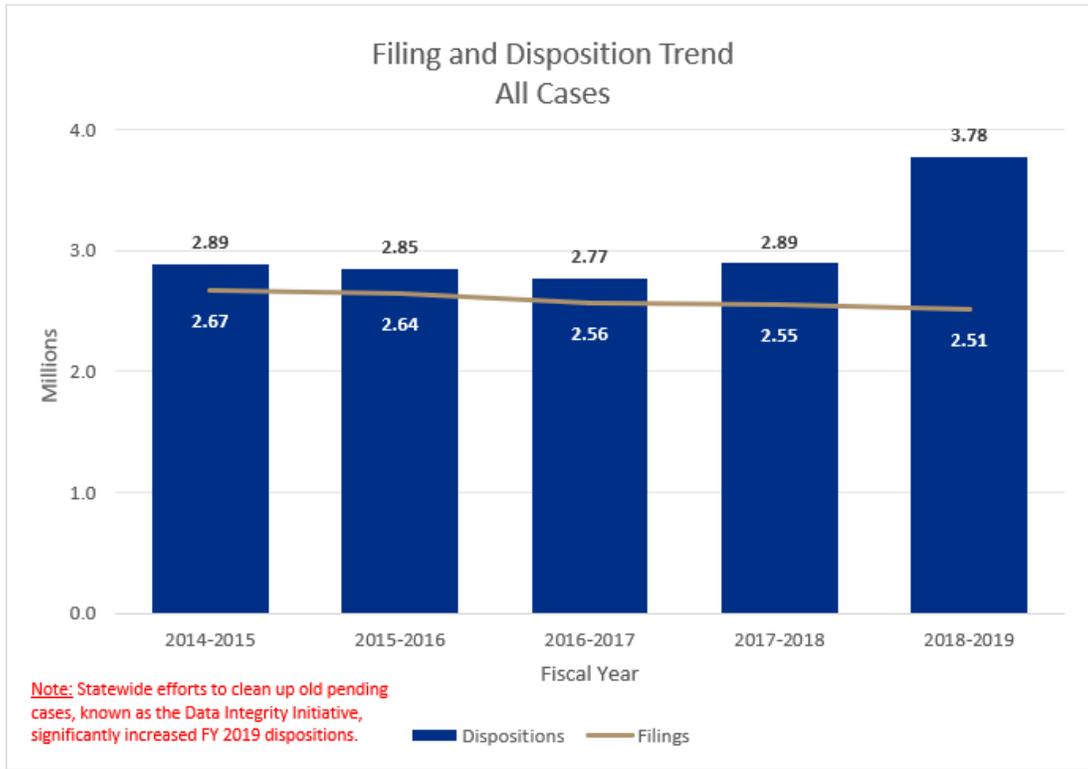
1. **State of Emergency Phase:** This refers to the time period between March and May 2020 when the Governor’s “Stay-at-Home” and “Safer-at-Home” orders were in effect.
2. **Emergency Curtailment Limited Operations Phase:** This refers to the phase of operations that the courts began on June 1, 2020, as local courts began to expand operations with significant limitations on in-person contact, through both a heavy reliance on remote proceedings and strict safety measures for limited in-person proceedings. The length of this phase will depend on the progression of the virus.
3. **Relaxed Social Distancing Phase:** This refers to a more expansive phase of operations where social distancing and other safety measures for in-person proceedings can be relaxed somewhat based on public health guidance. The timing and length of this phase will depend on the progression of the virus.
4. **Return to Full Operations Phase:** This refers to a phase when we have a vaccine against or highly effective treatments for COVID-19 that allow our courts to resume full operations.

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people, as guaranteed by the Constitutions and laws of the United States and North Carolina, by providing a fair, independent, and accessible forum for the just, timely, and economical resolution of their legal affairs. That mission remains constant during the COVID-19 pandemic and thereafter. However, the reality is that court operations have had to be curtailed substantially during the pandemic in order to minimize the danger of infection and transmission of the disease through the types of close physical contact that have become an integral part of court processes in North Carolina and around the country.

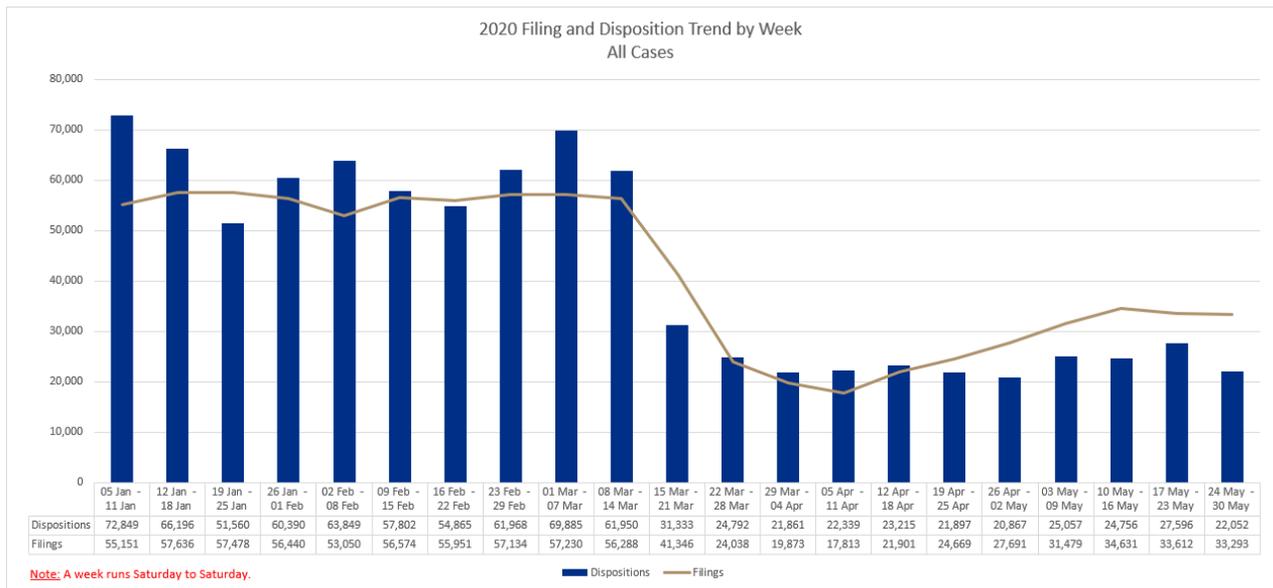
As we move toward resumption of full operations, court officials must continue to focus on the mission of the Judicial Branch, while being mindful of the importance of protecting the safety and health of all those who participate in the judicial process, including court officials and employees, lawyers and litigants, jurors, witnesses, and members of the public who need to visit court facilities. To that end, the Task Force encourages local judicial officials to consider the most current guidance and safety recommendations when evaluating requests for continuances or excusals from appearing in court, and to consider more liberally granting such requests, particularly for high-risk individuals, at least through the Emergency Curtailment Limited Operations Phase.

Prior to COVID-19, the Judicial Branch operated at full capacity, seeking to process high demands on the Branch with finite resources available for operations.





Beginning in March 2020, there was a dramatic decrease in case filings and case dispositions, in both civil and criminal matters.



As we transition back to full operations, the number of case filings can be expected to return to previous levels or greater, given the new societal strains imposed by the pandemic. Unless case dispositions also return to previous levels, there will be considerable backlogs that will develop in pending cases.

Expanding back to full operations will require significant attention to case management by court officials. The Task Force recommends that local court officials adopt a model of case management that employs some degree of triage, taking into account the following considerations:

1. Significant case backlogs have developed due to the limited levels of court operation during the State of Emergency Phase.
2. There likely will be continuing health risks until the threat of exposure is eradicated through vaccines or effective treatments are developed, thereby continuing to make certain types of in-person court proceedings impractical or even impossible.
3. The need for social distancing will continue for an undetermined period of time, and that in turn will create a need for larger spaces for court or fewer people within existing spaces, thereby causing shortages in courtroom space.
4. The application of additional precautions necessitated by current conditions will inevitably slow down court proceedings. As an example, many judges and litigants have found remote hearings through video technology to be a helpful alternative to in-person hearings in court, but they have also learned that these hearings can be more time consuming.
5. The increased competition for courtroom space and increased demands on the time of judges, prosecutors, attorneys, clerks, bailiffs, and other court actors will lead to scheduling conflicts that will need to be resolved.

The Task Force recommends that local court officials approach case management triage based on two primary factors: 1) the classification of proceedings by the level of risk of exposure and transmission, with prioritization given to proceedings that can be handled with little or no risk; and 2) a case priority ranking system based on the relative importance of various proceedings, both as a result of the significance of the rights at issue and in light of external factors, such as the presence of statutory timeframes and the implications for federal funding.

Classification by Level of Risk of Exposure / Transmission

1. Proceedings that involve **low risk** of exposure to infection or transmission of disease are those that do not involve physical contact or close proximity between participants. Examples include proceedings that are conducted remotely, including:
 - Hearings conducted via video conferencing;
 - Depositions conducted via video conferencing;
 - Mediations conducted via video conferencing; and
 - Client interviews (including jail interviews) conducted via video conferencing.

Many of these proceedings have continued during the State of Emergency Phase. Absent a showing of good cause, all such proceedings should continue to be conducted remotely to the fullest extent



possible during the Emergency Curtailment Limited Operations Phase and the Relaxed Social Distancing Phase.

2. Proceedings that involve **medium levels of risk** of exposure to infection or transmission of disease are those that can be accommodated with appropriate social distancing and other safety precautions. Examples include proceedings in which the number of persons in the courtroom can be limited to relatively small numbers or where additional participants, witnesses, and observers can be accommodated through the use of audio or video technology. Examples include:
 - In person hearings in which the courtroom will accommodate all participants and necessary witnesses / observers, while allowing each person to maintain a distance of six feet from every other person;
 - A hybrid of in-person and remote hearings, in which one or more participants and necessary witnesses / observers attends through an audio or video connection; and
 - Grand Jury proceedings conducted in an appropriately large room with social distancing maintained throughout the proceedings.

These proceedings may be conducted, with appropriate social distancing and other safeguards, during both the Emergency Curtailment Limited Operations Phase and the Relaxed Social Distancing Phase.

3. Proceedings that involve **high risk** of exposure to infection or transmission of disease are those in which safe social distancing is not possible due to the size of the courtroom and / or the number of participants. Examples include:
 - Conventional jury trials (i.e., using a “jury box” for a 12-person jury in close quarters and retiring to a small jury deliberation room);
 - Large civil and criminal calendar calls, where large numbers of persons are summoned for the same place at the same time; and
 - Traffic administrative courts, where hundreds of traffic tickets are scheduled for disposition on the same day at the same time, requiring large numbers of people to wait in line for dispositions.

These proceedings can be conducted, at least in a conventional manner, only when the threat of infection and transmission has been eradicated through the development of vaccines and/or effective treatments for the virus. However, these proceedings may be conducted during the Emergency Curtailment Limited Operations Phase and the Relaxed Social Distancing Phase if, through the use of technology and other innovations, local court officials can provide for these proceedings to be conducted in a safe and healthy manner that does not result in close physical proximity between participants or otherwise violate best safety practices and public health guidelines.



Case Priority Ranking System

As noted previously, court officials are likely to experience shortages in courtroom space and competition for those limited resources. For this reason, the Task Force recommends that each county or district adopt a case management plan that also includes an analysis and ordering of all pending cases in the General Court of Justice based on a case priority ranking system. Some of the considerations that might be included in creating such a ranking system are set forth below:

1. The constitutional rights that would be affected by any further delay of the proceeding;
2. Any statutory deadlines for the hearing or disposition of the matter;
3. Any state or federal rules or guidelines that require the hearing or the delay of the matter, including rules that would impact federal funding, such as Title IV-E funding;
4. The significance of the rights and interests at stake in the proceeding, as compared to those in other cases that are scheduled for the same time;
5. The age of the case;
6. The complexity of the proceeding;
7. The need for foreign language or sign language interpreters;
8. The availability or unavailability of courtroom space;
9. The availability or unavailability of the presiding judicial official, lawyers, other needed court staff, parties, and witnesses due to scheduling conflicts;
10. Any other factors that would normally qualify a case for a peremptory setting;
11. If the case will be for trial, the consent of all parties or lack thereof to an immediate trial;
12. If the case will be for trial, whether it is possible to hold a hybrid trial based on the ability to conduct parts of it remotely;
13. The availability of court reporters and / or the ability to record proceedings; and
14. In particular with respect to criminal cases:
 - a. Whether the defendant is being confined while awaiting trial and, if so, whether there are appropriate ways to modify pretrial release conditions to allow the defendant to be released from custody;
 - b. The offense class;
 - c. The number of and reasons for prior continuances;
 - d. Any demand for a speedy trial;
 - e. The likely length of any trial;
 - f. The number of defendants;
 - g. Public safety; and
 - h. Any health issues of the defendant.

In an effort to provide an example of how such a priority ranking system might operate, the Task Force received recommendations from external work groups of multiple stakeholders within the North Carolina Judicial Branch, including the district and superior court judges, the Conference of District Attorneys, the Association for Court Management, and representatives of the civil, criminal, and family law bars. All of the submissions received are attached in Appendix D, and they reflect areas of agreement and disagreement among various stakeholder groups about case priorities.



Combining Risk and Priorities

The Task Force encourages local judicial officials to work together to balance the competing complex concerns as they make decisions about how to expand, with public health and safety serving as the guiding stars. As they conduct this balancing, the Task Force recommends that local court officials ask the following questions with respect to each type of proceeding:

1. Can this proceeding be conducted with little or no risk of exposure / transmission of infection?
2. If not, can this proceeding be modified with the use of technology or innovations to reduce the risk of exposure / transmission to an acceptable level?
3. Is this a proceeding that can be conducted in compliance with public health guidance through the application of current social distancing measures, appropriate personal protective equipment, and other best safety practices?

Task Force members may have differing opinions about the risk of exposure that certain proceedings may present, as well as the prioritization of various case types and matters. Indeed, the consensus of the Task Force is that these types of decisions are best made at the local level, based on the considerations outlined above, because there is no “one size fits all” approach to these issues. However, the Task Force offers the following submission from the court managers as an example of the interplay between the risk of exposure associated with various proceedings and the priority ranking of various matters.

District Court

	Low Risk	Medium Risk	High Risk
Low Priority	<ol style="list-style-type: none"> 1. Bond Forfeiture 2. Expunction 	<ol style="list-style-type: none"> 1. Tax Delinquency* 2. Arbitration* 	<ol style="list-style-type: none"> 1. H & I Felonies 2. Jury
Medium Priority	<ol style="list-style-type: none"> 1. Emancipation 	<ol style="list-style-type: none"> 1. Misdemeanor* 2. DWI 3. Traffic* 4. Nonjury* 5. Motions* 6. Divorces* 7. PSS/Alimony* 8. Child Support FAM* 9. Equitable Distribution* 10. TPR 	<ol style="list-style-type: none"> 1. Criminal Admin 2. Citizen-Initiated Comp 3. Child Support (IVD)
High Priority	<ol style="list-style-type: none"> 1. First Appearances* 2. Pleas 3. Judicial Waivers 	<ol style="list-style-type: none"> 1. DV Bond hearings 2. Minor Settlements* 3. Custody* 4. Juvenile A/N/D & Delinquency* 5. IVC hearings* 	<ol style="list-style-type: none"> 1. Felony Probable Cause 2. Drug Treatment 3. DWI Treatment 4. Veterans Court 5. Probation Violation 6. Small Claims 7. 50B DV Hearings 8. 50C No-Contact Hearings

**remote hearings = lower risk / courtroom hearings = higher risk*



Superior Court

	Low Risk	Medium Risk	High Risk
Low Priority	<ol style="list-style-type: none"> Criminal Non-Jury Trials if Conducted via Webex <hr/> <ol style="list-style-type: none"> Bond Forfeitures if Conducted via Webex 	<ol style="list-style-type: none"> Criminal & Civil Non-Jury Trials if Conducted in Person <hr/> <ol style="list-style-type: none"> Bond Forfeitures if Conducted in Person <hr/> <ol style="list-style-type: none"> Gun Permit Denial Appeals Conducted in Person 	<ol style="list-style-type: none"> Misdemeanor Appeals <p><i>Option to waive jury trial if Judge agrees.</i></p>
Medium Priority	<ol style="list-style-type: none"> Guilty Pleas: Not in Custody Cases Conducted via Webex <p><i>Contingent upon connection capability and Wi-Fi.</i></p> <p><i>Potential need for public computers for SLRs to use for Webex purposes.</i></p> <hr/> <ol style="list-style-type: none"> Civil Administrative Sessions / Civil Case Management Conducted via Webex <p>(i.e. trial date assignment, status hearings, etc.)</p> <hr/> <ol style="list-style-type: none"> Swearing-In of New Attorneys and Judges Conducted via Web-Ex <hr/> <ol style="list-style-type: none"> Completion of Mediation via Web-Ex 	<ol style="list-style-type: none"> Guilty Pleas: Not in Custody Cases Conducted in Person <hr/> <ol style="list-style-type: none"> Specialty Courts Conducted in Person <p>(i.e. drug court/90-96 hearings, Veterans treatment court, etc.)</p> <p><i>More staffing involved from various offices/resources for these types of hearings.</i></p> <hr/> <ol style="list-style-type: none"> Appeals from the Clerk Conducted in Person <p>(i.e. foreclosures, incompetency, etc.)</p> <hr/> <ol style="list-style-type: none"> Administrative Appeals Conducted in Person <p>(i.e. EEOC, Long Term School Suspensions, etc.)</p> <hr/> <ol style="list-style-type: none"> Completion of Mediation in Person 	
High Priority	<ol style="list-style-type: none"> Criminal Administrative Sessions / Criminal Case Management Conducted via Webex <p>(i.e. Bond Hearings, Motions to Suppress, Status Reviews, Setting of Trial Dates & Rule 24 Hearings, etc.)</p>	<ol style="list-style-type: none"> Criminal Administrative Sessions / Criminal Case Management Conducted In-Person <p><i>Extradition matters and capital murder cases will not be eligible for hearings via Webex.</i></p> <hr/>	<ol style="list-style-type: none"> Criminal & Civil Jury Trials <p><i>Requirement of 12 Jurors in Addition to Alternate Jurors in Criminal / Civil Trials Can Agree to Less</i></p>



	Low Risk	Medium Risk	High Risk
High Priority	<p>2. First Appearances Conducted via Webex</p> <p><i>Contingent upon jail facility connection, Wi-Fi and AOC laptop availability for Webex.</i></p>	<p>2. Probation Violations for In-Custody/Jail Cases Conducted In-Person</p>	<p>2. Hearings on Writs of Habeas Corpus</p>
	<p>3. Probation Violations for In-Custody / Jail Cases Conducted via Webex.</p> <p><i>Contingent upon jail facility connection, Wi-Fi and AOC laptop availability for Webex.</i></p>	<p>3. Probation Violations for Not in Custody Conducted in Person</p> <p><i>Probation officer who makes field visit may be an additional factor in being present/in attendance of hearing may be a contributing factor of a Webex hearing being conducted.</i></p>	<p><i>If coming from DOC, additional exposure risk and several moving parts/personnel involvement required. Special care and PPE should be provided to any individual arriving from DOC facilities to local detention centers.</i></p>
	<p>4. Probation Violation Hearings Conducted for Defendants Not in Custody via Webex</p> <p><i>Probation officer who makes field visit may be an additional factor in being present for hearing to be conducted.</i></p>	<p>4. PV Arrest Review / Probable Cause Hearing Conducted in Person</p>	<p>3. Will Caveats</p> <p><i>Treated as jury trial matters. Cannot be treated as non-jury trial. Receives priority over all other cases.</i></p>
	<p>5. PV Arrest Review / Probable Cause Hearing Conducted via Webex</p> <p><i>Contingent upon jail facility connection, Wi-Fi and AOC laptop availability for Webex.</i></p>	<p>5. Guilty Pleas: In-Custody/Jail Cases Conducted in Person</p>	<p>4. Facial Constitutional Challenges to Acts of the General Assembly</p>
	<p>6. Guilty Pleas: In-Custody/Jail Cases Conducted via Webex</p> <p><i>Contingent upon jail facility connection, Wi-Fi and AOC laptop availability for Webex.</i></p>	<p>6. Guilty Pleas: Not in Custody Cases Conducted in Person</p>	<p>(i.e. Three (3) Judge Panel Cases)</p> <p><i>Additional Judges, staffing, media, attendees, etc. than a regular court setting.</i></p>
	<p>7. Guilty Pleas: Not in Custody Cases Conducted via Webex</p>	<p>7. Criminal Motions if Conducted in Person for Matters that Cannot be Completed via Webex</p> <p>(i.e. capital cases, extradition matters, etc.)</p>	
			<p>8. Grand Jury</p> <p>9. Innocence Commission Referred Cases</p> <p>10. Sex Offender Registry Hearings</p> <p><i>Offenders may not be allowed to be "online" or have limitations concerning online usage, thus eliminating any online resolution method.</i></p>



	Low Risk	Medium Risk	High Risk
High Priority	<p><i>Contingent upon connection capability and Wi-Fi.</i></p> <p><i>Potential need for public computers for SLRs to use for Webex purposes.</i></p> <hr/> <p>8. Motions if Conducted via Webex in Criminal Matters</p> <p>(i.e. pre-trial/dispositive, suppression matters, bond issues, in camera reviews, etc.)</p> <hr/> <p>9. Review & Issuance of Search Warrants if Completed via E-Mail</p> <p><i>Sworn by Web-Ex or FaceTime.</i></p> <hr/> <p>10. Review & Issuance of Law Enforcement Officer Orders (Phone Orders) if Completed via E-Mail</p> <p><i>Sworn by Web-Ex or FaceTime.</i></p> <hr/> <p>11. Settlement Approvals Conducted via Webex</p> <hr/> <p>12. Civil Motions Conducted via Webex</p> <p>(i.e. emergency, contempt, TROs, BCR 9.3 case management conferences, BCR 10.9 discovery disputes, NCBC status conference, etc.)</p> <hr/> <p>13. Petitions for Release of Law Enforcement Agency Recordings Conducted via Webex</p>	<p>11. Review & Issuance of Search Warrants if Completed in Person</p> <hr/> <p>12. Review & Issuance of Law Enforcement Officer Recordings if Completed in Person</p> <hr/> <p>13. Motions for Appropriate Relief / Evidentiary Hearings Conducted in Person</p> <p><i>If coming from DOC, additional exposure risk and several moving parts/personnel involvement required. Special care and PPE should be provided to any individual arriving from DOC facilities to local detention centers.</i></p> <hr/> <p>14. Civil Non-Jury Trials Conducted in Person</p> <p><i>Webex Non-Jury civil trials are being reported as not favorable by many local attorneys; however, in some instances depending on the legal landscape of the issues involved, Webex may be a viable option for bench trials.</i></p> <hr/> <p>15. Settlement Approvals Conducted in Person</p> <hr/> <p>16. Petitions for Release of Law Enforcement Agency Recordings Conducted in Person</p> <p><i>Statutory priority under N.C.G.S. 132-1.4A(f): petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and shall be accorded priority by the court.</i></p> <hr/> <p>17. Swearing-In of New Attorneys and Judges Conducted in Person</p>	



	Low Risk	Medium Risk	High Risk
High Priority	<p><i>Statutory priority under NCGS 132-1.4A(f): petitions filed pursuant to this subsection shall be set for hearing as soon as practicable and shall be accorded priority by the court.</i></p> <hr/> <p>14. Swearing-In of New Judges and Attorneys Conducted via Webex</p> <p><i>SL 2020-3 permits swearing in of attorneys remotely.</i></p>	<hr/> <p>18. Judicial Review of State Board Decisions Conducted in Person</p> <p>(i.e. Appeal of County Commission Decisions/Rulings, appeal of State Board of Elections decision, etc.)</p>	

Resolving Conflicts—Rule 3.1

Rule 3.1 of the General Rules of Practice is designed to resolve scheduling conflicts when attorneys have commitments in more than one court. The Task Force members believe that local communication and cooperation will be essential to resolving conflicts concerning courtroom space and case prioritization. However, Rule 3.1 is recommended as an effective tool that may be used for guidance in resolving conflicts over courtrooms and other courthouse facilities, as well as court personnel, during the upcoming time of expected shortages.

RECOMMENDATIONS ON BEST SAFETY PRACTICES

The Task Force recommendations in this section of the report should not be construed as binding or authoritative, and they are not required to be implemented in a specific district or county. The purpose of these recommendations is to provide guidance and information to the Chief Justice and to the local court officials who retain discretion to implement any practice(s) set forth in this document or otherwise identified. These recommendations are subject to change as the [CDC](#), the [North Carolina Department of Health and Human Services](#) (NCDHHS), and local health officials alter their guidance based on new research and evidence regarding the transmission and prevention of the virus. Local court leaders should be prepared to make changes to their plans, accordingly.

COVID-19 Facility Coordinators

Pursuant to Emergency Directives 11, 13, and 16 of Chief Justice Beasley’s [May 21, 2020 order](#), each senior resident superior court judge shall serve as or designate a COVID-19 coordinator for each facility in his or her district. In districts with more than one court facility, the same coordinator may be designated for multiple facilities.



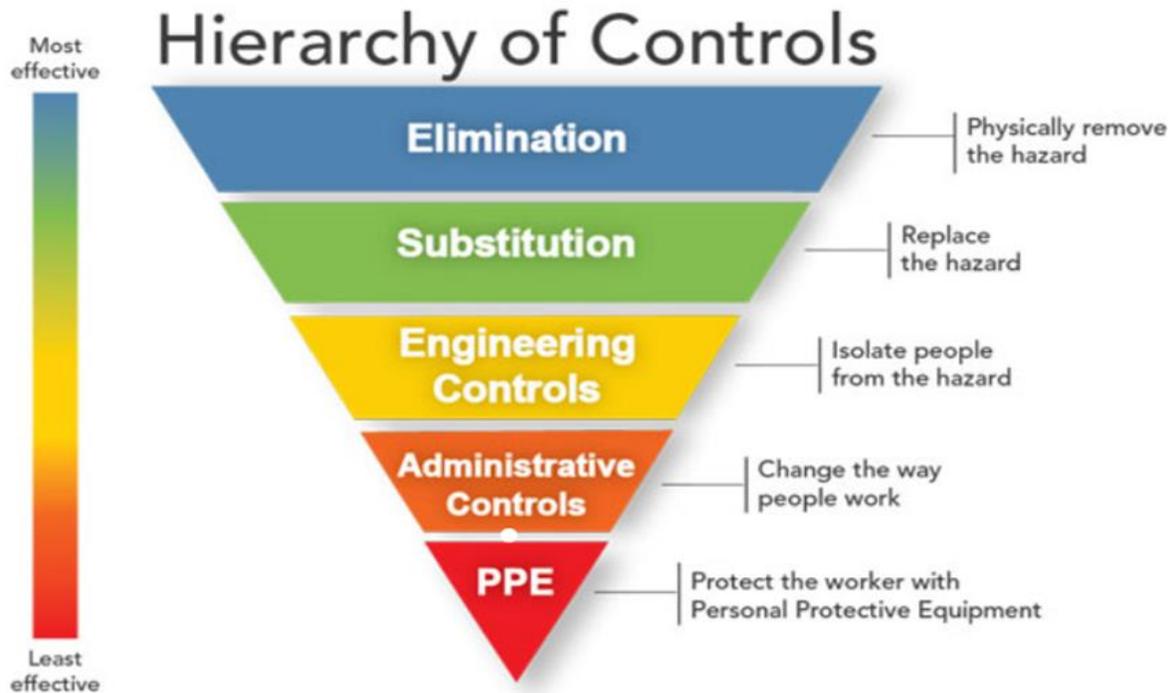
Before any court calendar is published or distributed, the COVID-19 coordinator must ensure that:

1. each session of court, either individually or when considered collectively with other planned sessions of court, will not result in members of the public sitting or standing in close proximity and / or for extended periods of time in contravention of current public health guidance; and
2. all Judicial Branch personnel assigned to a courtroom for more than thirty minutes will have a facemask made available prior to the session of court.

For sessions of court for which calendars have already been distributed, the COVID-19 coordinator must make such assurances before the session of court begins.

Hierarchy of Controls

Controlling exposure to hazards for occupants of a building is fundamental to protection. The hierarchy of controls is an effective means to implement safe control measures in workplaces and is the basis for many of the recommendations in this section to help prevent the spread of COVID-19 within court facilities. The control methods at the top of the hierarchy are more effective and protective than those at the bottom, and the Task Force recommends that local court officials consider using a combination of available control methods. Because judicial officials cannot physically remove the hazard (elimination control) or replace the hazard (substitution control), the recommendations contained in this section are based on the three remaining controls: engineering, administrative, and personal protective equipment.



Source: <https://www.cdc.gov/niosh/topics/hierarchy/default.html>



1. Engineering Controls

- Designed to isolate employees from hazards before contact with the hazard, without relying on employee behavior.
- Examples: Physical barriers such as plexiglass (sneeze-guards), drive-through service, signage, hand sanitizer in high-traffic areas, rope barriers to control crowd flow, enhanced cleaning and disinfecting, and limiting badge access to immediate working areas.

2. Administrative Controls

- Action by the hiring authority or employee through changes to policies and procedures.
- Examples: Teleworking, staggered shifts and hearings, online training, requiring sick employees to stay home, and non-punitive sick leave policies.

3. Personal Protective Equipment

- Used to prevent individual worker exposure.
- Examples: gloves, goggles, masks, and face coverings.

Courthouses and Other Court Facilities

1. Occupancy Thresholds for Courthouses and Courtrooms

- Currently, public health officials are not aware of courthouse specific guidance and suggest looking toward recommendations for similar settings with regard to duration and types of exposure that are expected to occur in the facility.

2. Social Distancing

“Social distancing means avoiding [large gatherings](#) and maintaining distance (at least 6 feet or 2 meters) from others when possible. Strategies that businesses could use include:

- *Allowing flexible worksites (such as telework)*
- *Allowing flexible work hours (such as staggered shifts)*
- *Increasing physical space between employees at the worksite*
- *Increasing physical space between employees and customers (such as a drive-through and partitions)*
- *Implementing flexible meeting and travel options (such as postponing non-essential meetings or events)*
- *Downsizing operations*
- *Delivering services remotely (e.g., phone, video, or web)*
- *Delivering products through curbside pick-up or delivery”*

Source: <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

- The general guidance of six feet for social distancing is for casual interactions between individuals for less than 10 minutes, and one hour is considered a prolonged period of time. Issues such as air flow within the facility, use of masks / face coverings, and individuals coughing or sneezing will vary and affect the safety of all.



3. Cleaning and Disinfecting

“Current evidence, though still preliminary, suggests that SARS-CoV-2, the virus that causes COVID-19, may remain viable for hours to days on surfaces made from a variety of materials. It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.

If the machinery or equipment in question [is] not accessible to employees or have not been in contact with someone infected with COVID-19, they will not present an exposure hazard.

If machinery or equipment are thought to be contaminated and can be cleaned, follow the [CDC cleaning and disinfection recommendations](#). First clean dirty surfaces with soap and water. Second, disinfect surfaces using [products that meet EPA’s criteria for use against SARS-Cov-2](#) and are appropriate for the surface.

If machinery or equipment are thought to be contaminated and cannot be cleaned, they can be isolated. Isolate papers or any soft (porous) surfaces for a minimum of 24 hours before handling. After 24 hours, remove soft materials from the area and clean the hard (non-porous) surfaces per the cleaning and disinfection recommendations. Isolate hard (non-porous) surfaces that cannot be [cleaned and disinfected](#) for a minimum of 7 days before handling.”

Source: <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

4. Signage

- Courts should post clear signage regarding safety practices. See [NCAOC court facility signage examples](#).
- Suggested locations for signs include:
 - Entrance doors;
 - Main lobbies;
 - Breakrooms;
 - Bathroom doors;
 - Meeting rooms;
 - Elevators; and
 - Floor markers (where lines may form).
- COVID-19 posters and other resources created by NCAOC’s Communications Division are being translated into North Carolina’s top languages (Spanish at a minimum), and posted online for use, as applicable, by all courts. NCAOC will not translate local signage unless local funds have been identified to pay for the translation services.

5. Entrances

- Security screening queues should be marked for social distancing using engineering controls.
- Provide and mark outside waiting areas for overflow lines while enforcing social distancing.
- High-touch areas such as door handles, buckets at security screening, etc. should be cleaned on a regular frequent basis.
- Hand sanitizer stations should be installed near entrances, elevators, and courtrooms.



- Consider tracking / logging people who enter facilities for contact tracing:
 - Who would do it? How would you keep it private?
 - How will the information be used?
 - Note that paper sign-in sheets may increase risk of contamination.

Note: Evidence-based advice is in conflict with respect to both tracking / logging people who enter facilities and temperature / health screenings, so local officials should consider these possibilities in light of local data and guidance from local public health officials.

6. Temperature or Health Screenings: Visitors / Public

- Consider the following, which may require legal guidance from NCAOC's Office of General Counsel:
 - Who is permitted to administer the health screening (e.g., must it be a health professional or can it be a law enforcement officer)?
 - If the person must answer questions, what do you do with the information / questionnaire?
 - Privacy / HIPAA concerns if personally identifiable health information is maintained and stored as a result of the screening process.
 - Note that walking from a car to the building on a hot day can increase body temperature and cause false high temperature checks. Consider how long to wait before allowing a person to rescreen.
- When a person is required to come to court, what if they refuse the screening?
- Where do you put the person while you determine how best to accommodate or provide services?

7. Public Service Counters

- Install plexiglass barriers at the counter between the court personnel and the public.
- Mark where individuals who are waiting should stand.
- Pens should be cleaned between use, if shared.
- Consider other engineering controls, such as providing curbside service for some tasks.

8. Office, Lobby, and Hallways

- Limit the number of people permitted in the space, following current social distancing guidelines, and clearly mark where individuals should sit or stand while waiting.
- Design pathways / one-way lanes to limit traffic in narrow areas.

9. Bathrooms

- There is no CDC guidance to limit bathroom capacity:
 - The barriers in stalls should prevent spread of respiratory droplets.
 - Washing hands next to another person for 20 seconds does not meet the definition of close contact.
- Confirm that all sinks have running hot water.
- Ensure soap and paper towels are checked and filled regularly.
- Use signage to encourage social distancing and proper handwashing.



10. Water Systems

- Stagnant or standing water in a plumbing system can increase the risk of growth and spread of *Legionella* and other biofilm-associated bacteria. Local court officials should work with their facilities' management to ensure that the water system is safe to use after a prolonged shutdown to minimize the risk of Legionnaires' disease and other diseases associated with water.
- See [CDC's COVID-19 Guidance for Building Water Systems](#).

11. Water Fountains and Ice / Drink Machines

- Should be cleaned and disinfected regularly, particularly high-touch areas like buttons.

12. Lactation Rooms

- Should be sanitized on a regular frequent basis.

13. Elevators

- Encourage or require masks / face coverings. Note that ADA Accommodations may need to be made if masks / face coverings are *required*.
- Encourage use of stairs.
- Mark for social distancing and limit the number of people permitted to ride at a time.
- Clean buttons frequently.

14. Meeting Rooms

- Arrange tables and chairs to ensure at least a six-foot distance between meeting attendees, not to exceed maximum occupancy based on social distancing.
- Remove white board pens and erasers; if needed, people should bring their own and take them when they leave.
- Those using rooms should bring pens as needed.
- Table tops should be sanitized on a regular frequent basis.
- Conference phones should be sanitized on a regular frequent basis.

15. Recirculating Air / HVAC

- Spread of COVID-19 through ventilation systems is not likely because respiratory droplets cannot travel long distances.
- Installing HEPA filters is not recommended due to the high cost, short service life, and incompatibility with existing equipment.
- Each local court will need to have these concerns addressed by local county representatives as to the capacity of each facility to ensure safe interior air quality.



“The risk of spreading the virus that causes COVID-19 through ventilation systems has not been studied, but is likely low. Routine HVAC maintenance is recommended. Although it is never the first line of prevention, consider general ventilation adjustments in your workplace, such as increasing ventilation and increasing the amount of outdoor air used by the system. Maintain the indoor air temperature and humidity at comfortable levels for building occupants.”

Source: <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

16. Trash Receptacles for Masks and Gloves

- Use no-touch trash receptacles and include hand sanitizer near trash receptacles so people can perform hand hygiene after removing personal protective equipment.

Court Personnel

1. Employees who Interact with the Public

“To keep your employees safe, you should:

- *Consider options to increase physical space between employees and customers such as opening a drive-through, erecting partitions, and marking floors to guide spacing at least six feet apart.*
- *At least once a day [clean and disinfect](#) surfaces frequently touched by multiple people. This includes door handles, desks, phones, light switches, and faucets.*
- *Consider assigning a person to rotate throughout the workplace to clean and disinfect surfaces.*
- *Consider scheduling handwashing breaks so employees can wash their hands with soap and water for at least 20 seconds. Use hand sanitizer that contains at least 60% alcohol if soap and water are not available.*
- *Consider scheduling a relief person to give cashiers and service desk workers an opportunity to wash their hands.”*

Source: <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

2. Shared Equipment and Supplies

- Individuals should minimize the passing of fomites. (A fomite is any inanimate object that, when contaminated with or exposed to infectious agents, can transfer disease to a new host, or more simply, a non-living object that can transmit infection.) Although there is not a lot of data on how long the virus lives on surfaces, including paper, this would include papers and pens that normally would be passed back and forth in court transactions and interactions. Individuals should wash their hands after contact with fomites before touching anything else.
- Shared equipment should be cleaned regularly (e.g., copiers and printers). [NCAOC Technology Services Division’s guidance on cleaning equipment](#) is available on Juno.

3. Mail and Other Documents

- Assign a point person in each office to receive paperwork.
- Utilize inter-office mail and minimize personal delivery.



4. Employee Health Information and Screenings

- Advise employees not to report to work if they have symptoms of COVID-19.
- Provide written information for employees to stay home if they are ill.
- Facilities should have a flexible and non-punitive sick leave policy and should ensure that all employees are aware of this policy.
- Post signage on building entrances to raise awareness.
- If implementing a health screening for employees, these records, if reported in writing, must be retained for the duration of the workers' employment plus 30 years. See 29 CFR § 1910.1020 (OSHA's Access to Employee Exposure and Medical Records Standard). In addition, both the Americans with Disabilities Act and the Family Medical Leave Act require that the records be treated confidentially and maintained separately from personnel files.

5. Staggered Shifts

- Hiring authorities should determine the best options for their local employees.
- Options may include a team concept (Team A / Team B), flexible work hours, etc., as well as rotation of employees between telework and physical work onsite.
- Managers should consider seating arrangements such as checkerboard seating. Ensure all seats are six feet apart in all directions.

6. Employee Breakrooms

- Breakrooms should remain open for individual use and access to refrigerator / microwave.
- Signage should be posted about maintaining social distancing and proper handwashing.
- Table tops and other surfaces should be cleaned on a regular frequent basis.
- Consider removing some tables and chairs to enforce social distancing.

7. Employee Meetings, Social Gatherings, and Visits

- Minimize in-person meetings and encourage remote meetings (ensure proper bandwidth for virtual meetings and hearings).
- In-person social gatherings (e.g., birthday celebrations, retirement parties, and baby showers) should be prohibited until it is determined they are safe to have.
- Encourage use of email and telephone for communication.
- Employees are encouraged not to have social visitors in the office.
- Consider a policy on bringing children into the office.

8. Communications and Training to Court Personnel

- Local court leaders and hiring authorities are strongly encouraged to share information with personnel so they know that their safety is paramount.
- General information for all employees should be shared by all hiring authorities in a timely manner.



- The Judicial Branch should provide training regarding how to put on / take off personal protective equipment.

In-Person Court Proceedings

Pursuant to the Chief Justice’s Emergency Directives, no session of court may be scheduled if doing so would result in members of the public sitting or standing in close proximity and / or for extended periods of time in contravention of current public health guidance, and judicial officials should continue to make use of remote hearing technology to the greatest extent possible to limit in-person appearances.

If local court officials determine that in-person court proceedings may be scheduled pursuant to the [Chief Justice’s Emergency Directive 11](#), they should implement a combination of engineering controls, administrative controls, and personal protective equipment, such as:

1. Maximum safety occupancy shall be posted ([Emergency Directive 12](#)).
2. Public seating shall be clearly marked for social distancing of six feet in all directions ([Emergency Directive 12](#)).
3. All Judicial Branch personnel assigned to a courtroom for more than thirty minutes should have a facemask made available prior to the session of court ([Emergency Directive 13](#)).
4. Stagger start and break times when there are multiple courtrooms operating.
5. Schedule appointment times for hearings.
6. Divide high-volume calendars into multiple courtrooms by last name.
7. Ask that only the person required to be in court appear and that all other individuals (e.g., family, friends, and children) remain outside the courthouse facility while socially distanced, or encourage these individuals to stay home or wait in vehicles.
8. Eliminate in-person calendar calls and require calendar calls that must take place to be done remotely via Webex.
9. Assign the same court personnel to work with the same judge in the same courtroom (less rotation to reduce spread).
10. Install physical barriers (plexiglass) in front of the judge and / or courtroom clerk.
11. Encourage materials for the hearing, such as briefs and memoranda, to be submitted electronically to the court prior to the hearing and discourage hard copies unless they are required to be in the court file.
12. Designate separate doors as “entrance only” and “exit only” to control the flow of traffic in tight doorways.
13. Permit the use of door stops, when not violative of fire and safety codes, to minimize frequent touching of doors into and out of the courtrooms.
14. Designate a single person to retrieve documents from counsel and parties and deliver them to the presiding judge or clerk (e.g., a bailiff).
15. Instruct counsel and parties not to approach the presiding judge or clerk unless directed by the court and only when wearing a mask / face covering.
16. Instruct defense counsel to wait behind the bar and to approach the prosecutor’s table only when directed to do so (i.e., do not crowd the prosecutor’s table).
17. Affirm oaths; inform people that they must bring their own Bible if they wish to swear on the Bible.



18. Minimize the passing of objects, including papers and pens, that normally would be passed back and forth in court transactions and interactions. Individuals should wash their hands after contact and before touching anything else. Pens should be cleaned between use, if shared.
19. Provide cleaning wipes at counsel tables to wipe surfaces, if available. Encourage attorneys and parties to bring their own wipes to clean tables.
20. Encourage all participants to follow the [CDC guidelines](#) on how to protect themselves from COVID-19.

Additional considerations for in-person court proceedings include:

1. With respect to **attorney-client communication and interactions** when social distancing is not possible, consider plexiglass partitions, masks / face coverings, and / or headsets and microphones (must be a private connection).
2. **Interpreters:**
 - Disposable gloves and disinfecting wipes or alcohol prep pads should be provided in order to allow for safe handling and disinfection of interpreting equipment.
 - To allow for social distancing, court interpreters must be required to provide and use remote wireless interpreting equipment for all in-person events. Alternatively, interpreters and limited English proficient (LEP) parties should be allowed to bring their mobile phones into the courtroom to be used in lieu of interpreting equipment. This would allow the interpreter to create a direct audio connection to the LEP party, thus avoiding any physical handoff of equipment.
 - Interpreters must disinfect interpreting equipment before and after use.
 - Interpreters must sanitize equipment in front of the LEP party before handing it to the party.
 - If the use of equipment or mobile phone is not practical or allowed, especially in brief proceedings, the interpreter must be allowed to maintain physical distancing from the LEP party and to interpret in the consecutive mode loudly enough to be heard.
2. **Witnesses:**
 - Encourage remote appearances, when permitted by law.
 - Consider alternate locations for witnesses, such as a jury box, to effectuate social distancing from the bench.
 - Provide tissues and hand-sanitizer at the witness stand.
3. **Court Reporters:**
 - Social distancing should be clearly marked and enforced around the court reporter's station / desk in the courtroom.
 - If the witness or clerk sits above the court reporter, consider moving the witness or court reporter to another location in the courtroom (e.g., jury box) to minimize the droplets spread through coughing, talking, breathing, etc.
 - Equipment should be cleaned frequently.
 - Permit the court reporter to appear remotely via Webex when possible.
 - Be cognizant of court reporters using the voice writing method as they may not be able to wear a mask / face covering while in court.



4. Weddings:

- Limit the number of observers (two witnesses are required).
- Conduct in-person ceremonies outside, enforcing social distancing.
- Consider permitting observers to appear remotely (e.g., via cell phone or FaceTime).
- Limit the days and times available for weddings to be performed.

5. Ensure that courts safely remain open to the **public and press**:

- Local courts will need to decide who is asked to leave a courtroom if the maximum safe occupancy is reached.
- Consider administrative orders regarding the number of credentialed press permitted and utilizing pool feeds to help minimize the number of individuals in a courtroom while also keeping the courts open.
- Consider permitting remote observation of in-person court proceedings to minimize the number of individuals entering a court facility while keeping the courts open.

Personal Protective Equipment

The Occupational Safety and Health Administration (OSHA) defines personal protective equipment (PPE) as specialized clothing or equipment worn by an employee for protection against infectious materials. PPE is the least effective control method for preventing the spread of disease, and it must be worn correctly by everyone to be most effective. Proper training is essential for the effective use of PPE.

“CDC does not recommend the use of PPE in workplaces where it is not routinely recommended. Facilities can use the [hierarchy of controls](#), such as administrative, and engineering controls – these strategies are even more effective at preventing exposures than wearing PPE.”

Source: <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

1. Masks / Face Coverings

Note: Evidence-based advice is in conflict with respect to masks / face coverings, so local officials should consider this possibility in light of local data and guidance from local public health officials.

“CDC recommends [wearing cloth face coverings](#) in public settings where other social distancing measures are difficult to maintain, especially in areas of significant community transmission. Cloth face coverings may prevent people who don’t know they have the virus from transmitting it to others. These face coverings are not surgical masks or respirators and are not appropriate substitutes for them in workplaces where masks or respirators are recommended or required.”

Source: <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>

- If masks are not used correctly, they can increase an individual’s risk of exposure (e.g., facial hair can decrease the effectiveness of a mask).
- If N95 masks will be used, all users must be fit-tested and the facility must have a respiratory protection program in place, per NCDHHS.
 - Review [CDC guidance on fit testing](#).



- Review [CDC guidance on respiratory protection programs](#), which are designed for hospitals, but these procedures need to be in place if N95 masks will be used.
- Strongly encourage everyone entering a court facility to wear a mask or face covering. If a person does not have a mask / face covering or refuses to wear one, consider the following:
 - If the person is required to be in court, how do you ensure they are not called and failed? How do you assign a new court date and notify all parties?
 - Will you provide a mask / face covering for individuals seeking emergency relief (e.g., domestic violence protective orders or workplace violence)?
 - Will you prioritize who is given a mask / face covering and how?
 - Will your local court security enforce the policy?
- Encourage or require masks / face coverings to be worn by employees in common areas (e.g., hallways, restrooms, elevators, break rooms, and lobbies) and where two or more people are gathered and where a six foot or greater distance, in all directions, cannot be maintained.
 - Exception: When an employee has a health condition and a health-care professional certifies in writing that the wearing of a mask / face covering would be detrimental to that employee's health, and that certification is provided to the appropriate hiring authority.
- Masks should be changed if they are dirty or contaminated or wet from breath. There is no specific time limit for wearing a mask; the guidance is based on the state of the mask, not how long it is worn.
- Supply chain considerations:
 - Masks should be provided to employees by the Judicial Branch with distribution coordinated by the hiring authority.
 - If masks will be distributed to the public, court officials need to plan ahead for supply chain issues and limited resources.

2. Gloves

- Gloves are challenging because many people are not trained properly on their use. Wearing gloves can give someone a false sense of security and often leads to unintentional cross-contamination (e.g., the wearer touches an object and then touches their face).
- Hiring authorities should follow [CDC guidance for businesses around PPE use](#), including gloves.
- If gloves are used, [education should be provided](#) about how to use them safely (e.g., do not touch face, change gloves if torn or soiled, and remove safely and wash hands afterward).

Note: Evidence-based advice is in conflict with respect to gloves, so local officials should consider this possibility in light of local data and guidance from local public health officials.

References and Resources

- [National Institute for Occupational Safety and Health Hierarchy of Controls](#)
- [CDC Cleaning and Disinfecting Guidelines](#)
- [CDC Information on Cloth Face Coverings](#)
- [CDC Poster on Cloth Face Coverings](#)
- [CDC Poster on Wearing and Taking Off Cloth Face Coverings](#)



- [CDC Poster for People with Symptoms of COVID-19](#)
- [CDC Information for People at Higher Risk](#)
- [CDC Business FAQs](#) (includes information on temperature checks and ventilation systems)
- [CDC Workplace Decision Tool](#)
- [Orders of the Chief Justice and the Supreme Court Related to COVID-19](#)
- [Judicial Branch COVID-19 Task Force](#)

Information from NCAOC Human Resources Division is available on Juno.

RECOMMENDATIONS ON TECHNOLOGY AND COURT INNOVATIONS

The Technology and Innovations Working Group was tasked with examining the types of proceedings that can be conducted remotely, whether legislative changes are needed to support that effort, and whether there are additional equipment needs, and with identifying innovations in court scheduling and operations based on technology. Based on the Working Group’s recommendations, the Task Force makes the following recommendations to the NCAOC, the Chief Justice, and local court officials for their consideration for immediate implementation.

The Task Force plans to issue additional intermediate and long-term recommendations after this report is submitted. At this time, the Task Force notes that NCAOC is currently developing an eCourts Integrated Case Management System (ICMS) that will enable all case types to be handled electronically from filing to disposition, thereby expanding access to the courts for all North Carolinians. The COVID-19 pandemic has highlighted the critical need for our courts to move away from paper and toward electronic management of our caseload, and the Task Force urges the General Assembly to fully fund this important and timely initiative. Particularly in light of the NCAOC resources that are currently dedicated to ICMS implementation, the Task Force understands that there may be technological or resource barriers to implementing some of the following immediate recommendations.

1. Encourage clerks to exercise their existing authority to enter judgment in absolute divorces and to enter judgment based on the pleadings, when possible.
2. Continue to authorize electronic signatures and remote affirmations for witnesses for issuance of search warrants, and on any judicial order issued following a court hearing conducted by remote audio or visual transmission in a civil or criminal case.
3. Continue to authorize / expand the following remote civil proceedings with or without consent of a party:
 - a. All motions;
 - b. Minor settlements;
 - c. Bench trials;
 - d. Juvenile matters (abuse / neglect / dependency and delinquency); and
 - e. All family law matters.
4. Continue to authorize / expand the following remote criminal proceedings:
 - a. First appearances / address counsel;
 - b. Bond hearings;



- c. Motions to continue;
 - d. Pre-trial motions;
 - e. Plea conferences (including rejections of pleas);
 - f. Pleas; and
 - g. Probation violations.
5. Continue to authorize / expand remote hearing of all matters before the clerk of superior court, including but not limited to:
 - a. Incompetency and guardianships;
 - b. Foreclosures;
 - c. Private condemnations;
 - d. Estate matters;
 - e. Partitions; and
 - f. Claim and delivery hearings.
 6. Address logistical issues for conducting remote hearings in small claims matters.
 7. Authorize district court ordered arbitration hearings to be held in a location other than the courthouse¹ and for arbitration hearings to be held remotely.
 8. Require, absent a showing of good cause, remote mediations for superior court matters as well as district court family financial matters.² In-person mediations can be held if social distancing can be observed and upon consent of all parties or order of the court.
 9. Recommend that the chief district court judges require / order that custody mediation orientations and custody mediation sessions be held remotely via Zoom technology.³ Safety concerns should continue to be considered for parties entering into mediation to discuss co-parenting. The parties retain the right to request a waiver of mediation, pursuant to N.C.G.S. § 50-13.1(c).
 10. Recommend that the court conduct chambers conferences remotely, even absent consent of a party.
 11. Consistent with existing statutes and case law, encourage courts to render orders without a hearing when they may be made based on affidavits, verified motions, and written argument.
 12. Recommend convening the chief district court judges to consider expanding the list of waivable offenses in criminal matters.
 13. Highlight the use of N.C.G.S. § 1A-1, Rule 53 reference for issues in civil cases.
 14. Remind courts to ensure public access to court proceedings held remotely, which may be achieved by providing information on the calendar that interested parties contact the appropriate court personnel to receive a link to the live session.⁴
 15. Require or request that a defendant register for the Court Date Notification System on www.nccourts.gov as a condition of release or when the defendant receives a summons or citation.
 16. Recommend that judges, magistrates, clerks, and other court officials remind defendants and witnesses of the Court Date Notification System. Encourage court staff to obtain the email addresses

¹ If this recommendation is implemented on a long-term basis, it would require an amendment to the Rules of Court Ordered Arbitration.

² This recommendation may require a temporary change to the Dispute Resolution Commission's Rules.

³ Because of the special need for breakout sessions, NCAOC policy allows for custody mediation orientations and sessions to be conducted via Zoom, even though NCAOC does not support the Zoom platform. All other remote proceedings should be conducted via Webex.

⁴ Live streaming video may an intermediate or long-term recommendation.



and phone numbers of defendants, if they consent, for the purpose of contacting them if there is a change to the court schedule.

17. Recommend secure audio / visual communications from all jails and prisons to permit attorney / client communications, as well as remote hearings.
18. Provide attorneys and their clients a private means of communication *during* court hearings.
19. Recommend that senior resident superior court judges survey each county in their districts by June 30, 2020 to determine which jails and correctional facilities have video conferencing capability for attorney / client conferences. If such a capability is not already operational, determine when and if it can be established and an estimate of its cost to the county.
20. Publish a list of audio / visual capabilities of each jail and prison statewide to permit attorneys to communicate with clients in custody in other jurisdictions and to allow counties to easily access defendants in other jurisdictions for remote hearings.
21. Recommend the following changes to calendaring / docketing of court matters:
 - a. Limit the docket size based on courtroom and / or court facility capacity or ability to stage matters to meet social distancing requirements. Counties should work with local health and other county officials to determine social distancing capacities for each courtroom.
 - b. Use morning and afternoon calendars instead of single, day-long calendars. In criminal cases, district attorneys should consider defense attorneys that practice in multiple counties and allow for attorney scheduling to accommodate it (e.g., group cases by attorney blocks).
 - c. Use “time certain” scheduling:
 - i. In a district court traffic setting, schedule only the number of defendants that can safely fit in a courtroom for social distancing at different intervals (e.g., 40 defendants at 9 a.m., 40 at 11 a.m., etc.).
 - ii. If current technology does not permit this practice, the Task Force recommends exploring options for implementing this capability as soon as possible.
 - d. Stage larger volume courts in multiple courtrooms with multiple judges.
 - e. Schedule cases by attorney / parties (e.g., Attorney Smith’s cases scheduled at 9 a.m.).
 - f. If remote hearings are not possible for “high-risk” individuals, consider scheduling a block of time for “high-risk” individuals to appear in court.
 - g. Consider remote screening for deferred prosecution / first offender programs.
22. Increase training on new technology for clerks, judges, and attorneys to facilitate transition to remote proceedings.
 - a. Provide training for court staff to ensure that hearings that are confidential remain so and do not appear on a public-facing page.
 - b. Make training available for the general public on the technology associated with remote hearing proceedings.
23. Provide free or reduced cost access to ACIS and CJLEADS.
24. Require, absent a showing of good cause, depositions to be taken remotely in civil cases. In-person depositions can be held if social distancing can be observed and upon consent of all parties or order of the court.
25. Allow depositions to preserve testimony in criminal cases, upon consent of the defendant.
26. Enable a system to allow for electronic receipt of large files (e.g., LiquidFiles or other platform) to receive exhibits, transcripts, etc.



27. Allow courtroom clerks to follow court proceedings remotely with the capability to ask questions or seek clarification in real time.

RECOMMENDATIONS ON COMBATTING VIRUS FATIGUE IN THE COURTS

Judicial officials, court personnel, and attorneys should be mindful of the heightened stress on clerks and other court staff during this pandemic. Employees who have continued working on the “front lines” are much like our state’s health care workers, who have experienced the stress of daily exposure while continuing to face the responsibilities of daily work. While some of us may have been isolated at home trying to work and are now anxious to get back to work at the courthouse, many clerks, magistrates, judges, and other employees have faced continuing stressful responsibilities in our court facilities. Some offices may be working with alternating shifts of employees, making it difficult to staff every requested session of court. These work schedules and other adjustments necessary to conduct operations during a pandemic often make their jobs harder, not easier. In other words, every person working in the court system has been subjected to unusual and significant stressors during this pandemic. The specifics of their stresses may be different, but no one is immune. Every court employee needs to engage in self-care efforts now.

To help with those self-care efforts, the Task Force has created new resources for employees:

1. “Caring for You” documents: One document to circulate to the field that addresses signs and symptoms of stress, contains suggestions for self-care during these challenging times, and offers resources for additional information and for employees who may need more help. See Appendix E. A companion one-page graphic chart, also titled “Caring for You,” is available in Appendix F.
2. “Caring for You” video: A [video](#) designed to promote awareness among court personnel about the stress induced by the crisis and to urge them to pay attention to self-care.
3. “Help Now!”: A poster produced by the Trauma Resource Institute offering quick and easy steps to restore focus and reduce stress. See Appendix G.

CONCLUSIONS

North Carolina is the ninth most populous state in the nation. While the state has a unified court system, that system operates in 100 different counties with 100 different court cultures. Adapting that system to the current pandemic conditions is a challenge that none of us has had to meet before, and we must be patient with each other as we all seek to adjust the way we do business. Regardless of the specific steps taken in each county and district, the coming months will be a learning experience for all of us. While the Task Force recognizes the stress of speedy forced change, its members are hopeful that this experience will lead to new and exciting innovations in our system. Throughout the duration of this pandemic and beyond, we all must continually engage in self-evaluation and strive for ongoing improvement to the services we provide to the public. And, above all else, we must always do that in ways that are designed to protect the safety of the public and our most valuable resources, our Judicial Branch personnel.





APPENDIX A



JUDICIAL BRANCH COVID-19 TASK FORCE RECOMMENDATIONS: DEADLINE EXTENSIONS

May 8, 2020

The Judicial Branch COVID-19 Task Force (hereinafter Task Force) respectfully submits the following recommendations to the Honorable Cheri Beasley, Chief Justice of the Supreme Court of North Carolina.¹ These recommendations are related solely to deadlines for filings and acts to be done in the Trial Division. They are grounded in a desire to provide clarity to attorneys, court system personnel, and the public and to avoid hardships that might otherwise result from an ongoing lack of full access to court facilities. They are further grounded in an assumption that additional Task Force recommendations will be issued and implemented with respect to setting priorities for the most emergent case types to be heard in our state courts over the coming months; identifying new and innovative scheduling practices; determining safe ways to schedule jury trials; and meeting other safety concerns related to facilitating social distancing practices, including the allowance of ongoing remote work and remote hearings in appropriate cases, as well as the availability of appropriate and sufficient personal protective equipment.

The Task Force recommends:

1. That all deadlines related to Statutes of Limitations or Statutes of Repose for the institution of civil lawsuits that otherwise would have expired during the period between March 16, 2020 and June 1, 2020 should be extended by an additional Emergency Directive of the Chief Justice up to and including 5:00 p.m. on Friday, July 31, 2020.
2. That, except for Statutes of Limitations and Statutes of Repose, any other deadlines applicable to civil or family proceedings, including discovery deadlines, should not be extended after June 1, 2020. Depositions and mediations shall, to the fullest extent possible, be conducted remotely via video or teleconference. Any deposition or mediation conducted in person shall be done in strict compliance with all executive orders and social distancing requirements.
3. That any deadline for pleadings, motions, notices, and other documents or acts to be done that previously existed in any criminal proceeding that otherwise would have expired during the period between March 16, 2020 and June 1, 2020 should be extended by an additional Emergency Directive of the Chief Justice up to and including 5:00 p.m. on Friday, July 31, 2020.

¹ The Task Force approved these recommendations by an email vote of 15 to one following the May 5, 2020 Task Force meeting, with Trial Court Administrator Kellie Myers dissenting for the reasons set forth in footnote 2.



4. That the deadlines for monies owed pursuant to a judgment or order entered by a court prior to April 6, 2020 in a criminal or infraction case with a payment due date on or after April 6, 2020 and before May 30, 2020, should remain as provided in previous Emergency Directive 7, which was issued by the Chief Justice on May 1, 2020. Judges retain authority to grant relief on a case-by-case basis pursuant to #5.d. below.
5. That the Chief Justice include language in additional Emergency Directives reminding members of the Bar and the public that:
 - a. Attorneys and other persons who do not have business in a courthouse should not enter a courthouse, and those who do have business in a courthouse should not prolong their visit once their business has concluded.
 - b. To further minimize foot traffic in the courthouses, attorneys and litigants are encouraged to submit filings by mail as much as possible and, for pleadings and other documents received by mail, Clerks of Superior Court may rely on the postmark date when time-stamping documents.²
 - c. Judicial officials throughout the state are strongly encouraged to communicate and collaborate with all court partners, including the Senior Resident Superior Court Judge, Chief District Court Judge, District Attorney, Public Defender (if applicable), and Clerk of Superior Court, prior to scheduling court calendars each week. Each district is responsible for ensuring and determining that there is sufficient court staff and courtroom space to hold court efficiently and safely for judicial employees and the public. Courthouse personnel, attorneys, and the public should be cognizant that judicial offices across the state may not be operating at full capacity on June 1, 2020. Nothing in this recommendation is intended to address the scheduling of jury trials.
 - d. Notwithstanding the specific dates referenced in these Directives, in matters before Judges of the Trial Division, the Judges retain the authority to the extent authorized by law to grant additional extensions (except in the case of Statutes of Limitations and Statutes of Repose) for the filing of documents or the performance of other acts required to be done.

² Task Force member Kellie Myers voted against these recommendations due to the following concerns about relying on a postmark for time-stamping purposes. The Task Force Co-Chairs wanted to bring these concerns to the attention of the Chief Justice.

1. The USPS does not postmark all items deposited with them for mailing.
2. Without additional details and express guidelines, the meaning of *postmark* will create confusion for self-represented litigants and attorneys (see 17 CFR 70.305 for an example).
3. This may require that the Clerk attach the envelope to each document that is time-stamped in case questions arise later or a date is litigated.
4. This is outside the scope of the current task and may be better addressed by the Chief Justice's Rules Commission or by a working group of the Task Force, which may discuss alternatives such as using registered mail or other type of proof of receipt by the carrier.





- e. Notwithstanding the specific dates referenced in these Directives, in matters before the Clerk of Superior Court, the Clerk retains the authority to the extent authorized by law to grant additional extensions (except in the case of Statutes of Limitations) for the filing of documents or the performance of other acts required to be done.
6. That, notwithstanding the provisions of G.S. 42-28, during a period of time of 180 days from June 1, 2020, unless further extended by subsequent Emergency Directives, the Clerk of Court shall have up to 60 days from the filing of any Summary Ejectment to complete the process of issuing any necessary summons and setting a hearing date.
7. That, notwithstanding the provisions of Rule 2 of the General Rules of Practice, during a period of time of 180 days from June 1, 2020, unless further extended by subsequent Emergency Directives, the Court should publish and distribute civil calendars no later than two weeks prior to the first day of court.





APPENDIX B



JUDICIAL BRANCH COVID-19 TASKFORCE MEETING

May 1, 2020

Taskforce Co Chairs, the Honorable Forrest Donald Bridges and the Honorable Jay Corpening, convened the meeting at 10:00 am by WebEx. Judge Bridges stated that the meeting is subject to North Carolina's open meetings laws and that a live audio feed had been made available to the public and members of the media. Future taskforce meetings might be subject to additional public access in light of legislation currently pending in the General Assembly.

All committee members introduced themselves as follows:

- The Honorable Forrest Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge.
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge.
- The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge.
- The Honorable Teresa Vincent, District 18 Chief District Court Judge.
- The Honorable Billy West, District 14 District Attorney, was unable to attend.
- The Honorable Robert Evans, District 8 District Attorney.
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court.
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court.
- Kinsley Craig, District 27B Trial Court Coordinator.
- Kellie Myers, District 10 Trial Court Administrator.
- Jason Cheek, Davidson County Magistrate.
- The Honorable Jennifer Harjo, New Hanover County Public Defender.
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ), was unable to attend. Attorneys David Hensen and Vernon Sumwalt attended on his behalf.
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA).
- Patrick Weede, Attorney and Appointee of the NCBA.
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA).

A number of additional people joined the WebEx as representatives of the North Carolina Administrative Office of the Courts (NCAOC), the Office of Indigent Defense Services (IDS), and the School of Government (SOG) in their capacity as advisers and staff to the taskforce. Anna Stearns, Chief of Staff and General Counsel to Chief Justice Cheri Beasley, said representatives of multiple NCAOC Divisions would be available to the taskforce and ready to assist as questions arise in their areas of expertise.

Chief of Staff Stearns said Dr. Erica Wilson, Medical Director, Vaccine Preventable and Respiratory Diseases, Communicable Disease Branch, Division of Public Health of the North Carolina Department of Health and Human Services, was on the call to provide public health advice but appeared to be having audio problems. Chief of Staff Stearns said Dr. Wilson is leading a number of efforts to provide best practice guidelines for businesses and had planned to give a brief overview of where North Carolina is



with respect to progression of the virus and a forecast to aid in planning. Chief of Staff Stearns said she explained to Dr. Wilson the unique challenges for courthouse operations, such as the physical space and the way courts call calendars, and she believes Dr. Wilson will be able to offer some great suggestions. As the taskforce starts to think about phasing back to full operations in June, July, and August, Chief of Staff Stearns said we need to plan several months in advance for issues like creating calendars and summoning jurors. Chief of Staff Stearns relayed that Dr. Wilson suggested the taskforce should plan around the need to maintain social distancing for six months into the future, adding that it is easier to plan for reduced operations and then ramp up if things go well than it is to plan for full functioning and discover we have to postpone and cancel sessions again. Chief of Staff Stearns stressed that the Judicial Branch needs to maintain public confidence in the operations of our courts and do its best to prevent public frustration with repeated postponements.

Judge Corpening stated that some of the social distancing measures that are recommended for retail establishments will not work for courthouses, noting that maintaining a distance of six feet means six feet in all directions. Judge Corpening said some counties are marking seats in courtrooms with enough space between them to allow parties to sit, but he does not know what that would look like for people seated at counsel table. As courts strive to become more creative in scheduling, Judge Corpening said he would like to know how many times a day the courtrooms need to be disinfected. He would also like to see a protocol for steps that need to be taken when officials become aware of exposure to the virus so they are able to respond quickly and appropriately with best practices.

After getting her audio to work, Dr. Wilson stated that Chief of Staff Stearns and Judge Corpening covered the matters she planned to address. She said everyone is hoping for good news about the virus' progression but she believes it is important to plan for multiple potential scenarios so the court system is not caught off guard.

Judge Bridges said everything court officials do needs to be in the context of possible second or third waves of the virus, noting that the courts may need to ramp back down after ramping up. Judge Bridges said there is a lot of national discussion around reopening the economy but, in the context of North Carolina's courts, he believes that is an inappropriate description because the courts have not been closed. Judge Bridges stressed that the courts have remained open throughout this crisis, although they have been operating at a greatly reduced level, so the more appropriate discussion is how to phase the courts back into full operations.

Judge Bridges said the first agenda item for the taskforce is to better define its mission and what the group is being called on to consider and do. Preliminary discussions have led to at least six tentative categories of items for the taskforce to accomplish:

1. Provide some immediate feedback to the Chief Justice about how to handle the current deadline extension. Judge Bridges said, under the Chief Justice's existing orders, there will be a large number of deadlines that originally would have landed between March 16, 2020 and June 1, 2020 that will all come due on the same day. The Chief Justice may need to address that issue in a new emergency order and would like input from the taskforce.
2. Discuss a timetable or trigger points for phasing the courts back to full operations.





3. Identify best practices for health and safety while the courts are phasing back to full operations. Judge Bridges noted that the taskforce will have many questions for public health experts in this area.
4. Recommend future emergency directives to the Chief Justice.
5. Prioritize the most pressing court and case types as the courts phase back to full operations.
6. Suggest innovations in court scheduling and operations so that the courts can begin taking a more modern view of the way we do business. Judge Bridges said the courts need to explore customs and practices that no longer make sense, such as scheduling large groups of people to show up for daily calendar calls.

In addition, Judge Bridges said someone suggested a seventh category of addressing “virus fatigue,” especially for staff in the clerks’ offices who are working with the public on a daily basis. Judge Bridges said that is a high stress environment right now and clerks’ staff are growing weary in this crisis. Judicial officials need to be mindful of that and help identify support systems for them.

Judge Corpening said he has been involved in a number of conversations about the first topic, and he believes the clerks offices would be overrun if all filings come due on June 1, 2020. Judge Corpening suggested that perhaps there needs to be one hard deadline for statutes of limitations and repose, but there could be rolling extensions for other deadlines that allow attorneys and litigants to spread out new filings. Clerk Johnson said, if a large volume of filings come due on June 1, the clerks will need some direction on how they should be staffed to handle the volume. Clerk Johnson said her staff is currently working in shifts, and she would need to take steps to phase back into full staffing.

Clerk Chinn-Gary said she has more than 200 employees in her clerk’s office and she does not expect to be fully staffed on June 1. She said she plans to phase in more work hours at the courthouse during the month of May, but she has high-risk employees who will need to stay out of the courthouse longer and she does not expect to have the productivity of a full staff on June 1. Clerk Chinn-Gary said that would impact the ability of attorneys and litigants to file documents. Clerk Chinn-Gary said her office has encouraged people to mail in new filings, but they have seen some long lines during their limited operational hours. She noted that judicial officials need to have conversations about how sheriff deputies can assist when the courthouses resume full operations, and she suggested scheduling a call with the sheriffs’ association to seek their help in managing traffic into courthouses and in courtrooms.

Judge Bridges asked the clerk representatives if a June 1 date for statutes of limitations would be too early for them. Clerk Johnson said her office has not been refusing filings and they have continued coming in by mail. Clerk Johnson added that smaller counties might be able to handle a June 1 deadline, but that might be harder for larger counties. Clerk Chinn-Gary said her office could probably make June 1 work with a mandate that mailed filings must be postmarked on or before June 1. She remains concerned about too many people coming into the courthouse trying to get file-stamped copies.

Judge Bridges asked the attorney members how a June 1 deadline would impact them. Attorney Weede said it has been very challenging to communicate with in-custody clients so he believes attorneys will need extensions in many criminal cases, particularly potentially capital cases. Attorney Sumwalt said there has been some confusion among NCAJ members about the “deemed timely filed” language in the Chief Justice’s orders, and whether that is intended to extend statutes of limitations.





Judge Bridges asked if a hard deadline for statutes of limitations, accompanied by a series of rolling deadlines of 90 to 120 days from the original due date for filings like pleadings, motions, and records on appeal, would cause confusion. Attorney Harrison said it will be important for the Chief Justice's directives to be clearly understood across the state, and he suggested that perhaps she could answer specific questions from attorneys in a public way. Clerk Johnson said having a lot of different categories with different due dates would be very burdensome for the clerks. Attorney Sumwalt said a lot of matters of day-to-day practice are difficult to accomplish right now, and attorneys will need some flexibility beyond the formal extensions.

Judge Bridges said one of the differences between statutes of limitations and other deadlines like those established by scheduling orders is that only the Chief Justice can extend statutes of limitations, but local judges have discretion to grant further extensions of the latter. Judge Bridges suggested that the taskforce hold its next meeting on Tuesday, May 5, and that the members go back to their internal working groups before then and seek feedback on this issue. Judge Bridges said he would like to reach consensus on a recommendation for the Chief Justice on this issue at the next meeting.

Chief of Staff Stearns said there may also be technology issues with NCAOC's legacy systems as the courts ramp back up. She deferred to NCAOC staff on whether those systems can accommodate variable extensions or whether it would be more feasible to have the same deadline extension for all case types. Trial Court Administrator Myers said NCAOC had provided the taskforce members with year-to-date data on filings, but she suggested that it might be more helpful to have last year's filing data during the same time period. She said that data may help the taskforce gauge what kind of influx the courts would be facing with a single deadline of June 1. Judge Bridges asked NCAOC staff to provide that data.

Judge Bridges turned to a discussion of prioritizing court and case types. Judge Corpening said the attachments to the meeting agenda contained some suggestions for prioritizing the most emergent case types in various areas. Judge Corpening asked the members to discuss these recommendations with their internal working groups and to think about how they would prioritize cases. Judge Corpening noted that expanded scheduling will probably mean longer court dates and that the taskforce should try to come up with a comprehensive plan.

Judge Bridges said the court managers have given a lot of attention to this issue, and Trial Court Coordinator Craig said the materials in Attachment B represent their efforts. Judge Bridges said different court groups are going to have different views about the most significant management issues. For example, superior court judges may be most concerned about jury management, while district court judges may see the large numbers of people in their courtrooms as the biggest issue. Judge Bridges said taskforce members need to have further discussions with their working groups and there needs to be deference to court actors who have "the most skin in the game" for particular case types. Judge Corpening said there may be some hidden landmines in this effort. For example, there seemed to be a lot of agreement early in the crisis that nonsecure hearings needed to continue in abuse/neglect/dependency cases, but the failure to hold some other hearings put Title IV-E funding in jeopardy.

Judge Corpening said SOG Professor Cheryl Howell had suggested connecting with experts in case management, such as staff from the National Center for State Courts (NCSC). Professor Howell said





there may be in-state expertise in this area, but NCSC and the National Association of State Judicial Educators may be able to offer advice. Trial Court Coordinator Craig said there are well seasoned court managers throughout the state, many of whom are members of the National Association for Court Management. Trial Court Administrator Myers said the local court managers know our state's cases and what is needed to make our courtrooms run and, especially given the time crunch, she believes the state court managers are a better source of expertise.

Judge Bridges said there are at least two categories of the taskforce's mission that may necessitate additional research, including: 1) the need to generate a list of questions about best safety practices for public health officials; and 2) identifying innovations in court scheduling and operations. Judge Bridges suggested forming a **Best Safety Practices and Innovations Working Group**, and asked Trial Court Coordinator Craig, Trial Court Administrator Myers, and SOG Professor Howell to serve on that group and generate recommendations for the full taskforce as soon as possible. Public Defender Harjo volunteered to serve as well, noting that she is interested in best practices with respect to interacting with clients in courtrooms. NCAOC Deputy Director Danielle Carman sent a message via chat offering the assistance of NCAOC Court Programs staff Lori Cole and DeShield Greene.

Judge Bridges turned to the topic of "virus fatigue," and SOG Professor Jim Drennan said it will be important for all court actors to maintain some balance during these times. Professor Drennan said the court system will risk burnout of its employees if it is not intentional about supporting them, noting that the danger of working from home is that people are always working. Clerk Chinn-Gary said she has put a lot of thought into how to keep her staff engaged and feeling safe and appreciated, and she has some creative ideas that she is willing to share.

Clerk Chinn-Gary said it will be important not to have large numbers of people at calendar calls, and she asked if the taskforce could make recommendations about the appropriate number of people to allow in each courtroom. Trial Court Administrator Myers said Wake County court officials have been working with county personnel to measure the criminal courtrooms, mark appropriately distanced seating, and determine what traffic flow should look like to keep people safe. Clerk Chinn-Gary said she has taken similar actions locally, but she wonders whether overall suggestions should come from the taskforce. Judge Corpening said those are questions that the group needs to involve public health experts in answering. Judge Corpening said taskforce members can then apply their expertise about day-to-day courthouse operations and develop best practices that local officials can apply.

Judge Vincent suggested that the Chief Justice and NCAOC Director send letters to county officials asking for their support of any best practice recommendations in courthouses across the state. Chief of Staff Stearns said the Chief Justice sent a letter yesterday to all county commissioners asking them to be in touch with local judicial officials and stressing the importance of county government support in safely operating courthouses.

Judge Bridges asked Professor Drennan to lead a **Virus Fatigue Working Group**, and asked Clerk Johnson, Clerk Chinn-Gary, and one of the Trial Court Coordinators to serve and consider creating a set of materials and resources for dissemination to the field. Judge Corpening suggested adding one of the private lawyers in light of the unprecedented isolation of working from home. While Attorney Sumwalt is not a member of the taskforce, he volunteered to serve.





Judge Corpening suggested creating a **Technology Working Group** to look at the types of proceedings that can be done remotely, whether there are any legislative changes needed to support that effort, and whether there are additional equipment needs. Attorneys Weede and Harrison and Trial Court Administrator Myers volunteered to serve on that working group. Judge Bridges asked Judge Corpening to be involved in that group's work. Judge Corpening agreed, and suggested involving District 19C Chief District Court Judge Charlie Brown as well. Clerk Chinn-Gary said a clerk should be added to that working group, adding that she is willing to serve or the clerks' conference can select someone else. NCAOC Chief Technology Officer Anthony Whitmore sent a message via chat offering his assistance to the working group.

Trial Court Administrator Myers asked whether NCAOC and/or SOG could generate a list of case types with statutorily-imposed timelines of which the taskforce needs to be aware. SOG Professor Ann Anderson offered to work on gathering that information. SOG Professor Howell sent a message via chat offering to help with that effort, and NCAOC Assistant Legal Counsel Nicole Brinkley sent a message offering to help on the civil side.

The meeting adjourned at 11:48 a.m. The next meeting will be held on May 5, 2020 at 2:00 p.m. via WebEx.





JUDICIAL BRANCH COVID-19 TASK FORCE MEETING

May 5, 2020

Task Force Co Chair, the Honorable Jay Corpening, convened the meeting at 2:00 p.m. by WebEx. Judge Bridges stated that the meeting is subject to North Carolina's open meetings laws and that a livestream had been made available to the public and members of the media.

NCAOC Research and Planning Associate Emily Mehta took roll call. The following Task Force members were present via WebEx:

- The Honorable Forrest Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge.
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge.
- The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge.
- The Honorable Teresa Vincent, District 18 Chief District Court Judge.
- The Honorable Billy West, District 14 District Attorney.
- The Honorable Robert Evans, District 8 District Attorney.
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court.
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court.
- Kinsley Craig, District 27B Trial Court Coordinator.
- Kellie Myers, District 10 Trial Court Administrator.
- Jason Cheek, Davidson County Magistrate.
- The Honorable Jennifer Harjo, New Hanover County Public Defender.
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ).
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA).
- Patrick Weede, Attorney and Appointee of the NCBA.
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA).

Anna Stearns, Chief of Staff and General Counsel to Chief Justice Cheri Beasley, was present via WebEx. A number of additional people joined the WebEx as representatives of the North Carolina Administrative Office of the Courts (NCAOC), the Office of Indigent Defense Services (IDS), and the School of Government (SOG) in their capacity as advisers and staff to the Task Force.

Approval of May 1, 2020 Task Force Meeting Minutes

The proposed minutes of the May 1, 2020 Task Force meeting were approved by roll call vote, with a correction to Trial Court Administrator Myers' title.





Recommendations for Additional Extension of June 1, 2020 Deadline

Judge Bridges said he appreciates the written comments that some members submitted on behalf of their constituents in a very short time frame, and noted that the Task Force will discuss them and receive additional verbal reports from members. Judge Bridges said one of the most pressing aspects of the Task Force's mission is to generate recommendations for the Chief Justice about additional deadline extensions and emergency directives. Judge Bridges added that all filings and acts that were required to be done between March 16, 2020 and June 1, 2020 are now all due on June 1, 2020 unless that deadline is otherwise extended. Judge Bridges asked whether the Task Force thinks there should be further deadline extensions beyond June 1. If so, he asked on what date or dates the new deadlines should fall, and whether they should be in the form of a specific hard date for all previously extended deadlines, a series of rolling deadlines, or some combination thereof.

Judge Bridges said he noted several recurring themes in the written comments various groups submitted about further extensions. First, whatever the Chief Justice does needs to be clear and minimize confusion for practitioners and litigants. Second, some clerks have expressed concerns that one hard deadline for all filings would result in an unwieldy number of filings on or about that one date. Third, we need to remind all practitioners and litigants that, even if there is one hard deadline, that is not the only date on which filings may occur; the courts are open and filings and acts can and should be submitted and done as soon as possible. Fourth, with some exceptions such as statutes of limitations (SOLs), local judges still retain authority and discretion to grant additional extensions.

Judge Bridges said written comments were submitted by the Conference of District Attorneys, the public defender representative, and family, civil, and criminal law practitioners. Those comments addressed both the deadline extensions and public safety concerns, but this discussion would be focused on the former. Attorney Weede said he submitted comments on behalf of the criminal defense bar, which wants directives that are consistent across the state and prefers one deadline for all filings related to criminal cases, rather than rolling deadlines. Attorney Weede said criminal defense attorneys are concerned about in-custody defendants and the difficulties in meeting with them over the past few months, adding that investigators have also been unable to do their work in the field. Attorney Weede suggested that extending all criminal deadlines by 60 days (until July 31st) would likely allow enough time to resume jail visits and case investigations. Public Defender Harjo said she heard similar concerns from the public defenders and private attorneys in her area. She added that attorneys who practice in multiple areas of the law suggested it might be helpful to have variable deadlines in the different areas.

Judge Bridges asked what Attorney Weede and Public Defender Harjo consider to be the significant categories of filings from the standpoint of defense attorneys, and whether filing pretrial motions and notices of affirmative defenses and responding to reciprocal discovery are good examples. Attorney Weede and Public Defender Harjo agreed those are the appropriate types of categories. They added that acts to be done, including obligations of clients such as paying fees and costs and completing community service, should be considered as well.





Judge Bridges asked the district attorneys on the Task Force for their thoughts on extensions of filing deadlines and acts to be done. District Attorney Evans said he agrees with the defense attorneys that there will be some need for flexibility with respect to acts to be done and suggested that those deadlines might need to be rolling. As for filings, District Attorney Evans said, even if the Chief Justice sets a hard deadline, most dispositive criminal filings allow for the presiding judges to grant additional relief. District Attorney West agreed and said the district attorneys' discussions have been more focused on resuming grand juries and jury trials, and the Conference of District Attorneys' written comments suggest allowing grand juries to resume on June 1 and allowing trials to be calendared starting August 3, 2020. He does not believe there would be opposition to extending filing deadlines.

Judge Bridges asked Attorney Harrison to discuss the recommendations from family law practitioners. Attorney Harrison said one area of concern is the impact of the blanket extensions on the ability to submit discovery responses and responsive pleadings, and to get absolute divorce judgments. Attorney Harrison said that, in turn, can cause complications like children being born out of the right wedlock and problems with insurance and the division of retirement plans. Attorney Harrison said the family bar does not believe the Chief Justice needs to order additional blanket extensions and thinks local judges can ameliorate any unfairness that may result from strictly enforcing deadlines. Attorney Harrison said practitioners in other areas of the law, such as criminal defense, may need extensions, but the family bar believes that family law matters do not require any additional extension.

Judge Bridges noted that the Chief Justice's most recent directive includes revised language about the need for the parties to consent to remote hearings, and judges may now require remote hearings unless a party objects for good cause. Judge Bridges asked whether that change will help allow more family law matters to proceed even if the filing deadlines are extended. Attorney Harrison said that will help with hearings but, if all discovery deadlines are extended, practitioners still cannot make progress toward trials. Attorney Harrison said blanket extensions do not fit well in family law cases, and he thinks the Chief Justice should carve out family law from any further extensions to allow parties to move forward with pleadings and discovery, reiterating that presiding judges will have the ability to address individual instances of unfairness.

Judge Bridges asked Attorney Harrison about a starting point for how the Chief Justice's next order might carve out different treatment for family law cases. Attorney Harrison said there are a finite number of family law matters and filings—such as absolute divorce, responsive pleadings to alimony and equitable distribution, child custody and support, and discovery deadlines—that could be carved out as exceptions to an additional extension order. Judge Vincent said she would be happy to consult with Attorney Harrison on how best to do that.

Judge Corpening said the family law attorneys in his district appear to feel the same sense of urgency to get these cases moving again, and they have echoed Attorney Harrison's view that there should not be an additional blanket extension of time. Judge Corpening said he solicited the views of the district court judges, and there were variable opinions about the best way to approach any additional extensions.





Judge Bridges said there appear to be a distinct set of concerns in the family law area, and Attorney Harrison offered to draft proposed language for review by Judge Vincent, Judge Corpening, and others. Judge Vincent said she would hope there would be time to allow for input from the chief district court judges that handle a lot of domestic cases.

Judge Bridges asked Chief of Staff Stearns when she needs the Task Force's recommendation on this matter. Chief of Staff Stearns said the Chief Justice's biggest concern is that the current extension order expires on June 1, and she wants to give as much advance notice as possible to practitioners and court personnel. Stearns said she is mindful of the need to develop a thoughtful and considered recommendation, but the Chief Justice would like to be able to issue her next order by the middle of the next week.

Clerk Chinn-Gary said the elected clerks are supportive of moving forward on June 1. Clerk Chinn-Gary said there is going to be a lot of work for the clerks regardless of whether there are hard deadlines or rolling deadlines, and the clerks' offices will need to ask the legal community for patience either way. However, the offices are poised to do their best to resume processing work on June 1. Trial Court Coordinator Craig said the court managers support moving forward on June 1. To help prevent an influx at one time, Trial Court Coordinator Craig said one of her colleagues suggested staggered deadlines; for instance, all filings and acts originally required to be done between March 16 and 31 could be due on June 30, all filings and acts originally required to be done between April 1 and 15 could be due on July 15, and all filings and acts originally required to be done between April 16 and 30 could be due on a later date. Trial Court Coordinator Craig said the court managers are most concerned about minimizing confusion and calls seeking clarification of the Chief Justice's orders.

Clerk Johnson said the clerks' offices are not fully staffed and will not be fully staffed until after June 11 when the allowance for paid administrative leave expires. Clerk Johnson said court actors in every county need to work together to make sure there will be sufficient clerk staff to handle calendars. Clerk Johnson suggested that the Chief Justice continue to stress the need for attorneys and litigants to file as much as possible by mail and the need for courts to utilize remote hearings to the fullest extent possible. Clerk Johnson said court actors are going to face challenges with respect to providing sufficient space in courtrooms to allow for social distancing. Clerk Johnson reiterated that she feels comfortable with June 1 but that everyone needs to understand the clerks' offices will not be fully staffed. Clerk Johnson added that the clerks are opposed to different rolling deadlines because they think that will cause confusion and errors.

Clerk Johnson said the clerks believe that summary ejectments may need to be treated differently. Clerk Chinn-Gary said G.S. 42-28 requires clerks to issue summons and set court dates within seven days of a complaint being filed and, if someone files a complaint on June 1 on top of the current backlog, the clerks will not be able to meet that timeline. For the sake of clarity and uniformity, Clerk Chinn-Gary recommended an extension of that seven-day time period. She added that small clerks' offices think they could meet a 14-day time period, but larger offices like hers prefer to see that time frame extended to 60 days. Judge Bridges asked about foreclosures, and Clerk Johnson said the clerks did not provide





feedback specific to foreclosures. Clerk Chinn-Gary said the clerks' ability to handle foreclosures would be contingent on having courtrooms in which they can comply with social distancing practices.

Judge Bridges said he thought extending the filing deadline to one specific date might create an avalanche of work for the clerks, but they seem to be more concerned about the confusion and burden that could result from a series of rolling deadlines. Clerk Johnson agreed, and said the clerks feel better equipped to handle a large number of filings than a large number of phone calls and possible errors. Clerk Johnson added that a lot of clerks have been accepting filings all along. Clerk Chinn-Gary asked that the Chief Justice encourage the bar to mail in filings; she suggested that the clerks can use the postmark date as the date filed and avoid a large volume of in-person filings. Clerk Chinn-Gary reiterated the request that other court officials consult with the clerks as they are preparing calendars to make sure there will be adequate clerk staff to handle them.

Chief of Staff Stearns asked if the clerks would be concerned about different deadlines applicable to different practices areas, such as June 1 for summary ejectments, June 12 for estates, and July 31 for criminal cases. She asked whether they believe variable deadlines by case type would cause confusion. Clerk Johnson said the clerks would prefer that type of differentiation to having to determine rolling dates in one area of the law.

Attorney Keister said the NCADA members are aligned with the family law practitioners and do not think there needs to be an additional extension for civil filing deadlines. Attorney Keister said there is understanding that jury trials are going to be difficult, but civil litigators want to get their cases moving as much as possible. Attorney Keister said he will be encouraging NCADA members to file prior to the deadline, but there are concerns about discovery and depositions. He added that a lot of civil attorneys are working remotely from their support staff and said an allowance for electronic signatures would help attorneys submit more timely filings. Attorney Keister said he assumes the Chief Justice intended her extensions to include discovery, so written discovery responses will come due when the extension of time expires. He suggested that the next order allow for hearings and depositions to move forward if they can be done remotely or in a safe and socially distant manner. He asked whether depositions can be handled remotely now, or whether that would require consent of all parties. Attorney Keister added that there will be some court-imposed filing deadlines that attorneys should be able to address with the presiding judges and he hopes there will be deference to reasonable requests. Attorney McCabe agreed.

Trial Court Administrator Myers said she has received a lot of feedback from civil attorneys that is consistent with Attorney Keister's comments. Trial Court Administrator Myers said a lot of these issues can be addressed through local motions practice and by encouraging judges to utilize WebEx for remote hearings in emergent cases. SOG Professor Ann Anderson suggested that, in the interest of justice, it might be appropriate to extend SOLs in civil cases for self-represented litigants. Judge Sermons said most superior court judges do not think there needs to be an additional blanket extension, although SOLs are different because only the Chief Justice can extend them. Attorney McCabe said he does not think NCAJ's members would have a problem with extending SOLs.





Judge Bridges summarized the feedback received so far as follows:

1. In criminal cases, the recommendation is to further extend deadlines for all motions or other filings until July 31, 2020.
2. In civil cases, the recommendation is not to extend filing deadlines any further, with the exception of SOLs and statutes of repose being extended until July 31, 2020. As to other civil deadlines, such as pleadings and discovery responses, those deadlines should remain June 1 subject to the existing authority of local judges to grant extensions based on the showing required by law.
3. With respect to summary ejectments, the recommendation is to give clerks up to 60 days from the filing of any summary ejectment to complete the process of issuing any necessary summons and setting a hearing date, notwithstanding the seven-day limit in G.S. 42-28.

Trial Court Administrator Myers noted that Rule 2 of the General Rules of Practice requires civil calendars to be published no later than four weeks prior to the first week of court, which will not be possible if civil deadlines are not extended any further, and she asked whether that requirement could be shortened to two weeks. Judge Sermons said it will not be possible during this transition to comply with the four-week requirement. Trial Court Administrator Craig said it is her understanding that the business court prefers no additional extensions so that discovery can proceed and remote hearings can continue.

Chief of Staff Stearns noted that all of the Chief Justice's emergency directives expire every 30 days by statute, so she will need to revisit her orders approximately every three weeks. Judge Bridges asked the clerks to draft some proposed language about their concerns to include in the recommendation to the Chief Justice, and Clerk Johnson agreed to do so.

Judge Bridges said it sounds like the Task Force members had identified all of the areas that need to be addressed in its recommendation. Attorney Harrison moved to submit the recommendations as summarized by Judge Bridges. Attorney McCabe seconded the motion. Public Defender Harjo said she generally agrees unless something goes awry with the progression of the virus.

Judge Corpening said the Task Force agenda for next week will include a discussion of what June 1 will look like in courthouses across the state, including setting priorities for the most emergent case types, creative scheduling, and meeting safety concerns. Judge Corpening said this discussion had been about filing deadlines but it remains important to discuss what ramping back up will look like. At Judge Corpening's request, Mehta took a roll call vote. Fifteen Task Force members voted in favor of the motion, with Public Defender Harjo dissenting.

Judge Corpening asked the Task Force staff to draft a recommendation consistent with the discussion and to circulate it to the full Taskforce for review. Everyone agreed that the Task Force members can decide at that time if any additional email vote on the recommendation is necessary. Chief of Staff Stearns said the Chief Justice would like to enter her next order on deadline extensions by Monday so





that she can give advance notice to the field. Judge Corpening asked NCAOC Deputy Director Danielle Carman to circulate a draft as soon as possible.

Revised Task Force Working Group Assignments and Mission Statements

Judge Corpening suggested that the Task Force use the remaining meeting time to refine the working groups, noting that he and Judge Bridges have had discussions since the first meeting about changing the composition somewhat:

1. The Best Safety Practices Working Group will be a standalone group that focuses on generating a list of questions about best safety practices for public health officials, obtaining answers, and making recommendations that are evidence-based and appropriate for the courts.
2. The Technology Working Group will also address innovations in court scheduling and operations.
3. The Virus Fatigue Working Group will remain the same.

Judge Corpening suggested adding the Honorable Charles Brown, District 19C Chief District Court Judge, to the Technology and Innovations Working Group. Trial Court Coordinator Craig, Attorney McCabe, and Attorney Keister asked to be added to that working group. Trial Court Administrator Myers said she could be removed from that group. Clerk Chinn-Gary asked that she be removed from that group, and that Johnston County Clerk Michelle Ball serve in lieu of her. Judge Bridges noted that he had asked District 15B Superior Court Judge Allen Baddour and District 5 Senior Resident Superior Court Judge Chuck Henry to serve. IDS Interim Director Whitney Fairbanks volunteered to serve as well. Carman noted that the Task Force Co-Chairs need to name a Chair for that working group.

Judge Vincent asked to be added to the Virus Fatigue Working Group. Judge Corpening asked any additional Task Force members to let Judge Bridges and him know if they want to be added to a working group.

The two Taskforce members who were unable to attend the first meeting—District Attorney Billy West and Attorney John McCabe—introduced themselves. NCAOC Safety and COOP Consultant Christine Villaverde noted that the Sheriff's Association had designated Richmond County Sheriff James Clemmons to serve as a liaison to the Taskforce. Sheriff Clemmons introduced himself.

The meeting adjourned at 4:00 p.m. The next meeting will be held on May 13, 2020 at 2:00 p.m.

After the meeting, the Task Force members reviewed a series of draft written recommendations based on the discussion. Ultimately, fifteen Task Force members voted in favor of the written recommendations to the Chief Justice, with Trial Court Administrator Meyers dissenting due to concerns about recommendation #5.b.'s suggestion that clerks of superior court may rely on the postmark date when time-stamping mailed documents.





JUDICIAL BRANCH COVID-19 TASK FORCE MEETING

May 13, 2020

The Task Force Co Chairs, the Honorable F. Donald Bridges and the Honorable Jay Corpening, convened the meeting at 2:00 p.m. by WebEx. Judge Bridges recognized Chief Justice Cheri Beasley, thanked her for her leadership, and invited her to share some opening comments.

Welcome Comments from Chief Justice Beasley:

Chief Justice Beasley thanked the Task Force members, and the Co-Chairs in particular, for their willingness to serve and generate recommendations about how to expand access to our state courts moving forward. Chief Justice Beasley said she has reviewed the Task Force's initial recommendations about deadline extensions, and she is looking forward to receiving more recommendations. Chief Justice Beasley said she knows everyone has a lot of questions about how the courts will move forward, and this group's recommendations will be foundational. She added that she expects to issue at least one additional order within the next week or two, and she wants everyone to know where the system is headed.

Chief Justice Beasley said the Task Force's work has been fundamental in helping to relay information about what is happening in the court system, and she appreciates the group's efforts. She said one thing she is trying to think through is logistically how to make sure the courts are not overrun with people on June 1, and she noted that it will be important to coordinate with local sheriffs to ensure that personnel and the public remain safe.

Reminder of Open Meeting and Roll Call:

Judge Bridges stated that the meeting is subject to North Carolina's open meetings laws and that a livestream had been made available to the public and members of the media. North Carolina Administrative Office of the Courts (NCAOC) Research and Planning Associate Emily Mehta took roll call. The following Task Force members were present via WebEx:

- The Honorable F. Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge.
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge.
- The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge.
- The Honorable Billy West, District 14 District Attorney.
- The Honorable Robert Evans, District 8 District Attorney.
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court.
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court.
- Kinsley Craig, District 27B Trial Court Coordinator.
- Kellie Myers, District 10 Trial Court Administrator.
- Jason Cheek, Davidson County Magistrate.



- The Honorable Jennifer Harjo, New Hanover County Public Defender.
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ).
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA).
- Patrick Weede, Attorney and Appointee of the NCBA.
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA).
- The Honorable Teresa Vincent, District 18 Chief District Court Judge, was not present for roll call but joined the meeting at 2:18.

Anna Stearns, Chief of Staff and General Counsel to Chief Justice Beasley, was present via WebEx, as was the Honorable Chuck Henry, District 4 Senior Resident Superior Court Judge, and the Honorable R. Allen Baddour, District 15B Resident Superior Court Judge. A number of additional people joined the WebEx as representatives of NCAOC, the Office of Indigent Defense Services (IDS), and the School of Government (SOG) in their capacity as advisers and staff to the Task Force, as did Richmond County Sheriff James Clemmons.

Approval of May 5, 2020 Task Force Meeting Minutes:

Attorney Harrison stated that the proposed minutes did not reflect the final email vote of the Task Force on the initial set of recommendations to the Chief Justice. NCAOC Deputy Director of Court Programs, Danielle Carman, said she would add that vote to the minutes, noting that the final vote was 15 to one in favor, with Trial Court Administrator Myers dissenting due to concerns about using the postmark date for time-stamping mailed documents. Attorney Harrison moved to approve the minutes with the addition of that vote, and Public Defender Harjo seconded the motion. As revised, the minutes were approved by a roll call vote.

Preparing to Expand Court Functions Starting June 1, 2020:

Judge Corpening said the Task Force needs to send a clear message about what ramping courts back up on June 1 will look like. Judge Corpening said he has heard a lot of concerns that courtrooms across the state will be full of people on that date, and it is important to be clear that courthouses are preparing to start expanding court functions on June 1 but that does not mean courts should be back in full swing on that date. Judge Corpening said court officials need to follow public health protocols and social distancing practices in courthouses, which will include measuring courtrooms for six-foot separations and readjusting space so personnel and members of the public can feel safe.

Judge Bridges said the Task Force needs to be mindful of appropriate messaging in composing its recommendations and in individual members' work in their districts. Judge Bridges said a big part of the Task Force's work will be to send clear messages to court officials and the public. Judge Sermons said he has heard comments from attorneys that defendants think they do not need to go to court because jury trials will not be taking place any time soon, witnesses will disappear, and cases will be dismissed as a result. Judge Sermons said the Task Force needs to move toward creating a product that clarifies the courts are not closed and that encourages prosecutors and defense attorneys to work on scheduling court in time slots. Judge Sermons said the message needs to be that the courts are open and ramping





back up and that plea bargains are not going to get better even if the carry-through is slow. He added that people will feel more secure coming to courthouses if everyone has masks and gloves.

Public Defender Harjo said court activities are going to increase but, for the safety of everyone involved, the courts need to make reasonable decisions about what matters need to be heard quickly and what matters do not, as well as how to safely accomplish the priority matters. She said we all need to slow down and take precautions for everyone's safety.

Attorney Weede said there is a need for personal protective equipment (PPE) such as masks and gloves, and asked whether courthouses will have those supplies available by June 1. Attorney Weede said Wake County plans to resume an administrative calendar starting June 1 but defendants will have designated times in superior court. He has not yet heard a plan for district court in June. Attorney Weede asked whether there needs to be some communication about whether people should appear on their court dates.

Judge Corpening said his county provided a very limited supply of masks, and he does not see NCAOC being in a position to supply enough masks to all 100 counties. Trial Court Administrator Myers said the Best Safety Practices Working Group will be addressing these types of issues, and asked people to refer questions and suggestions to her.

Clerk Chinn-Gary said Mecklenburg County has the most positive tests in the state, and she is very concerned that people will hear the June 1 date and rush to the courthouse. Clerk Chinn-Gary said she wants the message to be that the June 1 date will be a "soft" expansion so that foot traffic remains limited. She added that attorneys and litigants need to continue to be encouraged to mail filings and not flood the courthouses on June 1. Clerk Chinn-Gary said clerks' office will continue to have limited staffing due to vacancies, as well as sick and high-risk employees. She added that her office is facing a deficit of 30% of her workforce and will not be able to return to full operations with that limited staffing level.

District Attorney West said some district attorneys have asked whether we can legally require members of the public to wear face masks, particularly if we are unable to provide them. He said it is not clear if the courts can turn people away if they do not have a mask and the court system does not make them available. Judge Corpening said the chief district court judges have discussed that issue as well. Judge Sermons said his county is currently able to provide masks if members of the public do not have them, but he presides in smaller counties that do not have large numbers of people in court right now.

Clerk Chinn-Gary said local actors are paying attention to safe occupancy levels in courtrooms, but there needs to be thought given to safe occupancy in the courthouses at large. Clerk Chinn-Gary said Mecklenburg tracked the number of people coming into the courthouse during April, and there were quite a few people coming into the courthouse on a daily basis despite limited operating hours. Clerk Chinn-Gary said it is one thing to manage occupancy levels in any given courtroom but that does not take into account spaces like corridors and open clerk windows.





Attorney Weede said local sheriffs' departments and courthouse security will also need to ensure there is appropriate social distancing and sanitizing as attorneys and members of the public go through security lines, and he suggested that the Best Safety Practices Working Group consider that issue.

Clerk Johnson said she attended a regional meeting with area clerks, and they discussed the need for cooperation among all partners at the county level. She said there are some counties where the local sheriffs are not offering to assist with getting people into the courthouse, and it is not clear who will regulate that process if the sheriffs are unwilling to do it outside of the courtrooms themselves. Sheriff Clemmons said the sheriffs are willing to be involved in courthouse security, but they do not think it is appropriate for them to be doing any type of health screening of court personnel or members of the public as they enter courthouses. Sheriff Clemmons said the latter should be handled by local health officials.

Judge Corpening said the Technology and Innovations Working Group will be discussing creative scheduling options, such as rolling calendars, to avoid having hundreds of people show up for court at the same time. Judge Corpening added that what courts will look like on June 1 is important and that messaging to the field and public needs to be clear. He asked the working groups to address any comments that touch on their areas.

Setting Priorities for Case Types as Court Sessions Expand:

Judge Corpening said the courts need to establish priorities for case types as they expand operations. He said the chief district court judges have created work groups looking at criminal, domestic, civil, and juvenile cases, and they have struggled with prioritizing many specific case types because they are all important. Judge Corpening said one question for the Task Force is the best process for compiling and organizing all of the recommendations that are collected. He said the court managers provided lists of priority recommendations that were attached to the Task Force's first meeting agenda, and the chief district court judges, superior court judges, and others are also working on recommendations. Judge Corpening suggested that each external work group could submit its work product to NCAOC, and NCAOC staff could compile and filter them to identify areas of agreement and disagreement. He suggested that might help streamline the Task Force's work.

Judge Bridges agreed with that approach. He said there is no Task Force working group devoted to this task, so it is important to formulate the best approach to getting these recommendations before the full group. Trial Court Administrator Myers said the court managers' recommendations were intended to be evaluated in conjunction with the recommendations of other court system actors in their areas of expertise, and she agreed that compiling all of the recommendations into one document would make it easier for the Task Force to navigate.

District Attorney West said most of the district attorneys' recommendations were previously provided to the Task Force, and the comments he is hearing in the field are that the Task Force or the Chief Justice needs to provide guidance sooner rather than later about what can and cannot be done as the courts





ramp back up. District Attorney Evans agreed, noting that people need certainty as soon as reasonably possible. He added that district attorneys need to know when they can start calendaring cases.

Judge Bridges said quantifying time frames for various proceedings is one of the most challenging aspects of the Task Force's charge. He said he liked the district attorneys' approach because it set forth three proposed phases for different events and proceedings, and he thought that was a helpful concept. Judge Bridges asked if the district attorneys have suggestions about appropriate indicators or trigger points for moving to each new phase. District Attorney West said the district attorneys tried to marry their proposed phases to the phases in the Governor's plan. Judge Corpening noted that the district attorneys sent more recent recommendations about jury trials.

Judge Corpening said the Best Safety Practices Working Group will be looking at the trigger points the courts should rely on, noting that it might not make sense for the court system to track the exact same phases as the Governor. Trial Court Administrator Myers said the plans from other states that are on the Task Force's website might help in formulating best practices.

Judge Bridges said many counties will have limited courtroom space, which will make social distancing challenging and may lead to potential conflicts between divisions of the trial court competing for that limited space. He said the Task Force may need to recommend methods for resolving those conflicts. He added that communication between court officials will be key, but the group may want to consider something like Rule 3.1's mechanisms for resolving scheduling conflicts when one attorney is needed in multiple courtrooms. Judge Corpening agreed, noting that space conflicts will exist in a lot of counties and recommendations about case priorities will help local officials resolve conflicts over courtroom space. Judge Corpening asked Deputy Director Carman to designate AOC staff to compile the recommendations of the various system actors and to point out areas of consensus and areas of disagreement. Judge Bridges agreed, and stressed the need for all external groups to submit their recommendations to Carman by May 20 at the latest so they can be included in that compilation.

Judge Corpening said Judge Bridges had previously stated that the Task Force members are not North Carolina's COVID czars, and the group is merely offering recommendations to the Chief Justice. Judge Corpening stressed that local stakeholders will still need to work together to make those recommendations fit the needs in 100 different counties.

Attorney Harrison said external groups are going to continue to discuss these issues and the Task Force may need to share information in a more real-time fashion as it does its work. Deputy Director Carman said NCAOC has posted a number of documents on the Task Force's webpage, and NCAOC's Technology Services Division is working on a solution that will enable sharing of documents in progress with Task Force members who are not Judicial Branch employees. Carman said it might be premature to share working recommendations with outside groups before they have been submitted to the Chief Justice for her consideration. Attorney Harrison suggested that minutes of the working groups be made available to the full Task Force so everyone knows what each group is discussing. Judge Corpening said all external recommendations will also be shared with the full Task Force.





Reports from Working Groups:

Judge Bridges invited the Chairs of the three Working Groups to share updates with the full Task Force.

Virus Fatigue Working Group:

SOG Professor Drennan said the Virus Fatigue Working Group has met twice and is meeting again on Monday. Their mission is to address the emotional side of the virus and the stress that everyone is experiencing with their unique situations. Professor Drennan said they are trying to identify steps that can be taken fairly quickly, as well as longer-term initiatives. He said a lot of court system actors are experiencing anticipatory angst about the next few weeks, so the group wants one relatively short document to circulate with information from the Mayo Clinic, Centers for Disease Control and Prevention, and local health officials. Professor Drennan said the working group also wants to develop a short video about self care, and likened their efforts to trying to provide keys to doors that can offer help if people need it. In the longer term, Drennan said the working group wants to explore the information and resources that are already out there and make sure Judicial Branch employees are aware of them.

Clerk Chinn-Gary said the working group is considering the impact of the virus itself, as well as the stress and uncertainty that rapid change in the courts will create. Clerk Chinn-Gary noted that this crisis has forced technological innovation on people with varying levels of comfort, and court personnel will need help and support as court cultures change. Professor Drennan agreed, noting that some good innovations will come from this pandemic, but they will not come pain free.

Best Safety Practices Working Group:

Trial Court Administrator Myers said the Best Safety Practices Working Group had not yet met, and she is trying to schedule its first meeting for Monday. She added that she spent some time gathering and organizing materials and sent them to the members earlier that day. Trial Court Administrator Myers said the group has compiled a number of public health questions that it received from various sources, and will be working with a public health advisor to answer those questions. It will then work on developing recommendations that make sense for the courts in light of those answers.

Judge Vincent asked if there may be a recommendation to ask local public health department officials to visit courtrooms and make specific recommendations about safe occupancy levels. Trial Court Administrator Myers said several counties are doing that and she believes the superior court judges are putting that forth as a best practice. Judge Bridges said there are a lot of topics for this working group to cover, and he asked Task Force members to send questions and feedback to Trial Court Administrator Myers or Deputy Director Carman.

Technology and Innovations Working Group:

Judge Henry said the Technology and Innovations Working Group is identifying issues for consideration and dividing them into three categories—an immediate set of recommendations by June 1, an intermediate set of recommendations for the next 60 to 120 days, and a long-term set of





recommendations. He said the group's second meeting on Monday will focus on the immediate recommendations.

Messaging and Communications to the Field:

Judge Bridges referred to Judge Corpening's earlier statement about communicating that the Task Force is trying to formulate recommendations for the Chief Justice and the field, and it is not acting as an oversight body or issuing directives to local court officials. He added that there are a large number of very talented people throughout the court system, and it will be important to seek their input as the Task Force goes about its work.

Judge Bridges asked the group if there are messages they think the Task Force needs to consider when drafting its report(s). Trial Court Coordinator Craig suggested that we communicate to the field and public that none of us have ever had to deal with a crisis like this before, and we all need to be patient and understanding as we work to develop recommendations and establish clear communications. Judge Vincent agreed, and added that the Task Force needs to submit clear and practical recommendations and emphasize that this is a fluid process because the pandemic is fluid. Judge Bridges said the Task Force and local court officials may need to make adjustments as we go, adding that we may need to roll back some expansions depending on how the virus progresses.

District Attorney Evans said district courts around the state have operated in the same ways for decades, and this crisis presents an opportunity to reassess the way we do things, innovate, and become more efficient. Judge Bridges agreed, and said the crisis presents an opportunity to get rid of archaic customs such as Monday morning calendar calls when the courts ask hundreds of people to show up at the same time and wait for their cases to be called. Judge Bridges said the courts should be able to move toward operating with more set appointments or blocks of time instead of mass calendar calls.

Professor Drennan said the end goals of the courts have not changed, but we are being forced to reconsider the means to get there. Professor Drennan said decisions are being made in a time of extreme uncertainty, and they will be the best decisions we can make to do what we have always done—provide a system of justice. He added that everyone has to be flexible about the best ways to accomplish that goal. Judge Bridges said this crisis may force people who work in the court system to be more patient and slow down some processes. He said everything will take longer as we develop new practices and that will offer an opportunity to slow down and spend more time on the cases.

Attorney McCabe said the Task Force's initial recommendations were warmly received by NCAJ's plaintiffs' attorney members, and they are looking forward to more clarity on topics like discovery deadlines, depositions, and mediations. Attorney McCabe said trials remain an area of concern, and some guidance about prioritization of proceedings would be helpful. Attorney Weede said the criminal defense bar also has a strong interest in receiving information about jury trials as soon as possible. District Attorney West agreed, and said the district attorneys favor a statewide approach on matters like when they can start calendaring jury trials, but they prefer deference to local control over more local issues.





Judge Vincent said she hopes that one of the recommendations that comes from the Technology and Innovations Working Group will be to utilize new technologies to help with challenging matters like scheduling criminal traffic calendars in time slots. Trial Court Administrator Myers said the vast majority of cases in the court system are resolved short of jury trials, and the Task Force needs to focus on those cases in terms of setting priorities. Judge Corpening said some jurisdictions are finding that mandatory remote hearings improve court attendance rates, and added that public health and safety has to be the foremost focus of the Task Force's recommendations.

Judge Baddour said many people in superior court do not seem to understand that our courts probably will not be having jury trials until August at the earliest, and that upcoming court sessions will be focused on things like pleas and motions practice. He suggested that the Task Force and Chief Justice be clear that it will take time before we can have jury trials, but stress all of the other things the courts can do safely in the interim. Judge Bridges agreed that the courts remain open to provide many services and that the focus has to be on ramping back up safely.

Goals for Next Meeting and Date:

Judge Bridges said one principal goal for the Task Force's next meeting is to have received a significant amount of input from the various external work groups about prioritization of cases and proceedings. Judge Corpening urged Task Force members to look at the various reports from other states before that meeting if possible.

Judge Bridges said part of the challenge with that task is that there are so many competing interests. For instance, there are some cases that may not be high priority in some ways, but there are statutory deadlines and federal funding implications. As another example, he said a criminal case where the defendant has been in custody for a long time and has indicated an intent to plead not guilty and demand a jury trial would normally be a high priority, but the court system cannot conduct jury trials right now. Judge Bridges reiterated that he likes the phased approach in the district attorneys' recommendations but there will be a lot of competing factors that have to be taken into consideration when prioritizing matters. Judge Corpening said he asked the chief district court judges' work groups to prioritize proceedings as we expand court operations under the assumption that social distancing is possible and there are limited hours in one day.

The meeting adjourned at 3:48 p.m. The next meeting will be held on Thursday, May 21, 2020 at 2:30 p.m.





JUDICIAL BRANCH COVID-19 TASK FORCE MEETING

May 21, 2020

Task Force Co Chair, the Honorable Jay Corpening, convened the meeting at 2:30 p.m. by WebEx.

Reminder of Open Meeting and Roll Call:

Judge Corpening stated that the meeting is subject to North Carolina's open meetings laws and that a livestream had been made available to the public and members of the media. North Carolina Administrative Office of the Courts (NCAOC) Research and Planning Associate Emily Mehta took roll call. The following Task Force members were present via WebEx:

- The Honorable F. Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge.
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge.
- The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge.
- The Honorable Teresa Vincent, District 18 Chief District Court Judge.
- The Honorable Billy West, District 14 District Attorney.
- The Honorable Robert Evans, District 8 District Attorney.
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court.
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court.
- Kinsley Craig, District 27B Trial Court Coordinator.
- Kellie Myers, District 10 Trial Court Administrator.
- The Honorable Jennifer Harjo, New Hanover County Public Defender.
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ).
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA).
- Patrick Weede, Attorney and Appointee of the NCBA.
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA).

The Honorable Jason Cheek, Davidson County Magistrate, was unable to attend. Anna Stearns, Chief of Staff and General Counsel to Chief Justice Beasley, was present via WebEx, as was the Honorable Chuck Henry, District 4 Senior Resident Superior Court Judge, and the Honorable R. Allen Baddour, District 15B Resident Superior Court Judge. A number of additional people joined the WebEx as representatives of NCAOC, the Office of Indigent Defense Services (IDS), and the School of Government (SOG) in their capacity as advisers and staff to the Task Force, as did Richmond County Sheriff James Clemmons.

Approval of May 13, 2020 Task Force Meeting Minutes:

Attorney Weede moved to approve the proposed minutes of the May 13, 2020 Task Force meeting, and Judge Vincent seconded. All Task Force members who were present approved the minutes by a roll call vote.





Impact of Chief Justice’s May 21, 2020 Order on Task Force Goals and Timeline:

Judge Bridges said the Chief Justice’s most recent order includes two emergency directives to the Task Force. Emergency Directive 11 directs the Task Force to develop guidelines and best practices for in-person court proceedings that are in compliance with current public health guidance. Judge Bridges said that appears to be a charge that the Task Force had already assigned to the Best Safety Practices Working Group, and Trial Court Administrator Myers confirmed that her group is addressing that matter as one aspect of its work.

Judge Bridges said Emergency Directive 16 also directs the Task Force to recommend best practices and minimum requirements for resuming jury trials and to submit those recommendations to the Chief Justice by June 30, 2020. Judge Bridges noted that the Chief Justice gave Judge Corpening and him advance notice of her intent to include this directive in her most recent order. Judge Bridges said the superior court judges’ work group has been discussing this issue and is developing a draft proposal for the Task Force to review.

Judge Bridges noted that Judge Sermons is the current President of the Conference of Superior Court Judges and asked if he had any comments. Judge Sermons said the superior court judges are looking at information from other states and developing best practice guidelines about resuming jury trials. He added that there will need to be a lot of deference to the individual judgment of senior resident judges but that it might be best to focus on small steps first like lower-level felony trials. Judge Sermons added that facilities will remain the biggest concern, noting that a lot of courthouses only have one or two courtrooms and scheduling trials that allow for social distancing will present significant challenges. Judge Sermons said there is no one-size-fits-all approach and local court system actors will have to work together in their own districts to develop appropriate local plans.

Judge Bridges agreed that the resumption of jury trials is going to require local cooperation among all stakeholders, and he invited comments from Task Force members who have an interest in jury trials. District Attorney West said the district attorneys want authority to start calendaring jury trials no sooner than the week of August 3, but they believe there needs to be local control over the resumption of jury trials beyond that date. District Attorney West said the district attorneys will implement a common-sense approach to what cases will be tried and how, and that approach should not involve jumping right into the trial of a capital case. District Attorney West added that the district attorneys share the same concerns and questions as others about safety and the availability of personal protective equipment.

District Attorney Evans said the defense bar seems to be concerned that, at some arbitrary date in the future, district attorneys will start calendaring complex cases without any rationale, consultation, or consideration of other interests. He reminded the Task Force members that the district attorneys have also been impeded in their ability to prepare and process cases and that it will take them some time to ramp back up once they have a firm starting date. He added that the judges will be the ultimate arbiters of whether individual cases are ready for trial. District Attorney Evans said, once the Chief Justice





determines a start date and the Task Force publishes best practices, there needs to be some trust that everyone will work together to make sure justice is done.

Judge Bridges said there is a strong theme in the Chief Justice's emergency directives that courts need to be guided by a principle of not proceeding unless it can be done safely and appropriately. He noted that Emergency Directive 11 directs the senior residents to serve as or designate a COVID-19 Coordinator for each court facility in their districts. Each Coordinator is then responsible under Emergency Directive 13 for ensuring that each session of court, individually or collectively, will allow for social distancing and that all Judicial Branch personnel who will be assigned to a courtroom for more than 30 minutes have face coverings. Judge Bridges said that directive appears to impose additional calendaring requirements that need to be coordinated among different divisions of the trial court to control total courthouse population.

Public Defender Harjo said she has heard suggestions that attorneys, witnesses, clients, and jurors can wear masks during trials, and that suggestion scares her. Public Defender Harjo said cross examination is the cornerstone of the jury trial system, and it is not possible to elicit evidence that might undercut accusations with everyone wearing masks. Public Defender Harjo said there may be some cases where that could be done effectively, such as class H and I felonies, but she could not try a murder or rape case effectively with people wearing masks. She added that the same would be true for the state's cross examination of the defendant. Public Defender Harjo said she understands the need for face coverings, but she is concerned about protecting the constitutional rights of her clients with everyone wearing masks. She added that it would be very troubling for her to be asked to try a case when she cannot sit next to her client and interact with him or her during trial.

Judge Bridges said the superior court judges' work group has discussed the difficulty of maintaining social distancing at counsel table, noting that a six-foot separation between counsel and the client could convey a troubling message to jurors. Judge Bridges said one option could be to erect plexiglass shields between people at counsel tables on both the defense and prosecution side. Public Defender Harjo said that would be better than masks, but she remains concerned that it would dehumanize her clients. Judge Bridges asked if she would have that concern even if the shields are erected at both counsel tables. Public Defender Harjo said yes, noting that the investigating officers and other witnesses who may sit at the prosecution table are professionals who do not struggle with the issues and stigma related to poverty and mental illness that criminal defendants often do.

Attorney Weede said criminal defense attorneys are concerned about how plexiglass shields would impact their ability to communicate with clients during trial, noting that it is imperative that they are able to do so. He said plexiglass will help with safety issues, but it would create challenges in maintaining confidential communications during trial. Attorney Weede added that defense attorneys are also concerned about the potential health implications of resuming trials, particularly those who are in high-risk categories or have family members in those categories. He stressed that a resumption of trials would require defense attorneys to have meetings in local jails with in-custody clients. Attorney Weede said the criminal defense attorneys he has heard from believe the time frame for resuming trials needs





to be further out than the district attorneys have suggested. Attorney Weede said, if there are speedy trial issues and both sides consent to proceed, trials in August may be acceptable if officials can determine how to hold them safely. Otherwise, he suggested resuming jury non-capital trials in late September, with potentially capital cases set out further due to the serious penalties those defendants face.

Attorney McCabe said the civil bar shares many of the same safety concerns, but the civil practitioners he has heard from want to resume jury trials by early August. He added that the Chief Justice's most recent order provides some needed clarity about the timing of resuming trials. Attorney Keister agreed, and said clarity and safety are the primary concerns of the civil bar. He said civil jury trials may not be the top priority but, for attorneys with civil trials scheduled for this fall, the bar wants as much advance notice as possible as to whether those civil dockets are going to move forward.

Judge Bridges asked about the possibility of holding civil trials with a smaller panel of jurors. He said that is generally only by stipulation of the parties, and he asked what willingness there may be to have smaller jury panels in civil cases, especially in small courthouses with insufficient space for jury trials. Attorney McCabe said the civil attorneys with whom he has consulted are very open to six-person juries if that would help minimize backlogs. He added that they are also open to a change in the number of peremptory challenges. Attorney Keister agreed, noting that civil lawyers will be open to that if the court notifies them that those are the parameters for having a case heard in 2020.

Judge Bridges said one key issue with resuming trials is going to be the summoning and handling of jurors. He said that is an area in which the clerks will play a key role, and the superior court judges' work group has discussed approaches like bringing in smaller groups of jurors and staggering reporting times. Clerk Johnson said it is going to be a logistical challenge for clerks to do juror orientations, although that could be done with smaller numbers. Clerk Johnson said she hopes that when trials resume, especially criminal trials, the ones that will be scheduled will be ones that actually go forward. She said it takes a lot of time and money to do juror orientations and jury selection in cases that then plead or settle on the eve of trial. Judge Bridges said that is a good point and it will be important to try to identify cases that are actually going to proceed to trial.

Clerk Chinn-Gary agreed that smaller panels and staggered reporting times would be helpful. She added that public messaging will be very important whenever trials resume. Clerk Chinn-Gary said if the court system tells the public that courthouses are safe, that hand sanitizer is available, and that social distancing is being practiced, that messaging must be true and will be an important part of making the public feel safe enough to come to the courthouse. Clerk Chinn-Gary said Mecklenburg County saw a lot of no shows in the early days of COVID-19, and there will be a need for generous deferral policies and second noticing for those who do not appear the first time. Clerk Chinn-Gary said there may be community venues other than courthouses in which jury trials could take place more safely. She added that the possibility of virtual jury trials is being contemplated across the country and should be the subject of some conversation, even if the idea is ultimately rejected.





Trial Court Coordinator Craig said the court managers are concerned about the potential impact that holding jury trials under current conditions may have on future appeals and motions for appropriate relief. She added that everyone is struggling with new responsibilities as a result of the pandemic, and it will not be possible to meet the NCAOC's current time standards for disposition of cases. Trial Court Administrator Myers agreed. She added that whenever trials resume, it will be important to protect the court reporters, who are generally seated below witnesses where viral particles could land on them as witnesses speak or cough.

Judge Bridges asked all Task Force members to submit short written summaries about these matters within the next week to him or to NCAOC Deputy Director of Court Programs, Danielle Carman.

Setting Priorities for Case Types as Court Sessions Expand:

Judge Corpening turned to a discussion of setting priorities for case types as courts expand, and he said it would be difficult to impossible to set priorities for the entire state because there are so many different practices in different counties. Judge Corpening reminded everyone that the purpose of the Task Force is to provide guidance to the Chief Justice as she works to provide guidance to the field. He directed the Task Force members to two documents in their meeting materials. The first document contained all of the external work group submissions about priorities, including the Chief Justice's chambers, the superior court judges, the chief district court judges, the district attorneys, the court managers, and the family law bar. He noted that the chief district court judges' juvenile work group did not complete its submission in time to include in that document, so it will be updated to include their recommendations. Judge Corpening said the second document is a chart compiling all of the responses and identifying areas of consensus and areas of disagreement.

Judge Corpening said one challenge is that prioritization is about more than case types. For instance, he noted that some priorities for the chief district court judges' juvenile group included emergent matters where a child's safety is at issue or there is a dire need for services. Those are very important matters to be heard but they are not case types. Judge Corpening added that part of the Task Force's message to the Chief Justice needs to be that it is more important than ever for local stakeholders to collaborate and see what works in their individual counties. Judge Corpening asked for feedback on what the Task Force's ultimate product for the Chief Justice should look like. He said it might make sense to provide the Chief Justice with the collective body of work, along with all of the different groups' recommendations. He said it will not be possible to get all Task Force members to agree on every matter.

Trial Court Coordinator Craig said the Task Force's materials included a new document drafted by the court managers that is intended to be a combination of their previously submitted comments about case type prioritization and an attempt at grouping matters into low, medium, and high risk of exposure to the coronavirus. She said low risk proceedings are those that involve no risk of exposure to infection, do not involve physical contact between participants, and can be addressed immediately by remote means. Medium risk proceedings are those that involve moderate levels of exposure risk and that can be conducted in person with social distancing or through a hybrid of in-person and remote means. High risk





proceedings are those that involve maximum levels of exposure risk because they must be conducted in person and appropriate social distancing is impossible due to varying factors such as courtroom size and the number of participants. Trial Court Coordinator Craig said this document is not intended to be the only recommendation to the Chief Justice in this area, but it is a resource from the court managers' perspective on how they would rank various types of proceedings. She suggested using the court managers' initial recommendations about case priorities and also recommending that courts handle anything that is low risk because those matters can be resolved safely and quickly. Judge Corpening agreed that remote hearings can be done safely and should be handled, even if the case type is not a high priority. Trial Court Coordinator Craig agreed, noting that local court actors should look at priority and risk together.

Judge Bridges said his view of the work product that this Task Force should generate with respect to prioritization has changed over time. Judge Bridges said one recurring theme he has heard is that this Task Force should not issue directives to local authorities, and he believes it will be very important for the written report to communicate that the recommendations are not mandates. Judge Bridges said the Task Force will make recommendations to the Chief Justice and offer best practice suggestions as a resource to the local court officials who will ultimately have to make the actual decisions. He said the written report should convey that the recommendations are examples of the analysis that local court officials should conduct, not directives. That said, Judge Bridges said the superior court work group endorses the court managers' product as a good example of the recommended analysis. He stressed that the Chief Justice's position is that the court system needs to shift away from thinking about what *must* be heard and toward thinking about what *can* be heard safely.

Judge Sermons said the superior court judges have discussed the priorities recommended by the court managers, and he agreed they are very helpful. However, the judges are also realizing that there are trial weeks and administrative weeks and, in some ways, the priorities are already set by those designations. Judge Sermons added that everyone needs to be sensitive to the ability of attorneys to get cases ready for trial.

Judge Corpening noted the district attorneys' earlier point about prioritization being handled at a local level, and he asked for their view of what the Task Force's written product should look like. District Attorney West agreed that local court officials should prioritize the matters that can be done safely, and he said administrative traffic courts are going to present a big challenge. He added that, in Cumberland County, those will not be held until later in the summer. District Attorney West noted that local officials around the state are trying to prioritize the matters that do not require as many large gatherings.

District Attorney Evans agreed, adding that the final product has to acknowledge that one size does not fit all and allow for local autonomy. District Attorney Evans said he has reviewed the written reports of similar task forces around the country, and they tend to revolve around best safety practices and provide checklists and guidelines for each local jurisdiction to consider as it sets its own priorities. District Attorney Evans said jury trials are going to be difficult under current circumstances, but every murder trial is not the same and there are some felony cases that could be resolved. He said his office is





working to prioritize victims' rights cases and is focusing less on traffic and compliance matters. He suggested that the final product offer a template of things to consider so that local officials can prioritize in ways that are safe and consistent with best practices.

Judge Corpening turned to the family law recommendations, and attorney Harrison said the family bar suggests prioritizing the cases that involve the most urgent matters that would make the most difference to the clients. With respect to the final report to the Chief Justice, attorney Harrison said his work group tried to be practical and offer a toolbox to local courts. He said every court will not need every tool in the box, but he believes the Task Force should provide all of the submissions from the various groups to the Chief Justice so she can benefit from everyone's input.

Judge Corpening said the chief district court judges' juvenile work group focused almost entirely on risk assessment and best safety practices and did not attempt to prioritize actual proceedings. He said the group classified all juvenile court proceedings as high priority and their submission focuses on how to conduct them safely. Judge Corpening said he would work on a draft of a preamble to the prioritization recommendations that focuses on safety and minimizing risk.

Judge Corpening turned to the topic of prioritizing proceedings between trial court divisions, and he asked whether Rule 3.1 of the General Rules of Practice could be used to resolve courtroom scheduling conflicts. Judge Bridges said Rule 3.1 was drafted to address situations in which a particular attorney is expected to appear in more than one court at once and to resolve conflicts over which types of appearances take priority. He said local court officials are going to face new conflicts over courtroom space as court operations resume with social distancing requirements. While it would be ideal to resolve those conflicts through local communication, the superior court judges' work group discussed whether Rule 3.1 would be an effective tool for resolving competition for courtroom space. He said the superior court judges believe Rule 3.1 would provide an appropriate framework for resolving those conflicts when local communication is not effective. Judge Sermons agreed. Judge Vincent said there may be times when there are not enough bailiffs to enforce social distancing outside of the courtrooms, and she suggested using Rule 3.1 to resolve conflicts over manpower as well.

Judge Bridges suggested that the Task Force could recommend to the Chief Justice that Rule 3.1 should be used to resolve conflicts over facilities and courthouse personnel, in addition to scheduling conflicts for particular attorneys. Judge Sermons so moved, and Judge Vincent seconded the motion. Public Defender Harjo suggested that the recommendation be prefaced by language clarifying that communication between the parties is the preferable way to resolve conflicts, but Rule 3.1 should be used when communication is unsuccessful. Judge Sermons agreed. Judge Corpening said Rule 3.1(f) provides that judges should communicate with each other and attempt to resolve conflicts voluntarily.

Clerk Chinn-Gary said clerks preside over hearings that often involve large numbers of people, such as foreclosures, and the need to accommodate those proceedings in courtrooms is not contemplated by Rule 3.1. Judge Corpening said he hopes judges would work with their local clerks to accommodate those proceedings. By roll call vote, all Task Force members who were present approved the motion to





recommend the use of Rule 3.1 to resolve conflicts over facilities and courthouse personnel, in addition to scheduling conflicts for attorneys.

Reports from Working Groups:

Virus Fatigue Working Group:

SOG Professor Drennan said the Virus Fatigue Working Group has been focused on things that may be immediately helpful to personnel in the field. First, the group has drafted a document with self-care suggestions and, assuming the Task Force approves the draft content, the plan is to work with the NCAOC Communications Division to make it more visually appealing and to distribute it to the field. He said the Working Group did not discuss whether this document should be a full Task Force recommendation to the Chief Justice or something that comes directly from the Working Group, adding that he would defer to the Co-Chairs on that matter. He said the document relies heavily on information published by the Mayo Clinic and Centers for Disease Control and Prevention, as well as materials from the American Bar Association’s lawyers’ assistance program.

Second, Professor Drennan said the Working Group identified a “Help Now” poster published by the Trauma Resource Institute and has obtained permission to circulate it. It is a colorful poster with some basic suggestions about how to respond to stress in the moment. Third, Professor Drennan said the group is creating a video to promote awareness among court personnel about the stress induced by the crisis and to urge them to pay attention to self-care. Finally, the group is considering reducing the first document to a shorter chart with bullet points.

Judge Corpening asked if the Task Force members thought it would be okay to release those resources once they are finalized. Judge Bridges said he thinks that would be the best approach. Judge Bridges said he has reviewed a large number of reports from other states with similar task forces, and he believes this group’s work is unique and will be an excellent way of personalizing the message to Judicial Branch personnel across the state. Judge Corpening agreed, and said he appreciates the Working Group’s quick efforts. No Task Force members expressed concern about distributing the Working Group’s products as soon as they are finalized.

Best Safety Practices Working Group:

Trial Court Administrator Myers said the Best Safety Practices Working Group met on Monday and discussed the public health questions it had received with Dr. Erica Wilson, the Task Force’s public health advisor from the North Carolina Department of Health and Human Services. She said a lot of the answers to those questions may change as the public health guidance evolves, so it will be a bit of a challenge to ensure that the Working Group is providing up-to-date information. Trial Court Administrator Myers said she is working with the Working Group’s staff on how best to format the information, but the questions and answers will be reflected in the meeting minutes for the Working Group, which will be circulated to the full Task Force once they are approved. Trial Court Administrator Myers said the group’s next task is to begin preparing best safety recommendations for the Task Force’s





consideration that are appropriate for the court system, including the best safety recommendations for in-person proceedings that are required by the Chief Justice's Emergency Directive 11.

Technology and Innovations Working Group:

Judge Henry thanked the NCAOC and IDS staff who are supporting the Technology and Innovations Working Group. He referred to the earlier discussion about the use of plexiglass shields at counsel table, and said he wondered whether headsets might help with communications between defense counsel and the client. Judge Henry said the Technology and Innovations Working Group has developed a draft set of immediate recommendations that could be implemented in the short-term with little or no cost but has not yet held a final vote on those recommendations. He said it has been a collaborative effort among all members, and the list is intended to offer suggestions that may or may not be helpful in specific situations. He added that the Working Group will focus next on a set of intermediate recommendations that will be offer suggestions for July through November 2020, and then on long-term recommendations that may be helpful after the pandemic. He noted that the long-term recommendations may require legislation or additional funding.

Judge Henry offered a few highlights from the immediate recommendations, such as creative ways to expand remote proceedings and potential ways to enhance the use of the court date notification system. He said there is also a recommendation to conduct a survey aimed at identifying the local jails that have the capacity and software for remote conferences between attorneys and clients in custody. Judge Henry said the list of recommendations may be modified in subsequent meetings, but the group wanted to get an initial draft to the Task Force for today's meeting. Judge Henry added that he believes the immediate recommendations are close to final.

Judge Corpening and Judge Bridges asked the Working Groups to strive to have final recommendations to present to the full Task Force at its next meeting.

Goals for Next Meeting and Date:

Judge Corpening said his goals for the next Task Force meeting are to finalize the collection of case priorities to recommend to the Chief Justice, to finalize the immediate recommendations from the Best Safety Practices and Technology and Innovations Working Groups, and to further develop the conversation on jury trials. Judge Bridges said he hopes to have a draft plan for the resumption of jury trials to present to the Task Force at its next meeting, and he reiterated his earlier request for written comments from Task Force members and their constituents.

Judge Corpening suggested holding the next full Task Force meeting on Thursday, May 28 at 2:00 p.m. Judge Vincent said she may have to miss that meeting to preside over a session of drug treatment court.

The meeting adjourned at 4:22 p.m.





JUDICIAL BRANCH COVID-19 TASK FORCE MEETING

May 28, 2020

Task Force Co Chair, the Honorable F. Donald Bridges, convened the meeting at 2:00 p.m. by WebEx.

Reminder of Open Meeting and Roll Call:

Judge Bridges stated that the meeting is subject to North Carolina's open meetings laws and that a livestream had been made available to the public and members of the media. North Carolina Administrative Office of the Courts (NCAOC) Research and Planning Associate Emily Mehta took roll call. The following Task Force members were present via WebEx:

- The Honorable F. Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge.
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge.
- The Honorable Teresa Vincent, District 18 Chief District Court Judge.
- The Honorable Billy West, District 14 District Attorney.
- The Honorable Robert Evans, District 8 District Attorney.
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court.
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court.
- Kinsley Craig, District 27B Trial Court Coordinator.
- Kellie Myers, District 10 Trial Court Administrator.
- The Honorable Jason Cheek, Davidson County Magistrate.
- The Honorable Jennifer Harjo, New Hanover County Public Defender.
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ).
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA).
- Patrick Weede, Attorney and Appointee of the NCBA.
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA) was not present for roll call but joined the meeting at 3:00 p.m.

The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge, was unable to attend. Anna Stearns, Chief of Staff and General Counsel to Chief Justice Beasley, was present via WebEx, as was the Honorable R. Allen Baddour, District 15B Resident Superior Court Judge. A number of additional people joined the WebEx as representatives of NCAOC, the Office of Indigent Defense Services (IDS), and the School of Government (SOG) in their capacity as advisers and staff to the Task Force, as did Richmond County Sheriff James Clemmons.

Approval of May 21, 2020 Task Force Meeting Minutes:

Judge Vincent moved to approve the minutes of the May 21, 2020 Task Force meeting, and District Attorney West seconded the motion. All Task Force members who were present approved the minutes by a roll call vote.





Finalize Recommended Priorities for Case Types as Court Sessions Expand:

Judge Corpening said a number of stakeholders submitted recommendations with respect to prioritization of proceedings and matters, and all of the submissions will be attached to the Task Force's final report as appendices. He said the Co-Chairs and staff attempted to weave highlights of those submissions into the body of the report as well. Judge Corpening said Judge Bridges and he are happy to receive substantive input about the draft report from Task Force members, but the Chief Justice needs the Task Force's report on a timeline that will not allow for extensive wordsmithing. He asked any Task Force member who has substantive comments about the report or who wants to discuss any covered matters further to submit written comments by 5:00 p.m. on Tuesday, June 2, 2020. He added that, in the meantime, the draft report will be updated to incorporate the recommendations submitted yesterday and today from the Technology and Innovations and the Best Safety Practices Working Groups.

Reports on Immediate Recommendations from Working Groups:

Judge Bridges invited the chairs of the various Working Groups to give reports about their recommendations.

Best Safety Practices Working Group:

Trial Court Administrator Myers said she circulated the Best Safety Practices Working Group's recommendations right before the meeting. She thanked the members of the group for their work, noting that it was not an easy feat to pull together these recommendations. Trial Court Administrator Myers said the group's goal was to provide clear and consistent information about the need for safety precautions, and she invited any Task Force member who thinks any of the recommendations are not clear or consistent to provide that feedback by the following Tuesday. Myers said the Working Group's recommendations are guided by a hierarchy of controls and, for the sake of clarity, they provided examples and suggestions. She added that local court officials should be able to refer to the hierarchy of controls in determining the specific combination of controls that will work best in their local courthouses.

Judge Bridges asked whether any Task Force members had comments about the Best Safety Practices recommendations, and none were expressed. Judge Bridges referred to the June 2, 2020 deadline for Task Force members to submit comments and said Judge Corpening and he agreed that would be the most workable approach to receiving comments and giving them fair consideration. He said that approach will give all Task Force members an opportunity to review and consider all of the information that is now before it, and to identify any matters in the draft Task Force report or the Working Group reports that warrant additional discussion at next week's meeting. He added that any Task Force member can request that next week's meeting agenda allow for further discussion of any topic covered by the reports. He stressed that the purpose of this approach is to provide some structure as to how the Task Force will go about considering proposed changes.





Technology and Innovations Working Group:

Judge Bridges stated that the Chair of the Technology and Innovations Working Group, District 4 Senior Resident Superior Court Judge Chuck Henry, was unable to attend the meeting and he asked Judge Baddour to give the Working Group report. Judge Baddour said the Task Force members received the Working Group's immediate recommendations yesterday, and he would not attempt to cover them all. He said the group attempted to include the main issues that could be addressed through technology and innovation, such as scheduling, notice, high-volume court operations, and communication between participants in court proceedings and between defense attorneys and their in-custody clients.

Judge Baddour noted that the Working Group tried to stay out of the details; for example, while the group recommended some mechanism for improving communication between defense counsel and their in-custody clients, it did not recommend a specific platform in order to give NCAOC and local court officials flexibility to explore different ideas. Judge Baddour said the Working Group views these recommendations as a menu of options that the Task Force might choose to endorse and pass on to the Chief Justice. He said the work to date has focused on immediate steps that could be implemented with little or cost and that would not require legislative change. The Working Group has not yet developed its intermediate and long-term recommendations. Judge Baddour said, if any Task Force member thinks anything on the list of immediate recommendations should be pushed back to intermediate or long-term, the Working Group is open to considering that.

Judge Corpening said the chief district court judges held their weekly meeting earlier in the day, and there was discussion about some lawyers not wanting to handle hearings with remote technology. Judge Corpening asked Judge Baddour if there was any discussion among the Working Group members about how to increase the bar's interest in remote hearings. Judge Baddour said the attorney members of the Working Group may be better positioned to answer that question. He added that the Working Group heard fairly consistent feedback that parties should not be able to veto remote proceedings, although there should be some mechanism for objecting for good cause, and that it should be a matter for the presiding judge to determine. He said that feedback was unanimous among the civil practitioners, but there were more concerns on the criminal side about remote hearings for substantive matters.

Judge Baddour said his reading of the discussion was that people were okay with proceeding remotely in criminal matters with the defendant's consent. He added that the civil bar seems to prefer remote hearings over not getting matters heard. He said, if judges have the authority and discretion to decide which proceedings can be held remotely, the willingness of attorneys to participate becomes less significant. Judge Baddour said the group also discussed the ability of judges to decide certain motions on the paper submissions without a hearing, and there appeared to be fairly strong support for that idea among the attorneys in the Working Group. Judge Baddour said that would not work with all motions, but it would help the courts to minimize in-court proceedings for some portion of their dockets.

Attorney Harrison said Judge Vincent recently issued an order about remote proceedings in Guilford County, and there is a fairly broad local rule in Randolph County that has expanded the types of hearings that can be held remotely. He has discussed that rule with a number of lawyers in Randolph County and





it is overwhelmingly popular with the bar. Attorney Harrison said he recently wrote a blog post for the family law section of NCBA, in which he stated that attorneys should expect to see an expanded use of remote hearings and he did not receive any push back from it. He added that Texas has been conducting remote hearings and trials, and the family law attorneys there have reported positive experiences.

Attorney McCabe said he agreed with Judge Baddour's summary of the discussion. He said the consensus of the civil bar is that they want hearings, depositions, and mediations to proceed remotely so that cases are not delayed further. He said handling those matters remotely is the best and safest way right now and will prevent an even more substantial backlog. Attorney McCabe said civil practitioners are concerned that, if judges do not require those matters to proceed remotely, there may be some gamesmanship among the parties. He added that, when matters could only be held remotely with consent of both parties, a lot of people were unwilling to consent.

Virus Fatigue Working Group:

Judge Bridges said SOG Professor Jim Drennan was listening to the meeting, but he was travelling and unable to provide a Virus Fatigue Working Group report. Judge Corpening said he participated this week in the filming of the video the Working Group is preparing, noting that a variety of Judicial Branch actors filmed short video clips on their phones and emailed them to NCAOC for compilation into a video focused on taking care of ourselves and each other. Judge Corpening said the plan is to circulate that video across the Branch as a way of recognizing that we are all in this together. He said, as people return to their offices, they will be walking back into situations that are very different from the ones they left and we all need to recognize that everyone has experienced some degree of trauma. Judge Corpening added that the group has gotten permission to share a poster with some basic tips about checking in on ourselves and managing stress.

Judge Vincent said the current state of these efforts is consistent with Professor Drennan's last report to the Task Force, and the Working Group has compiled information and tips for the field from reputable sources. Judge Vincent added that NCAOC Communications Division is now working to make the self-care document that was shared at the last meeting more visually attractive.

Judge Bridges said all of the Working Groups have been focused on matters that are not part of the members' every day areas of expertise, and he is grateful to the members for their efforts to gather information and become informed in these new areas.

Review of Draft Recommendations for Resumption of Jury Trials:

Judge Bridges said the Chief Justice asked the Task Force to formulate a plan for the resumption of jury trials, and the draft Task Force report contains a starting proposal on that topic. He said one consistent theme in the comments from various stakeholders has been that one size does not fit all. Judge Bridges said that same theme applies to the resumption of jury trials, not only because various parts of the state have different populations and caseloads, but also because there are varying opinions and concerns among the different stakeholders.





Judge Bridges said the Task Force members and their constituents have expressed widely varying concerns about jury trials, and the current draft of the report represents an effort to present fair and accurate summaries of those concerns. Judge Bridges said he does not expect the Task Force members to reach unanimous agreement on every point in the draft plan, but he hopes that they can reach consensus on the fundamentals and that everyone's concerns have been accurately summarized so the Chief Justice and local officials can take them into account when they decide how to proceed with trials on a statewide basis and in individual districts.

Judge Bridges said another consistent theme has been the need for clarity, and many Task Force members have asked the group to recommend a specific date to the Chief Justice for when jury trials may resume. He said the request has not been for her to dictate when trials will resume, but to provide a date on which they may begin if local officials are ready to do so.

Judge Bridges asked if any Task Force member wanted to present a motion for consideration on that point. District Attorney West made a motion for August 3, 2020 to be the date when district attorneys can start calendaring jury trials, noting that there should be local discretion in consultation with all local stakeholders as to which trials actually proceed on that date. District Attorney Evans seconded the motion. He said, as a practical matter, the proposed date of August 3, 2020 is nothing more than a planning tool so that districts can begin to get prepared. He added that the date for resuming actual jury trials will vary.

Public Defender Harjo said the criminal defense bar shares the desire to get back to resolving cases and the clients, particularly those in custody, are anxious to have their cases heard. However, she believes that August 3, 2020 is too soon without the consent of all parties. Public Defender Harjo said she does not think it would be possible to resume trials before August 3 because there are so many protective measures that need to be put in place for all participants. Until those measures are in place, she does not believe it would be feasible to require criminal defendants and their counsel to commence trials that soon. Public Defender Harjo said attorneys have not been able to conduct in-person interviews and investigations, and it has not been possible to send investigators into the field. She added that those efforts may not be possible for the foreseeable future. She said the summary of the criminal defense bar's concerns in the draft report is accurate, and she urged the Task Force members to review those concerns. Public Defender Harjo added that she does not think it will be possible to conduct criminal jury trials remotely by video.

Attorney Weede agreed, noting that the draft report accurately summarizes the concerns of the criminal defense bar and he believes it does an excellent job of describing the positions of all stakeholders. Attorney Weede said, if all parties consent to a trial on August 3, he thinks it is acceptable to proceed. However, if all parties do not consent, he thinks it makes more sense not to resume criminal jury trials until late September 2020 and not to resume potentially capital trials until late November 2020. Attorney Weede said it might make sense to submit the Task Force's recommendations without a specific date and to let the Chief Justice make that decision after reviewing all of the feedback.





Trial Court Administrator Myers agreed that August 3, 2020 is too soon. She stressed that counties have not even resumed in-person hearings yet, and no one knows what that will look like or entail. She added that there are a lot of concerns about how to get a representative jury pool under these conditions, noting that many parents will still be dealing with child-care issues on August 3.

Attorney Harrison said whatever gets done in August is going to be a fairly preliminary trial run for the whole process, noting that courts are going to have to send summons to more people than normal because there will likely be more deferrals and that getting all jurors and participants together in one place may not be possible everywhere. He said there is going to have to be a “trial and error” approach for a while and using such an approach in a serious felony or murder case does not appear just. Attorney Harrison said everyone should want procedures that will withstand appellate scrutiny and that appear fair to the public.

Clerk Johnson said the Best Safety Practices Working Group is recommending staggered shifts in clerks’ offices, and many clerks will not be able to follow those recommendations because of the staffing needs in courtrooms. She said August 3 is going to be too soon for some clerks to resolve those staffing challenges. Clerk Johnson added that, if there is exposure in a clerk’s office or courthouse, they are going to have to close for sanitization and potentially isolate staff. She said the clerks of superior court would prefer a later date for jury trials.

Trial Court Coordinator Kinsley Craig said her concerns are logistical. She said the Chief Justice’s order directs the COVID-19 facility coordinators to identify any needed alternate facilities for jury trials by July 1, 2020. She said that will be a new process for everyone, including county managers, and she is hesitant to say that it will be possible to work out all of the logistics of holding jury trials in alternate locations by August 3. She noted that jury summons would have to include the location of the alternate facility.

Judge Bridges asked if there are other concerns about the August 3, 2020 start date in District Attorney West’s motion, and District Attorney Evans suggested calling the motion to get a better sense of where everyone stood. District Attorney West restated his earlier motion to allow the district attorneys to begin calendaring trials on August 3, subject to rulings by the presiding judges in specific cases. District Attorney West added that the COVID teams in individual districts should develop plans for the safe resumption of jury trials in their districts. District Attorney Evans said that process should lead to local consensus as to when actual trials should resume in each district.

Attorney McCabe said he understood District Attorney West’s original motion to allow for criminal and civil jury trials to resume no earlier than August 3, but his restated motion was limited to criminal trials. District Attorney West said he would accept a friendly amendment to include the resumption of civil jury trials in his motion. Attorney Weede suggested voting separately on civil and criminal jury trials. Trial Court Administrator Myers disagreed, noting that court officials will have to engage in the same preparatory steps of summing jurors and staffing courtrooms appropriately before resuming both civil and criminal trials. Trial Court Administrator Myers suggested that the COVID facility coordinators and/or senior resident superior court judges be required to certify that they have a safe plan in place by





a certain date. She said she would defer to the clerks on when they can have adequate staffing in place, but she suggested sometime in September. If the Task Force recommends a specific date, Trial Court Administrator Myers said it needs to be very clear that each district should not resume actual trials until they have a plan for doing so safely.

Judge Bridges asked District Attorney West whether his motion could include a requirement of local COVID safety plans being in place before the resumption of jury trials, and District Attorney West said yes. Attorney McCabe said his understanding is the date for actual resumption of trials would be a district-by-district decision, not a statewide mandate, noting that the August 3 date should be the earliest date when individual districts can start holding trials as long as it can be done safely. Judge Bridges agreed and said the Task Force is not issuing directives but is offering recommendations for the Chief Justice's consideration.

Judge Bridges restated the motion on the floor as allowing, but not requiring, the calendaring of civil and criminal jury trials on or after August 3 as long as the local COVID facility coordinators have a COVID safety plan with respect to jury trials in the district. The following nine Task Force members voted in favor of the motion in a roll call vote: Judge Bridges, Judge Corpening, Judge Vincent, District Attorney West, District Attorney Evans, Trial Court Coordinator Craig, Trial Court Administrator Myers, Magistrate Cheek, and Attorney McCabe. The following five Task Force members voted against the motion in a roll call vote: Clerk Johnson, Clerk Chinn-Gary, Public Defender Harjo, Attorney Harrison, and Attorney Weede.

Judge Bridges said the next step is for the Task Force to determine whether and how to include this recommendation in the report. He urged everyone to read the draft report carefully and to send the Co-Chairs written comments explaining any concerns they may have about how the materials are presented and requesting any desired additions to next week's meeting agenda. NCAOC Deputy Director of Court Programs, Danielle Carman, asked any Task Force members who submit written comments or requests to copy her so she can compile the information in advance of the meeting.

Judge Bridges said the Task Force has tried to garner as much consensus as possible on the issues before it and it is clear there is significant dissension on the issue of a date for resuming trials. He said that may be a sign that the Task Force should defer consideration of this issue and see if it is possible to arrive at greater consensus. He urged all Task Force members to think about that question. Judge Corpening said, unless there are significant changes in people's positions over the next week, if the Task Force decides to submit that recommendation to the Chief Justice, the report needs to convey that there are heartfelt differences of opinion on this issue. He said the Chief Justice has been wrestling with this issue and it will be helpful to her to know that the Task Force wrestled with it as well. Judge Corpening said the work done by the Task Force and Working Groups has been remarkable, and he and Judge Bridges are amazed at the quality and speed of the work. With respect to the jury trial issue, he said it is challenging in part because of the planning that needs to happen before trials can resume. Judge Corpening added that it is easier to push a date back than to move it forward.





Plan and Timeline for Submission of Report to Chief Justice:

Judge Corpening said time has been the Task Force’s enemy since it began its work, and the group needs to try to wrap up the initial report to the Chief Justice as soon as possible. He said court operations will begin expanding next week, although the degree of expansion will vary around the state, and people are looking to this group for guidance. Judge Corpening reiterated the request for Task Force members to submit written comments about the draft report by 5:00 p.m. next Tuesday.

Judge Corpening said next week’s meeting will be focused on finding consensus on as many issues as possible, and the goal is to submit the report to the Chief Justice by the following week. He reiterated that the Co-Chairs are seeking substantive comments, not wordsmithing. He added that the Task Force will have additional longer-term work to do after the initial report is submitted.

Goals for Next Meeting and Date:

Judge Bridges said the next meeting will be Thursday, June 4, 2020 at 2:00 by Web Ex. The goals for that meeting will be to finalize the immediate reports from the Working Groups and to arrive at a final recommendation on the resumption of jury trials. He added that the Task Force has not even discussed whether to include any budgetary recommendations in its report. Judge Corpening asked Deputy Director Carman to provide the Task Force members with a draft of NCAOC’s COVID-19 funding requests before the next meeting, and she agreed to do so.

The meeting adjourned at 3:13 p.m.





JUDICIAL BRANCH COVID-19 TASK FORCE MEETING

June 4, 2020

Task Force Co Chair, the Honorable Jay Corpening, convened the meeting at 2:00 p.m. by WebEx.

Reminder of Open Meeting and Roll Call:

Judge Corpening stated that the meeting is subject to North Carolina's open meetings laws and that a livestream had been made available to the public and members of the media. North Carolina Administrative Office of the Courts (NCAOC) Research and Planning Associate Emily Mehta took roll call. The following Task Force members were present via WebEx:

- The Honorable F. Donald Bridges, Co-Chair, District 27B Senior Resident Superior Court Judge.
- The Honorable Jay Corpening, Co-Chair, District 5 Chief District Court Judge.
- The Honorable Wayland Sermons, District 2 Senior Resident Superior Court Judge.
- The Honorable Teresa Vincent, District 18 Chief District Court Judge.
- The Honorable Billy West, District 14 District Attorney.
- The Honorable Robert Evans, District 8 District Attorney.
- The Honorable Marsha Johnson, Harnett County Clerk of Superior Court.
- The Honorable Elisa Chinn-Gary, Mecklenburg County Clerk of Superior Court.
- Kinsley Craig, District 27B Trial Court Coordinator.
- Kellie Myers, District 10 Trial Court Administrator.
- The Honorable Jason Cheek, Davidson County Magistrate.
- The Honorable Jennifer Harjo, New Hanover County Public Defender.
- John McCabe, Attorney and Appointee of the North Carolina Advocates for Justice (NCAJ).
- Wade Harrison, Attorney and Appointee of the North Carolina Bar Association (NCBA).
- Patrick Weede, Attorney and Appointee of the NCBA.
- JD Keister, Attorney and Appointee of the North Carolina Association of Defense Attorneys (NCADA) was not present for roll call but joined the meeting at 3:00 p.m.

Anna Stearns, Chief of Staff and General Counsel to Chief Justice Beasley, was present via WebEx, as was the Honorable Chuck Henry, District 4 Senior Resident Superior Court Judge. A number of additional people joined the WebEx as representatives of NCAOC, the Office of Indigent Defense Services (IDS), and the School of Government (SOG) in their capacity as advisers and staff to the Task Force, as did Richmond County Sheriff James Clemmons.

Approval of May 28, 2020 Task Force Meeting Minutes:

Attorney Harrison moved to approve the minutes of the May 28, 2020 meeting, and Attorney Weede seconded the motion. All Task Force members approved the meeting minutes by a roll call vote.





Finalize Immediate Recommendations:

Judge Corpening said the Task Force is moving toward finalizing all of its immediate recommendations for its first report to the Chief Justice, and he thanked all of the working groups for crafting recommendations that will be helpful to everyone in the field.

Best Safety Practices Working Group:

Trial Court Administrator Myers said she has not received any suggestions or feedback regarding the Best Safety Practices Working Group's draft recommendations that were presented at the last meeting. She added that the working group has not met since the last Task Force meeting because she was focused on the courthouse damage that occurred over the weekend and the expansion of court proceedings that began on June 2. Trial Court Administrator Myers said she and Chief of Staff Stearns have interns from the North Carolina Department of Health and Human Services and UNC School of Law starting the following week, and they will be working on drafting best safety practices for jury trials that will be presented to the working group and then to the full Task Force.

Technology and Innovations Working Group:

Judge Henry said the Technology and Innovations Working Group finalized their intermediate recommendations that morning, adding that the group has developed some draft jury trial suggestions that they plan to include in their long-term recommendations. Judge Henry said he hopes to have the long-term recommendations to the Task Force by the end of the next week.

Virus Fatigue Working Group:

SOG Professor Jim Drennan said the Virus Fatigue Working Group has created three different products to send to the field as soon as possible:

1. A "Caring for You" video intended to build awareness about the stress that everyone is under and to convey the message that we are all in this together;
2. A "Caring for You" document that details the signs of stress and some strategies for dealing with them, as well as some more intensive resources for people who need extra help, plus a one-page companion version that could be taped to a desk or posted on a bulletin board; and
3. A colorful "Help Now!" poster from the National Trauma Institute that contains suggestions for what people can do in the moment when they are feeling stressed. He suggested that those posters could be posted on breakroom bulletin boards in courthouses.

Professor Drennan said the documents are close to being ready for distribution, and he thanked NCAOC Court Management Specialist Lori Cole and NCAOC's Communications Division for their excellent work shepherding those documents into a visually appealing format. Professor Drennan said the draft video is ready, although it is not yet final and there are a few more court representatives to add to it. The Task Force members viewed the draft video via WebEx.

Judge Corpening thanked Professor Drennan and the working group for creating the video. Professor Drennan said the working group will now coordinate with NCAOC's Communications Division to





determine the best way to distribute these resources, and he invited anyone with suggestions to share them with him or NCAOC Deputy Director of Court Programs, Danielle Carman. He noted that some of the information in the “Caring for You” documents is internal to court system employees, but most of the information is relevant to everyone. The current plan is to distribute the materials to court system personnel and then to think about potential wider circulation. Professor Drennan said the working group would continue to meet to discuss other possible initiatives that would be helpful to the field.

Resumption of Jury Trials:

Judge Bridges said he hopes all Task Force members received an email from him the day before about the Technology and Innovations Working Group’s new recommendations regarding the resumption of jury trials. Judge Bridges said the Task Force had a very close vote during the prior week’s meeting about its jury trial recommendations, and he has significant reservations about making a date recommendation when the Task Force is so far away from speaking with one voice or even a substantially united voice. He said he was struck by the number of well-founded and justifiable concerns that were expressed, and the full Task Force needs to consider and discuss those concerns further.

Judge Bridges said the Task Force’s goal is to submit its first interim report to the Chief Justice by June 15. He said that is not a hard deadline, but the Task Force does have a hard deadline of June 30 to submit its recommendations with respect to jury trials. Judge Bridges asked whether it is realistic to think the Task Force will be able to include jury trial recommendations in its first report or whether it would make more sense to include those recommendations in a second report to be submitted by June 30.

Trial Court Administrator Myers said it would not be realistic for the Best Safety Practices Working Group to have a quality product with developed safety recommendations for jury trials in time to include in the first interim report. She said the working group focused first on what the courts can do now safely, with the view that the next phase of expansion would involve the safe resumption of jury trials. She said the Chief Justice’s order gives the Task Force until June 30 to submit jury trial recommendations, and she believes the Task Force should use that additional time to continue to refine its recommendations.

Judge Bridges said one of the principles that is implicit in the current draft plan for resuming trials is that any trials will be conducted in compliance with all best safety practices that come from the Task Force through the Best Safety Practices Working Group. He said that working group has already provided recommendations for best safety practices for in-person court proceedings, and he asked if the group plans to submit additional recommendations for jury trials. Trial Court Administrator Myers said yes, adding that she expects the working group to have those recommendations in time for inclusion in a June 30 report.

Judge Sermons agreed that the Task Force needs more time to refine its jury trial recommendations. District Attorney West said his only concern about waiting for the June 30 report is that the district attorneys have suggested a start date of August 3 and a delay in that recommendation could put the





Chief Justice and local judicial officials in a tough position. Otherwise, District Attorney West said he agrees with being prudent and he understands that the Task Force is only talking about a delay of 15 days.

Judge Bridges directed the Task Force members to the Technology and Innovations Working Group's intermediate recommendations, which contained a section on the resumption of jury trials. Judge Henry said Attorney Harrison raised concerns about the resumption of jury trials with that working group, and they developed some suggestions as a result of their discussion of those concerns. He said the working group is not attempting to put itself in an adversarial position with the work other groups have done on this topic, but he is concerned about North Carolina's statistics on COVID-19 cases and deaths.

Judge Henry referred to the recommendations that the Best Safety Practices Working Group presented at the May 28, 2020 Task Force meeting. He noted that those recommendations state that public health officials are not aware of specific guidance for courthouses, that the recommended six-foot separation for social distancing is for casual interactions of less than 10 minutes, and that one hour is considered to be a prolonged period of time. He said his question for public health officials is what the risks are for people who are required to be in a room for six hours a day, five days a week for a multi-week trial.

Judge Henry said he personally believes that it will be possible to resume jury trials the week of August 3, but everyone needs to start with shorter trials. He added that, assuming all social distancing requirements are in place, along with masks and proper hygiene, the Task Force needs public health guidance on the risks that local judicial officials can convey to jury panels. He said the Task Force does not know the risks associated with lengthy exposure over a period of weeks if someone is an asymptomatic spreader, and that makes it difficult to make a decision about a specific date. Judge Henry said he concurs with most of the district attorneys' recommendations, but the court system cannot guarantee safety and can only express the steps it has taken to reduce risk. He said he understands that local judicial officials need a date to plan for, but the Task Force needs more information from public health officials before it can ask citizens to serve as jurors in lengthy trials. He added that the Technology and Innovations Working Group's suggestion for the resumption of lengthy criminal jury trials is late November 2020.

Attorney Harrison said he thinks it is incumbent on the Task Force to provide as much guidance and information to the Chief Justice as possible. He said the Task Force has intentionally diverse representation, and he was concerned about the vote at the last meeting primarily because he thought there was an articulation of various points of view without any cohesive underlying structure. Attorney Harrison said the Technology and Innovations Working Group's proposal is essentially a three-legged stool. The first and most important leg is science and public health. Attorney Harrison said courthouses are places to which people come without having a choice, and the court system has a duty to make them as safe as possible. The second leg is the idea of giving authority to the people who are responsible for making the courthouses safe, which is why the proposal requires the senior resident superior court judge and the elected clerk of superior court to agree that appropriate conditions and procedures are in place to allow for the safe resumption of jury trials. Attorney Harrison said the last leg is fundamental





fairness, noting that serious felony trials and long civil trials inherently put people at more risk. Attorney Harrison said we still do not know enough about the way this virus spreads or the extent to which people spending long amounts of time together is a problem, even with everyone wearing masks. As a result, he said people facing serious felonies and lengthy trials should not be the guinea pigs for a new approach to jury trials. Attorney Harrison said that is why the working group is recommending that Class A, B1, and B2 jury trials be deferred until six months after the end of the stay-at-home order, or November 30. Attorney Harrison said the working group's recommended approach would allow some trials to go forward starting August 3, as long as all three legs are under the stool locally. Attorney Harrison said this is similar in many ways to what the district attorneys have recommended, although it includes consultation with the clerk of superior court and, for criminal trials, with the district attorney and a representative of the defense bar. He said he believes that proposal provides sufficient checks and balances and allows for the involvement of all local officials who have responsibility for ensuring that trials are conducted safely.

District Attorney Evans said, to the extent the Task Force determines we have not yet reached an appropriate level of safety from a science and health standpoint, he is not opposed to the recommendations. He said, ultimately, no trials are going to take place until local officials have determined they can be held safely. District Attorney Evans said the ultimate arbiter of whether a specific case is ripe for trial is the presiding judge, and the Task Force needs to be careful about creating artificial barriers that prevent that process from taking place. He said all districts now have COVID-19 facility coordinators and many have created local COVID-19 teams, which he assumes will include representatives of all of the local stakeholders as they decide whether to go forward with jury trials. District Attorney Evans said he does not want the Task Force to impose a "one size fits all" solution, and some of the working group's proposal is closer to that than he is comfortable with. District Attorney Evans noted that his office covers three counties, and he does not think all three will resume jury trials at the same time. He said he is comfortable with the Task Force gathering and providing as much safety information as possible, but not with putting barriers in front of the people we have always entrusted with decisions about whether and what type of trials can go forward.

Judge Vincent noted that jury trials are held in district court as well, and the chief district court judges should be part of that decision-making process. She stressed that the senior resident superior court judges and clerks of superior court should not make decisions about district court jury trials.

Clerk Johnson said, at a procedural level, a lot happens before a case goes to trial and there are some logistics that would have to be addressed now to be ready for a jury trial by August 3. She said the clerks would have to send out summons during the week of June 29 and, before they could do that, they would have to know logistics like where potential jurors should report and whether jury orientation would be done in one group or in staggered groups. Clerk Johnson said those are logistical decisions that will need to be made by judicial leaders in each county, and she does not think that can happen by August 3. Clerk Johnson said there are not many courthouses in North Carolina that can accommodate 75 to 100 people who are socially distanced. She said the state is still in the "emergency curtailment limited operations" phase described in the Task Force's draft report, and she does not think jury trials





should resume until the courts have reached the “relaxed social distancing” phase. Clerk Johnson said there is a very high level of transmission in North Carolina right now, and that is reflected in reduced staffing in many clerks’ offices. She stressed that jury trials require more personnel and that she is not comfortable with an August 3 start date.

Judge Bridges said the current draft of the Task Force’s report contains an extensive discussion of the importance of consultation between the senior resident superior court judge and clerk of superior court, because of the need to coordinate logistics such as the lead time required for summons and staggered orientations. Judge Bridges said the draft report also stresses the need for local officials to conduct “walk throughs” that allow them to physically observe the spaces that jurors will occupy. He said it will be an important part of preparing for officials to physically observe those spaces, take measurements, and visualize the accommodations that will need to be made to conduct trials safely. Judge Bridges stressed that judges should walk the path that jurors will walk from the minute they enter the courthouse until the end of their service, and that judges must be mindful of the safety of every other trial participant as well.

Judge Bridges noted that the clerks have raised serious concerns about August 3 as a starting date for the resumption of jury trials, and he asked if they have a suggested date. Clerk Johnson said the clerks have not discussed a specific date, but trials are going to be challenging as long as there are social distancing requirements. Clerk Johnson said she believes the phase is a more appropriate marker than a specific date for when trials should resume, and she suggested that it should be later in the fall after the courts have moved into the “relaxed social distancing” phase.

Clerk Chinn-Gary said she appreciated Attorney Harrison’s description of the working groups’ three-legged approach, noting that all three legs are important considerations. Clerk Chinn-Gary said she has done a walk through, and the juror deliberation rooms in her courthouse will not accommodate social distancing. She said they have received information from local health officials about cross seating and the dangers of using it in this phase of transmission. She said it is unclear where they can put large groups of potential jurors, noting that the structural issues are real and complex. Clerk Chinn-Gary said she has talked to her local public health officials about lengthy exposure to other people during in-person hearings, and their recommendation was to encourage the court to take breaks during sessions and, if that is not feasible, to rotate her staff so that no one is sitting for long periods of time in an intact area. Clerk Chinn-Gary stressed that those were the recommendations even with social distancing, so the clerks are adamant in their view that August 3 would be premature, particularly in light of the state’s rising case numbers.

District Attorney West said he is concerned about the arbitrary classification of offenses in the Technology and Innovations Working Group’s recommendations, and said he prefers a more localized approach. District Attorney West said he is not aware of another state where the Chief Justice has determined when trials can resume based on the class of offense, and he thinks there might be some constitutional problems with that approach. He said he understands the health concerns, but many states have either begun or are about to begin jury trials, and August 3 is on the later end of what other





states are doing. District Attorney West said the COVID-19 coordinators and local teams are in place and should be given discretion to determine when jury trials are safe in specific jurisdictions. He said he doubts there are many counties that are looking to resume capital murder trials on August 3, but the local teams are the best place for those decisions to be made. District Attorney West said the district attorneys have statutory responsibility for calendaring criminal cases, and trial judges can continue any specific trials if they deem that to be appropriate. He said this is ultimately a decision for the Chief Justice and local judicial officials, and he does not think the Task Force should micromanage this issue.

District Attorney Evans said if jury trials are not allowed to resume until the fall, that would put us dangerously close to the end of the calendar year. He said everyone needs to be mindful of the fact that there are very few serious trials scheduled after the first week of November, so that would leave a very short window for the speedy administration of justice. District Attorney Evans added that he thinks it is important to recommend a specific date to the Chief Justice and he does not think it should be too far into the fall.

Judge Bridges said the criminal defense bar expressed significant opposition to the jury trial motion at the last meeting, and asked Attorney Weede and Public Defender Harjo if they had additional comments. Attorney Weede said he is a member of the Technology and Innovations Working Group, and he supports that group's proposal. He said the district attorneys' concerns about waiting until November for serious felony trials might be addressed by clarifying that they can be held before that date if both the state and the defendant consent, adding that might also address some of the speedy trial concerns. Attorney Weede said it might make sense to wait for the additional jury trial recommendations from the Best Safety Practices Working Group before making a final decision with respect to a start date. He said the mechanism by which each county determines when they are ready to proceed with trials is a separate issue, noting that there are a lot of concerns about jurors and court personnel sitting through lengthy trials.

Public Defender Harjo said North Carolina just reported the highest number of new cases in one day, so she is concerned that the virus is still on the upswing. She said she agrees with the clerks that August 3 is not a viable start date, and she appreciates and agrees with the thoughtful recommendations from the Technology and Innovations Working Group. Public Defender Harjo said she does not agree that those recommendations arbitrarily infringe on judges' discretion. She said we are in the middle of a worldwide pandemic and we need to start out slowly with resuming jury trials so that we can provide as many safety assurances as possible for everyone. Public Defender Harjo said she is concerned about jurors, but she is also concerned about the defense attorneys who have to interact closely with their clients. She said incarcerated people are at a very high risk of exposure, noting that she had video contact with three in-custody clients the night before and watched them each get on the phone one after the other with no cleaning of the phone or room in between. She said contact with incarcerated clients puts the defense attorneys at high risk of exposure as well.

Public Defender Harjo said the clients have constitutional rights they can waive, and if a defendant wants to waive the right to observe a witness' face during testimony, he or she can do so. However, other





defendants may not want to waive those rights, which is why she previously suggested allowing trials to resume on August 3 if the defendant consents. Public Defender Harjo said she also wants to see the Best Safety Practices Working Group's jury trial recommendations and model safety plan. She said, assuming the local COVID-19 coordinator has developed a safety plan that has been approved by the senior resident superior court judge and clerk of superior court, local officials can then start to look at what trials can take place. Public Defender Harjo said she agrees with the suggestion of starting with short trials and then gradually moving to more lengthy trials. She added that she does not believe the district attorneys have calendaring authority in other states, so what other states are doing might not be a good benchmark for what is best in North Carolina.

Attorney McCabe said he has been operating under the assumption that this group would not recommend a resumption of jury trials unless it could be done safely. He said the civil bar is ready to resume jury trials on August 3, but not at the risk of jeopardizing people's safety. Attorney McCabe added that the clerks' concerns carry a lot of weight with him, and said he is not advocating to resume trials if the courthouses are not ready to do them safely. Judge Bridges said he agrees that trials should only resume if they are in compliance with the Best Safety Practices Working Group's recommendations that have not yet been fully developed. He added that he wants the Task Force's report to emphasize to the Chief Justice that trials should not resume until they can be held safely. Attorney Keister said he agrees with Attorney McCabe about the position of the civil bar, adding that he is particularly swayed by the concerns expressed by the clerks. He said the Technology and Innovations Working Group proposal was developed to get more buy-in from the clerks and court managers.

Judge Bridges said when the Task Force took its initial vote the prior week, he did not fully understand the nature and extent of the concerns that were expressed during the discussion on that motion. He said he is hearing two significant points in today's discussion: 1) August 3 may be too soon to resume trials safely; and 2) the proposal from the Technology and Innovations Working Group seems like an appropriate framework that might be used in crafting a recommendation for the Chief Justice. Judge Bridges stated that the Chief Justice has not specifically requested that the Task Force recommend a date certain for the resumption of trials and that the Task Force will have carried out its mission if it crafts a plan for the resumption of trials that leaves the earliest possible date to the Chief Justice. He said one possibility is to craft a plan that stresses the importance of waiting until trials can be conducted safely and that addresses all of the prerequisites and safeguards that the Task Force members deem appropriate for local officials to consider when crafting their own plans. Judge Bridges reiterated that the Chief Justice has asked for those recommendations by June 30.

Judge Bridges asked how the Task Force members felt about developing a recommended plan for the Chief Justice and leaving the earliest date to her determination with appropriate time for the clerks to issue summons. District Attorney West said if the Task Force's approach is to provide safety recommendations for what local officials need to do before trials can resume, he believes the differentiation between specific dates for different types of cases in the Technology and Innovations Working Group recommendation should be omitted. District Attorney Evans agreed, adding that he does





not believe it is tenable to get that far into the weeds and he does not understand how the Best Safety Practices Working Group recommendations would relate to the type of case being tried.

Attorney Weede said, even if the Task Force adopts the Technology and Innovations Working Group's proposal without reference to specific dates, the Task Force's report needs to address the concerns that have been raised about August 3 being too soon for lengthy and complex trials and to stress the suggestion of starting with short civil and criminal trials. Judge Sermons reiterated that "one size does not fit all" and said no one in the state will be able to try a case without having consulted with every local stakeholder. He said he is moving forward with a potential trial on August 10 in one of his counties. He added that might not work out but there needs to be flexibility and cooperation at a local level.

Trial Court Administrator Myers returned to Judge Bridges' earlier question about whether the Task Force wants to include jury trial recommendations in its first report or in a second report to be submitted by June 30. Judge Bridges said he believes the group reached consensus to proceed with the submission of this first report without including jury trial recommendations. Trial Court Administrator Myers so moved, and Judge Vincent seconded the motion. All Task Force members approved the motion by a roll call vote.

Judge Bridges asked whether the Task Force should omit a recommended date for the resumption of jury trials from its second report and leave the date determination to the Chief Justice based on her assessment of when it would be safe to do so. Judge Sermons asked how that would impact local officials like him who are working toward a jury trial on August 10 if she determines it should be a later date. He said the Chief Justice provided a date in her May 21 order and many officials have relied on that. Deputy Director Carman said she is not sure the Chief Justice has ordered a specific date, noting that her May 21 order said she intends to extend the prohibition on jury trials though "at least" the end of July.

Trial Court Administrator Myers said she agrees that the Task Force should focus on the substance of how to safely resume jury trials and then revisit possibly including a date if that can be done by June 30. Judge Vincent agreed. Judge Bridges said the superior court judges' work group has done a lot of work on the current draft plan, and he suggested reconvening that group the following week to further refine it. Judge Bridges said that group will seek to incorporate the Best Safety Practices Working Group's recommendations on in-person proceedings and jury trials, as well as the Technology and Innovations Working Group's recommendations. In the meantime, he asked the conference of chief district court judges to review the draft and provide feedback, including Judge Vincent's suggestion that the chief district court judges be part of local groups making jury trial plans. Judge Bridges said the refined plan would be brought back to the Task Force at its next meeting.

Judge Bridges referred to Public Defender Harjo's comments about allowing earlier criminal trials to proceed with the consent of the defendant, and he asked if her concerns would be met by the addition of a specific provision directing the presiding judges who are the ultimate decision makers to consider the defendant's consent or lack thereof. Public Defender Harjo said it would be helpful and comforting





to the clients and the attorneys to know that whatever protections are in place to accommodate a jury trial are being made with the consent of the defendant.

Judge Corpening said the Task Force appears to have reached some consensus about obtaining additional information from the superior court judges and the chief district court judges, and then incorporating the forthcoming Best Safety Practices Working Group recommendations about trials. He said the jury trial section will be removed from the draft of the first interim report to the Chief Justice, and the Task Force will receive additional information about jury trials at its next meeting. Judge Corpening asked Trial Court Administrator Myers if the Best Safety Practices Working Group is in a position to have recommendations for the Task Force's review late the following week. Trial Court Administrator Myers said the recommendations may not be polished by then, but the working group would have something for the full Task Force to review.

Suggested Statutory or Rule Changes and Additional Funding Concerns:

Judge Bridges said any recommended statutory or rule changes, as well as funding concerns, can be addressed in the second report that is to be submitted by June 30. Now that the working groups have completed their initial work, Judge Bridges asked them to think about whether anything they have already recommended or are considering recommending may require statutory revisions or rule changes from the Supreme Court. If so, he asked the working groups to provide a list of the proposed changes to be included in a separate section of the second report.

In addition, Judge Bridges asked each working group to thinking about what, if any, additional funding would be needed to implement their recommendations. Judge Corpening said, even if it is not possible to identify an exact amount of funding that would be needed, it would be helpful for the report to address the funding needs associated with all of the recommendations.

Approval of Draft Report to Chief Justice

Judge Corpening thanked Deputy Director Carman for her drafting efforts, and he said she would remove anything related to jury trials from the first interim report. Carman added that she would also remove the section on suggested statutory and rule changes. She asked whether the Task Force wants the Technology and Innovations Working Group's other intermediate recommendations to be included in this first report or held for the second report. Judge Corpening suggested including only the immediate recommendations in this first report and leaving the intermediate and long-term recommendations for the second report to be addressed along with the jury trial recommendations. Judge Bridges agreed.

With the removal of the sections on jury trials and statutory or rule changes, as well as Appendix E, Judge Corpening asked if there was a motion to approve the draft report for submission to the Chief Justice. Judge Vincent so moved, and Attorney McCabe seconded the motion. All Task Force members approved the motion by a roll call vote.





Goals for Next Meeting and Date:

Judge Corpening said the chief district court judges are meeting on June 11 at 1:00, so he suggested holding the next Task Force meeting on June 11 at 2:30 p.m. He said the primary goal for that meeting would be to receive further input from various stakeholder groups on the resumption of jury trials. Judge Bridges added that it would be helpful to begin the discussion of recommended statutory or rule changes and funding requests.

The meeting adjourned at 4:08 p.m.





APPENDIX C



PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
NCAOC Research, Policy, and Planning Division

Green text illustrates consistency across responses.

Red text illustrates inconsistency across responses.

Superior Court Civil		
Hearing/Proceeding Type	Court Managers	CJ Chambers
Jury Trials	Medium High	--
Non-Jury Trials	Medium High	--
Settlement Approvals	High	--
Motions	High	--
Petitions for Release of Law Enforcement Agency Recording	Low High	--
Appeals from the Clerk	High Medium	--
Will Caveats	High	--
Facial Constitutional Challenges to Acts of the General Assembly	High Low	--
Administrative Sessions	Medium	--
Swearing-In of New Attorneys and Judges	Medium High	--
Administrative Appeals	Medium	--
Judicial Review of State Board Decisions	High	--
Gun Permit Denial Appeals	Low	--
Pre-trial Motions	--	--
Rule 2.1 Cases	--	--
Civil actions to review or extend a quarantine or isolation order pursuant to N.C.G.S. § 130A-145	--	High





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
NCAOC Research, Policy, and Planning Division

Superior Court Criminal			
Hearing/Proceeding Type	Court Managers	District Attorneys	CJ Chambers
Administrative Sessions	High	High	--
Misdemeanor Appeals	Low	Low	--
First Appearances	High	High	High
Probation Violations - In-custody	High	High	High
Probation Violations - out of custody	Medium	Medium	Low
Probation Violations - Arrest Review	High	Medium	--
Pleas - In-custody	High	High	--
Pleas - out of custody	Medium High	Medium	--
Jury Trials	Medium High	Low	--
Non-Jury Trials	Low Medium	Medium	--
Motions	Medium High	Low	--
Grand Jury	High	Medium	--
Innocence Commission Referred Cases	Low Medium	--	--
Sex Offender Registry Hearings	Low	--	--
Bond Hearings	Medium	High	High
Review and Issuance of Search Warrants	High	--	High
Review and Issuance of LEO Orders (by phone)	High	--	--
Motions for Appropriate Relief (or related Evidentiary Hearings)	Medium	--	--
Writs of Habeas Corpus	High	Low	High
Specialty Courts	Medium	--	--
Arraignment - in-custody	--	High	High
Arraignment - out of custody	--	Medium	Low
Capacity Issues	--	--	--
Remands to District Court	--	--	--
Restitution to Victims Hearings	--	--	--
Expunction Hearings	--	--	--
Victim Rights Act Violations	--	--	--





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
NCAOC Research, Policy, and Planning Division

Proceedings to appoint counsel for indigent defendants outside the context of preliminary proceedings	--	--	High
Extradition proceedings	--	--	High
Proceedings to determine or review a defendant's capacity to proceed	--	--	High

District Court Civil				
Hearing/Proceeding Type	Court Managers	Family Law Attorneys	CJ Chambers	DC Judges
General Civil / Other				
Jury Trials	Low	--	--	--
Motions	Medium	Medium	--	--
Non-Jury Trials	Medium	--	--	--
Minor Settlements	High	--	--	--
Tax Delinquency	Low	--	--	--
Arbitration	Low	Medium	--	--
Summary Ejectment Appeals	High	--	--	High
Involuntary Commitment Hearings	High	--	High	--
Proceedings pursuant to N.C.G.S. § 20-13.3(d2) and N.C.G.S. § 20-16.5(g) challenging civil revocation orders	--	--	High	High
Proceedings on petitions for the issuance of a limited driving privilege	--	--	High	High
Proceedings on the return of seized motor vehicles and other conveyances	--	--	High	High
Domestic				
Divorce	Medium	Medium	--	--
Divorce from Bed and Board	--	--	--	High
Temporary Custody	High	High	--	High
Post Separation Support/Alimony	Medium	--	--	--





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
NCAOC Research, Policy, and Planning Division

Equitable Distribution	Medium	Medium	--	High
Interim Distributions/Injunctions	Medium	High	--	High
Child Support Establishment	Medium	High	--	High
Temporary Child Support	Medium	High	--	High
Child Support Enforcement	Medium	High	--	High
Child Support Motions	Low	High	--	High
Child Custody	High	High	--	High
Ex Parte Temporary Custody	High	High	High	High
Contempt related to child custody/visitation or child support	Medium	High	--	High
Domestic Violence				
DV Ex Parte Temporary Hearing	High	High	High	High
DV Permanent Hearing	High	High	High	High
DV No-Contact	High	High	High	High
DV No-Contact Ex Parte Temporary Hearing	High	High	High	High
DV No-Contact Permanent Hearing	High	High	High	High
Juvenile				
A/N/D Non-secure Custody Petitions	High	--	High	--
A/N/D Compliance Petitions	High	--	High	--
A/N/D Obstruction Petitions	High	--	High	--
A/N/D Adjudications, Dispositions, & Reviews	High	--	High	--
Permanency Planning	--	--	High	--
Delinquency/Undisciplined First Appearances	High	--	High	--
Delinquency/Undisciplined Probable Cause Hearing	--	--	High	--
Delinquency/Undisciplined Transfer hearing	--	--	High	--
Delinquency/Undisciplined Secure Custody Petitions (initial and subsequent)	Medium	--	High	--





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
NCAOC Research, Policy, and Planning Division

Delinquency/Undisciplined Adjudications, Dispositions, & Reviews	Medium	--	High	--
Hearings related to extension of confinement in a youth development center	--	--	High	--
Detention hearings under the Interstate Compact for Juveniles	--	--	High	--
Non-Secure Custody Hearings	High	--	High	--
Emancipation	Medium	--	--	--
Termination of Parental Rights	Medium	--	--	--
Judicial Waivers	High	--	High	--
Petitions for judicial authorization of emergency treatment	--	--	High	--

District Court Criminal				
Hearing/Proceeding Type	Court Managers	District Attorneys	CJ Chambers	DC Judges
Administrative Sessions	Medium	High	--	--
Class A1 and 1 Misdemeanors	Medium (misd. not delineated)	--	--	High
Other Misdemeanors		Low	--	Low
DWI	Medium	Low	--	High
Ch. 20 with importance to public safety: misd. death by vehicle, passing school bus	--	--	--	High
Other Traffic Court/Infractions	Medium	Low	--	Low
Dispositions	Medium	Medium	--	--
Sentencing	--	Medium	--	--
First Appearances	High	High	High	High
Initial Appearances	--	High	High	--
Felony Probable Cause Hearings - In-custody	High (felony prob. cause not delineated)	High	High	High
Felony Probable Cause Hearings - Out of custody		Medium	Low	--





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
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Arraignment - in-custody	--	High	High	High
Arraignment - out of custody	--	Medium	Low	--
Bond Forfeiture	Low	--	--	--
Expunction Hearings	Low	--	--	--
Drug Treatment Court	High	--	--	--
DWI Treatment Court	High	--	--	--
Veterans Court	High	--	--	--
Bond Hearings	High (DV)	High	High	High
Probation Violations - In-custody	High (PV violations not delineated)	High	High	High
Probation Violations - out of custody		Medium	Low	--
H&I Felonies - in-custody	Low (H&I Felonies not delineated)	High	--	High
H&I Felonies - out of custody		Medium	--	--
Citizen-Initiated Complaints	Medium	Low	--	--
Pleas - In-custody	High (pleas not delineated)	High	--	High
Pleas - out of custody		Medium	--	--
Search warrants	--	--	High	--
Arrest warrants	--	--	--	--
Trials	--	Low	--	--
Proceedings to appoint counsel for indigent defendants outside the context of preliminary proceedings	--	--	High	--
Extradition proceedings	--	--	High	--
Proceedings to determine or review a defendant's capacity to proceed	--	--	High	--
Cases involving individual victims	--	--	--	High





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
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Clerk Proceedings

Hearing/Proceeding Type	CJ Chambers
Estates	
Probate of Wills	Clerk Discretion
Granting and Revoking Letters Testamentary and Letters of Administration of Estates	--
Determination of Elective Share for Surviving Spouse	--
Proceedings to ascertain heirs or devisees, to approve settlement agreements, to determine questions of construction of wills, to determine priority among creditors, to determine whether a person is in possession of property belonging to an estate, to order recovery of property of the estate in possession of third parties, determine existence or nonexistence of any immunity, power, privilege, duty or right.	--
Assignment of Year's Allowance	--
Contested Estate Proceedings	--
Probate in Solemn Form	--
Uncontested Estate Proceedings	--
Living Probate	--
Establish before death that a will or codicil is valid	--
Renunciation by Personal Representative in Estate	--
Revocation of Letters from PR	--
Resignation of appointed PR	--
Action by PR to recover property of decedent	--





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
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Special Proceeding to allow Personal representative to obtain possession, custody, or control of assets of decedent	--
Special Proceeding to allow sale, lease or mortgage of real estate of decedent	--
Special Proceeding against unknown heirs before distribution of estate	--
Petition for Partition as part of Estate (real property of decedent consists in whole or part of an undivided interest in real property)	--
Contingent or unliquidated claims	--
Compelling Inventory and accountings/Issuing attachments/Contempt	--
Allow commissions to PR and attorney fees	--
Proceedings regarding powers of attorney	High
Special Proceedings	
Adjudication of Incompetency and Appointment of Guardian	High
Appointment of Interim Guardian	High
Restoration to Competency	--
Clerk retains jurisdiction following appointment of guardian in order to assure compliance	--
Appointment of Guardian for Minor absent a natural guardian	High
Compelling Inventory and accountings/Issuing attachments/Contempt	--





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
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Allow commissions to Guardian and attorney fees	--
Removal of Guardians/Resignation	--
Special Proceeding to Sale, Mortgage, Exchange or Lease Ward's Estate	High
Appointment of standby Guardian Hearing	High
UAGAPPJA	--
Trusts	High
Private Condemnations	--
Adoptions - Children and Adults	--
Foreclosures	--
Foreclosures – Homeowner Associations	--
Legitimation	--
Minor's Money	--
Name Changes	--
Cartway Proceedings	--
Cemeteries	--
Partition of Personal Property	--
Partition of Real Property	--
Boundary Settlements	--
Civil	
Claim & Delivery Hearings	--
Proceedings Supplemental to Execution	--
Attachments	--
Criminal	
Return of Seized Vehicles	High
First Appearances when Judge not available	High





PRIORITY ORDER OF HEARING TYPES

Summary of Working Group Responses

Prepared by
NCAOC Research, Policy, and Planning Division

Magistrate Proceedings			
Hearing/Proceeding Type	CJ Chambers	DC Judges	Court Managers
Criminal Initial Appearance / Pretrial Conditions Hearing	High	High	--
Summary Ejectments	--	High	High
Small Claims - Money Owed	--	--	--
Small Claims - Recovery of Personal Property	--	--	--
Small Claims - Motor Vehicle Liens	--	--	--





APPENDIX D



COVID-19 PROPOSED HEARING PRIORITIES FULL DETAIL OF WORKING GROUP RESPONSES

May 2020

Below are the full detailed responses of constituent working groups regarding a proposed prioritization of hearing types following the resumption of limited court operations on June 1, 2020. Items listed in these full submissions were deemed “high, medium or low” on the Excel summary in Appendix C based on a determination of importance, with consideration given to what is realistic and safe with respect to timing. The Excel summary in Appendix C also includes draft recommendations from the Chambers of Chief Justice Beasley.

District Court Judges

District Criminal Court

Note: The group recommends a meeting of key stakeholders to plan expansion of court operations in each district: the chief district court judge, the district attorney, the clerk of superior court, the sheriff, representative(s) of the private defense bar, and the public defender, where applicable.

Stakeholders should make decisions based on local needs and priorities, considering the following factors and case classifications:

1. Cases involving defendants in custody, including pleas, bond hearings, and other pretrial matters
2. Cases involving individual victims
3. Class A1 and 1 misdemeanors
4. Cases with statutory time requirements for hearing:
 - a. DWI cases involving vehicle seizure (G.S. 20-28.3(m))
 - b. Probable cause hearings (G.S. 15A-606)
 - c. Probation violation preliminary hearings (G.S. 15A-1345(c))
5. Chapter 20 cases with high importance to public safety
 - a. Misdemeanor death by vehicle (G.S. 20-141.4)
 - b. Driving while impaired (G.S. 20-138.1)
 - c. Passing stopped school bus (G.S. 20-217)
6. Case age
7. Civil matters arising out of criminal cases
 - a. Vehicle seizures (G.S. 20-28.3)
 - b. Limited driving privileges (G.S. 20-20.1; G.S. 20-179.3)
 - c. District Court review of pretrial civil license revocations (G.S. 20-16.5(g))
8. Procedures to allow district attorney or defense to add on cases in the interests of justice



Regarding administrative traffic court:

- The group does not deem it feasible to process large numbers of traffic cases in district courts in the near future
- Local circumstances may allow attorneys to process cases with the district attorney by appointment, or by other means that allow for social distancing
- Virtual hearings, appearance by waiver, and other online procedures should be adopted as appropriate to local districts, and communicated to the bar and public

Domestic Court Priorities

Note: Depending on how domestic cases are heard in your district or county, it may be possible to equally prioritize multiple case types in separate courts and/or at separate sessions. In Gaston County we have separate sessions and courts for IV-D Child Support and 50B cases as not to mingle them with other temporary domestic courts. According to Judge Gavin, Randolph County does the same.

1. 50b cases
2. Temporary Custody
3. Temporary Child Support
4. Contempt related to child custody/visitation or child support
5. Post Separation Support
6. Interim Distribution
7. Divorce from Bed and Board
8. Permanent Hearings on Equitable Distribution, Alimony, Child Custody and Child Support

----Although not listed--- Any matters that can be heard without contest and with minimal parties being present should be mixed in with the priority cases. Such as Divorces (encourage summary judgment), motions to withdraw, consent orders etc.....

District Civil Court Priorities

Summary Ejectments

District Juvenile Court Priorities

See the recommendations later in Appendix D at the end of this summary.





Conference of District Attorneys

Phase 1 – “High”

Phase 1 (tentatively through May 8)		
Statewide	Courthouse-wide	Inside the DA's Office
Stay At Home order remains in place, people can leave home for commercial activity	Superior Court Hearings: continue to only have PV first appearances, bond hearings, & in-custody pleas	Continue to work in shifts; staff may elect to work on unassigned days and must sign in (vulnerable employees continue working from home)
Those retailers and services will need to implement social distancing, cleaning, and other protocols	Superior Court Admin: require defense attorneys to file updates (similar to the homicide calendar)	Employees with shared work spaces must alternate day in, must sanitize surfaces on way out
Gatherings limited to no more than 10 people	Grand Jury: sporadic as scheduled by Senior Resident Superior Court Judge	Only individual permitted in their work space/office; document exchange occurs in common areas
Parks can open subject to gathering limits	Felony District Court: continue to only handle in-custody cases	Face coverings required when not in individual offices
Face coverings recommended in public	Regular District Court: continue to handle in-custody defendants and any other case by waiver where sentence does not result in incarceration	Restrict access to the DA's Office to only employees and use outside space for meetings/WebEx
Restrictions remain in place for nursing homes and other congregateliving settings	Traffic Court: continue to promote, only handle i-plea & ECAD	
Encourage continued teleworking	Temperature monitoring and facemask distribution by nurse at entrance	





Phase 2 – “Medium”

Phase 2 (at least 2-3 weeks after Phase 1)

Statewide	Courthouse-wide	Inside the DA's Office
Stay At Home order with strong encouragement for vulnerable populations to continue staying at home	Superior Court Hearings: add bench trials, hearings w/ witnesses to PV first appearances, bond hearings, & in-custody pleas	Phase in staff to supplement staggered teams to meet increased work demands
Allow limited opening of restaurants, bars, and other businesses that can follow strict safety protocols (reduced capacity)	Superior Court Admin: out-of-custody pleas & hearings resume; 30 minute plea times & number of people in the courtroom continues to be limited	Have a minimum of two teams that never meet or work together simultaneously
Allow gathering at houses of worship and entertainment venues at reduced capacity	Grand Jury: begins to resume normal schedule	Employees with shared work spaces must alternate day in, must sanitize surfaces on way out
Increase in number of people allowed at gatherings	Felony District Court: adds out-of-custody, but limit on number	Only individual permitted in their work space/office; document exchange occurs in common areas
Open public playgrounds	Regular District Court: same as FDC	Face coverings required when not in individual offices
Restrictions remain in place for nursing homes and other congregate living settings	Traffic Court: continue to promote, only handle i-plea & ECAD	Restrict access to the DA's Office to only employees and use outside space for meetings/WebEx

Phase 3 – “Low”

Phase 3 (at least 4-6 weeks after Phase 2)

Statewide	Courthouse-wide	Inside the DA's Office
Lessen restrictions for vulnerable populations with encouragement to continue practicing physical distancing	Superior Court Hearings: jury trials (with new physical distancing rules) resume	Either everyone back in the office (with new physical distancing for vulnerable) OR half-and-half (depending on expert recs)
Allow increased capacity at restaurants, bars, other businesses, houses of worship, and entertainment venues	Writs from DAC resume	
Further increase the number of people allowed at gatherings	GJ, Felony & Regular DC continue, but w/ continued distancing	
Continue rigorous restrictions on nursing homes and other congregate care settings	Traffic Court: public come in at staggered times, attorneys at their own times	





Regarding the Resumption of Jury Trials

The Chief Justice shall permit District Attorneys to calendar cases for jury trials beginning August 3, 2020.

The Governor has currently implemented Phase I of re-opening North Carolina. If positive projections continue, he will implement Phase II of re-opening May 22nd. He has indicated that our state may stay in Phase II for two to four weeks. If we enter into Phase III by the third week of June, then state operations will have been fully open at least 5 weeks by the time jury trials are allowed to resume August 3rd. This period of time, from June 1st to August 3rd, should give District Attorneys, Judges, Defense Counsel and Clerks enough time to prepare for any jury trials that are set.

District Attorneys should set such cases that are ready to proceed with consultation from all parties. Certain case types should not be exempted on a statewide basis because individual districts vary greatly in their readiness to proceed and it is a local decision which cases to calendar based upon input from the parties involved. Any cases can be continued as determined by a Superior Court Judge that the case comes before in the district.

While our environment could change at any time and adjustments might need to be made or timelines adjusted, it is in the interest of justice that a date certain be set so that parties can be appropriately prepare.

Association of Court Managers

District Court Criminal

A. Criminal

a. Admin	Medium
b. Misdemeanor	Medium
c. DWI	Medium
d. Traffic/Infractions/Disposition	Medium
e. First Appearances	High
f. Felony Probable Cause	High
g. Bond Forfeiture	Low
h. Expunction	Low
i. Drug Treatment	High
j. DWI Treatment	High
k. Veterans Court	High
l. Domestic Violence Bond Hearings	High
m. Probation Violation	High
n. H&I Felonies	Low
o. Citizen-initiated Complaints	Medium
p. Pleas	High





District Court Civil

B. Civil	
a. General Civil	
i. Magistrates/Small Claims (ejectments)	High
ii. Jury	Low
iii. Nonjury	Medium
iv. Motions	Medium
v. Minor Settlements	High
vi. Tax Delinquency	Low
b. Arbitration	Low
c. Domestic	
i. Divorce	Medium
ii. Custody	High
1. Ex Parte Temporary Custody	High
2. Temporary Custody	High
iii. Child Support	Medium
iv. Post Separation Support/Alimony	Medium
v. Equitable Distribution	Medium
d. Domestic Violence	High
i. Ex Parte Temporary hearing	High
ii. Permanent hearing	High
iii. No-Contact	High
1. Ex Parte Temporary hearing	High
2. Permanent hearing	High
e. Child Support	Medium
i. Establishment	Medium
ii. Enforcement	Medium
iii. Motions	Low
f. Juvenile	High
i. Abused, Neglected, Dependency	High
1. Non-secure Custody Petitions	High
2. Compliance petitions	High
3. Obstruction Petitions	High
4. Adj/Disp/Reviews	High
ii. Delinquency/Undisciplined	High
1. First Appearances	High
2. Secured Custody Petitions	High
3. Adj/Disp/Reviews	High
iii. Non-secured Custody	High
iv. Emancipation	Medium
v. Termination of Parental Rights	Medium
vi. Judicial Waivers	High
g. Involuntary Commitment hearings	High





Superior Court Criminal

(CRIMINAL)

PRIORITY	COURT TYPE <i>*Statutory priority noted below the type, if applicable</i>
High	A. Administrative Sessions
Low	B. Misdemeanor Appeals
High	C. First Appearances
High	D. PVs – In-custody/Jail cases
Medium	E. PVs – Not in custody
High	F. PV Arrest Review <i>* PV preliminary review must occur within 7 days of arrest for P.C.</i>
High	G. Pleas – In-Custody/Jail cases
Medium High	H. Pleas – Not in custody
Medium High	I. Jury Trials
Low Medium	J. Non-Jury Trials
Medium High	K. Motions
High	L. Grand Jury
Low Medium	M. Innocence Commission Referred Cases
Low	N. Sex Offender Registry Hearings
Medium	O. Bond Modifications
High	P. Review and Issuance of Search Warrants
High	Q. Review and Issuance of LEO Orders (phone orders)
Medium	R. Motions for Appropriate Relief (or related Evidentiary Hearings)
High	S. Writs of Habeas Corpus
Medium	T. Specialty Courts (drug court/90-96 hearings, Veterans Treatment Court, etc.)





Superior Court Civil

KEY

NCBC = North Carolina Business Court

BCR = Business Court Rules

(CIVIL)

<u>Priority</u>	<u>Hearing Type</u>
	<i>*Statutory priority noted below the type, if applicable</i>
Medium High	A. Jury Trials
Medium High	B. Non-Jury Trials
High	C. Settlement Approvals
High	D. Motions (split between dispositive, emergency, contempt, TROs, etc.) BCR 9.3 Case Management Conferences BCR 10.9 Discovery Disputes NCBC Status Conferences
Low High	E. Petitions for Release of Law Enforcement Agency Recording <i>* Statutory priority under N.C.G.S. 132-1.4A(f): petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and shall be accorded priority by the court.</i>
High Medium	F. Appeals from the Clerk (i.e. Foreclosure, Incompetency)
High	G. Will Caveats
High Low	H. Facial Constitutional Challenges to acts of the General Assembly (i.e. 3JP cases)
Medium	I. Administrative Sessions
Medium High	J. Swearing-In of New Attorneys and Judges
Medium	K. Administrative Appeals
High	L. Judicial Review of State Board Decisions (i.e. appeal of State Board of Elections decision)
Low	M. Gun Permit Denial Appeals





Juvenile and Family Matters

(FAMILY COURT/JUVENILE COURT)

** = Indicative of High Priority

CUSTODY**

- Ex Parte – Emergency
- Temporary
- Permanent

DOMESTIC VIOLENCE**

- Ex Parte
- Return Hearing

CHILD SUPPORT

- Temporary
- Permanent

POST-SEPARATION SUPPORT

INTERIM DISTRIBUTION (TRO)

TEMPORARY RESTRAINING ORDERS

CONTEMPT

- First Appearance
- Hearing

EQUITABLE DISTRIBUTION and ALIMONY

- Initial Status Conference
- Final Pre-Trial Conference
- Trial

INVOLUNTARY COMMITMENTS

JUVENILE

- Abuse/Neglect/Dependency**
 - First Appearances
- Non-Secure Custody Hearings
- Delinquency





Members of the Family Law Bar

1. Domestic Violence Chapter 50B matters [high]
2. Emergency Custody Hearings [high]
3. Contempt Hearings [high]
4. Temporary child support, support modification and PSS hearings [high]
5. 50-20 i1 motions for interim distributions, and hearings for injunctions[high]
6. Temporary Custody hearings [high]
7. Concluding trials in progress [high: As compared with starting new trials these matters should have priority]
8. Unopposed motions, absolute divorces, motions to withdraw and consent orders [medium: because these are easy and do not need an in-person hearing]
9. Trials for alimony, initial custody determinations and equitable distribution [low: because these trials will require more time and typically more witnesses and exhibits. We anticipate that these may need to be triaged to determine if they should be referred for an out of court evidentiary hearing to resolve of one, some or all issues]

Phase 1

June 1, 2020 until such time as the courts acquire safety infrastructure, modification of rules and statutes and protocols for new procedures. These phases may not be specifically defined at this point. Family lawyers have identified their priorities in terms of issues we believe District Courts should deal with first because they are the most urgent for our clients. Here is how we suggest they can be heard. Note: The attorney fee issue should be included in all matters in which the statute provides for attorney fees.

1. Domestic Violence Chapter 50B matters [high]
These cases are already being addressed virtually in many districts at least upon initiation. Plaintiffs go to a safe place, electronically transmit their claims to the court and the court conducts a virtual ex parte hearing to determine how to rule on the motion for a protective order. This technology and the infrastructure is not available statewide, but it is certainly proven to work.

This is not a criminal proceeding. In addition to social distancing there is a safety issue for alleged victims that supports conducting the evidentiary hearings for these matters remotely. This would require a portal for pro-se defendants. In cases where attorneys represent parties, if social distancing is possible those cases can be handled in court. These would be the highest priority cases in view of family lawyers. Hearings should be scheduled for specific time slots and parties and attorneys should not enter the court until they are contacted by the clerk or bailiff.
2. Emergency Custody Hearings
There is a very limited basis for a court to order a change in the status quo prior to the service of a complaint for custody. These ex parte orders are required to return for hearing promptly. Until the infrastructure and requisite rules changes are in place for virtual evidentiary hearings, these matters will require in person judicial attention in court with appropriate safety measures.





Hearings should be scheduled for specific time slots and parties and attorneys should not enter the court until they are contacted by the clerk or bailiff. These are the second highest priority issues for family lawyers.

3. Contempt Hearings

Show cause orders may be issued upon submission of verified pleadings alone or with a remote ex parte conference using the telephone or video conferencing infrastructure in place already. The procedures applicable to criminal trial proceedings will apply to contempt hearings since there is both a civil and criminal remedy available. Family lawyers are experiencing widespread frustration among our clients. Litigants are violating court orders with impunity as they do not expect judicial intervention. Unless the courts make enforcement of orders a priority, there is a risk of widespread failure to comply. Not only is this bad for our clients who depend on compliance but is a threat to the rule of law. The fair administration of justice fundamentally depends upon the equitable enforcement of the court's orders. For this reason, family lawyers prioritize hearings upon the issue of enforcement of court orders above all other matters aside from the emergency matters set out above. Hearings should be scheduled for specific time slots and parties and attorneys should not enter the court until they are contacted by the clerk or bailiff.

4. Temporary child support, support modification and PSS hearings

These issues have not been addressed in most if not all courts since March 13. All hearings pending at that time and all new filings are waiting for disposition. Based on our relatively recent experience with economic upheaval in 2008, the experience in other countries in the wake of COVID-19 and just plain common sense, it is reasonable to expect not only an increase in dissolution of marriages and separation of parents with children as a result of the stress caused by this social and economic disruption. We can also expect a substantial increase in pro-se filings. The courts have the present statutory authority to render orders for post separation support based upon affidavits without a hearing. There is no authority for the court to render orders establishing or modifying child support or setting or modifying alimony without an evidentiary hearing.

Family lawyers believe these issues to be an important priority. The economic fallout of this pandemic has been swift and devastating. The unemployment rate is 14% nationwide. Many economists predict unemployment will meet or exceed the jobless rate in the great depression before year end. The pandemic creates serious household disruption for families with children. There will be significant demand for both modification and establishment of financial orders. Families, especially children will be harmed if the courts cannot meet this demand.

Generally, these issues may be resolved with relatively few documents and could be done remotely. There are already model procedures for remote hearings planned for use in Guilford County and perhaps other districts. Most if not all districts are equipped with laptops and licenses for WebEx. Many judges use Zoom. We need a template for a protocol for conducting these hearings remotely, authority for judge to order remote hearings and staggered scheduling





to reduce the need for use of courthouse facilities. When remote hearings are not possible, the courts should use in court time for these matters in the next order of priority.

5. 50-20 i1 motions for interim distributions, and hearings for injunctions

Under the present circumstances one party may have control of assets that should be shared, or liabilities should be apportioned pending the final equitable distribution. The court has the authority to make orders for interim distribution based upon information presented in chambers. These issues may be handled using telephone or videoconferencing by requiring the submission of written materials using e-mail.

The delay in equitable distribution cases makes it more important than usual for courts to impose orders to prevent the waste, disappearance or conversion of property subject to distribution. The court can enter a temporary order ex parte however absent agreement an evidentiary hearing is required for injunctive relief pending an order for equitable distribution. The court can conduct these hearings remotely. If this is not possible, the family law bar asks the court to use court time to resolve these issues in the next order of priority.

6. Temporary Custody hearings

Absent allegations of substantial risk of bodily injury, sexual abuse or abduction, the court may only order a change in the status quo for a child with notice and an evidentiary hearing. Until the infrastructure is available for these hearings to be conducted remotely, the court will need to use in person court time to resolve these issues. These issues involve discerning the best interests of children. Family lawyers expect that the social and economic turmoil caused by the pandemic places children at relatively higher risk presently. We believe these issues deserve priority for court time.

7. Unopposed motions, absolute divorces, motions to withdraw and consent orders

These tasks are not priorities. However, they are squarely within what the courts can do now and in Phase 1. Consent orders require no notice. Motions including motions for summary judgement for divorce, unopposed motions and motions to withdraw only require notice. These properly noticed motions may be resolved without a hearing. Pursuant to N.C.G.S. 50-10(e) the Clerk of Court may enter a decree of absolute divorce without a hearing.

8. Other non-evidentiary motions

These motions can be resolved based on briefs and affidavits in the discretion of the court if authorized by an appropriate rule.

9. Concluding trials in progress

If the courts have time to meet all of their other responsibilities and the priority matters listed above, the family law bar recommends that the first trials scheduled in phase one be the trials started before March 13 and interrupted as a result of the pandemic. Requiring the litigants in these cases to wait in line behind those cases scheduled for hearing after them and potentially cases filed after trials were started is both unfair to the litigants and inefficient for the court.





10. Family law case triage

Phase 1 is a perfect time for judges to sort and manage cases. There are sample protocols available for dividing cases into ones that are simple to resolve, need some technical assistance or require substantial judicial intervention. It is easy for courts to arrange for lawyers to meet with the court by phone or teleconference to identify issues that the court can resolve without evidence, to identify bottleneck issues that may be referred or to discuss and decide if all or part of a case should be referred and to establish deadlines. The court has authority under Rule 53 to refer some matters. That authority could be expanded by rule to permit the court to keep cases moving toward resolution without requiring people to come to the courthouse.

11. The Chief Justice uses her emergency rulemaking authority to:

- a. Prescribe rules for remote evidentiary hearings;
- b. Authorize trial courts to mandate that hearings be held remotely;
- c. Authorize courts to refer issues of equitable distribution, alimony and child custody to referees/arbitrators; and
- d. Seek such statutory revisions as needed to authorize the continuation of these practices after the emergency.

Phase 2

During phase 2, the courts will need to constantly adjust and rebalance resources to meet priority tasks. Judges and personnel may have to deviate from their routines to deal with spikes in criminal, traffic, probation violations, IV-D child support and eviction appeals as well as dealing with short staffed support in the Clerk's office and Sheriff's Department. Across the state the courts will need to repair, replace or create new infrastructure to support a different and hopefully better way to dispose of family law matters. This will likely include but not be limited to the following:

- Acquisition of hardware and software needed to conduct remote proceedings
- Constantly evaluating technological advances and gauging public acceptance of technology
- Development of rules and protocols to govern remote evidentiary hearings
- Training for the judges, court personnel, attorneys and the public about new technology and procedures
- Developing more user-friendly public interface methods that replace face to face meetings (chat, phone, e-mail, web postings, instructional videos...)
- Working with public health officials to further modify physical facilities to accommodate social distancing, people working remotely, logistics, reallocation of space, signage and myriad other unanticipated issues
- Securing permanent rule and statute modifications needed to ramp up new processes and continue them beyond the state of emergency
- Prioritizing and allocating scarce resources to immediate, intermediate and long-term responses to the pandemic
- Mobilizing and organizing the stakeholders into a productive collaborative mutually supportive group working to make the district courts more responsive, equitable and accessible than before.





- Developing a metric to evaluate what is tried, what succeeds and what fails around the state and sharing that information.
- Helping each other deal with the stress this is causing and the inevitable letdown we will feel when the adrenaline disappears.

During phase 2 some courts may be able to safely accommodate more face to face proceedings. Courts that initiated innovative practices should share the results so those successful processes and modifications can be tweaked and put into play in similar environments. Hopefully, the innovation forced upon us by the pandemic will create the space, time and inclination to go further to improve courts with innovation.

Family lawyers favored making matters other than new trials the immediate priority in Phase I. In Phase 2 the objective is to provide trial judges the tools they need to deal with the anticipated spike in new family law cases particularly new pro-se cases. In the family law arena, courts spend their largest blocks of time on high conflict custody cases, alimony cases, equitable distribution cases and at times cases involving both equitable distribution and alimony. The court must manage multiple witnesses, sequencing of experts, and the sometimes-disruptive schedules of witnesses, parties and attorneys. These types of trials often take days, sometimes weeks to complete particularly when judges are required to deal with other issues during the trial. After the evidence is presented and arguments are concluded, the judge must review the evidence and formulate an order, publish the order, deal with comments and enter the order.

In order to devote adequate time to these trials, courts resort to either modifying their rotation, seeking a special judge or conducting hearings piecemeal over months. It is reasonable to suppose that the resources needed for the pandemic will make it even more difficult for courts to deal with these cases. The courts will need special judges and retired judges to help deal with spikes in routine matters. So, these resources may not be available for complex cases. Moreover, there may not be space available for the trial even if there is a judge.

Family lawyers propose that the Chief Justice expand the reference rules and make other rulemaking changes needed to permit courts to mandate that parties litigate all or some of their issues before a referee/arbitrator. If they cannot agree, then the court should have the authority to appoint one. This will not be an option in every case, but it certainly will be in many cases. Upon the return of the reference, the court can determine whether to accept the referee's reasoned ruling or not. If the court accepts it, then the issue is resolved at the trial court level. The court may provide for an interim allocation of property to finance the reference if that is necessary. The Chief Justice should ask the legislature to change any statutes that prevent this innovation from continuing past the pandemic.

During Phase 2 we anticipate that there may be innovations to be tried that may involve more planning and maybe pilot projects before they are ready to adopt. We anticipate that particular districts may need specific programs tailored to their needs. Family law attorneys need to participate in the design and execution of those programs. During Phase 2 we expect to see a great deal more remote calendar





calls, scheduling conferences, staggered motion hearings, remote evidentiary hearings and trials as judges, attorneys and the public become accustomed to the new way of doing things.

Phase 3

We may find ourselves bouncing back and forth between phases. Phase 3 should include changes in buildings, technology and workforce to accommodate the innovations that will be institutionalized. More important, the fear of change that is inherent in the customs and processes that link the courts of today with the first courts will relax a bit and allow the judicial branch to hold fast to the principles of fairness, equal access, and unbiased justice while embracing innovation. In the Family Law arena, the courts should explore:

- Online dispute resolution for IV-D child support cases (Michigan model)
- Making family support services such as parenting coordinators, parenting educators and guardians ad litem available state-wide for Chapter 50 custody matters

Superior Court Judges

The Superior Court Work Group endorses the work of the Court Managers Work Group as a tool that can be provided to local judges for their use in the exercise of individual discretion in identifying priorities for local Case Management.

As an additional tool for local Superior Court Judges, this group is drafting a checklist of general considerations, taking into account special concerns relating to COVID-19, that may be used by local judges in crafting local policies and practice for Case Management during this expansion period.

We recognize that increased demand during coming months for courtroom space, coupled with scheduling demands placed upon lawyers, will create an increased number of scheduling conflicts. We consider that the issue of scheduling conflicts is addressed adequately by Rule 3.1 of the General Rules of Practice: Guidelines for Resolving Scheduling Conflicts. Specific note is given to the fact that under Rule 3.1, priority is granted with respect to the nature of the proceeding rather than the trial division in which the case is pending. The Rule further provides that nothing in those guidelines is intended to prevent courts from voluntarily yielding a favorable scheduling position, and judges of all courts are urged to communicate with each other in an effort to lessen the impact of conflicts and continuances on all courts.



May 18, 2020

EXPANDING JUVENILE COURT PROCEEDINGS

1. GENERAL COURTROOM MANAGEMENT

These practices are informed by public health guidance and should apply to all juvenile court proceedings. Districts should work with state and local partners to comply with any emergency directives that may be in place.

A. Limiting the Number of People in a Courtroom

- i. It will be necessary to limit the number of people in a courtroom for the next several months. Guidelines for crowd sizes are likely to evolve based on state and local data but maintaining 6-foot social distancing should be the standard that guides practice.
- ii. Consider entering an administrative order pursuant to N.C.G.S. 7A-146, N.C.G.S. 7B-801 (applicable to A/N/D proceedings), and N.C.G.S. 7B-2402 (applicable to delinquency proceedings) for closing juvenile courtrooms and restricting access to persons essential to the proceeding. Essential persons include parties, party attorneys, Rule 17 GALs, the juvenile's attorney advocate, a juvenile court counselor, and essential witnesses. GAL program supervisors and volunteers may be, but are not necessarily, essential to the proceeding.
- iii. Consider establishing a satellite area in which non-essential persons can view or participate in the hearing remotely or otherwise making accommodations for remote participation. Non-essential persons might include social worker supervisors, foster parents and family caregivers, extended family members, therapists, service providers, the GAL volunteer and staff member, and the like.

B. Maintaining Social Distancing Standards

- i. Tape or otherwise mark seating areas to establish 6-foot intervals for hearing participants.
- ii. Arrange seating at counsel tables to create distance between attorney, GAL (when appointed), and party.
- iii. Encourage the use of masks for parties, attorneys or court staff.
- iv. Establish local practices for the safe exchange of documents which may include electronic sharing or physical practices that reduce interpersonal contact (for example a document exchange station). The AOC Technology Services Division

may be able to assist with setting up secure platforms for remote document exchange.

C. Cleaning and Sanitizing

- i. Sanitizing practices are a critical component of maintaining a safe space for court business.
- ii. Work with county managers to clean and sanitize courtrooms and public areas during afternoon recess and at the end of the day.
- iii. Work with county managers to provide either cleaning services or supplies to keep in courtrooms.
- iv. Plan to sanitize used surfaces between each use.

D. Creating Safe Waiting Areas

- i. Consider utilizing large jury courtrooms not in use as a waiting area for parties whose cases have not yet been called.
- ii. Work with the Sheriff's Office to assign deputies to areas outside of courtrooms to enforce social distancing measures among persons waiting for hearings to be called.

2. REMOTE HEARINGS GENERALLY

A. Utilizing Remote Platforms for Hearings

Districts are encouraged to use remote hearing platforms as expansively as possible. Remote proceedings should be conducted in a manner that protects any existing constitutional rights of those persons involved in the proceeding and the integrity of the judicial process. Safeguards such as functioning remote technology that provides audio and video access to all participants, opportunity for private consultation with counsel, and knowing and voluntary waiver of any existing rights to presence and confrontation should be used to protect the rights of persons involved in the proceeding.

B. Handling Evidence in Remote Hearings.

- i. Any exchange of exhibits must be done in a secure manner. This could include email encryption or a secure platform for file exchange.
- ii. Confidential files must not be presented electronically in a manner in which individuals who are not entitled to access can see the confidential materials. Any participant who is not authorized to view the confidential material should be ejected from the meeting prior to sharing confidential information.
- iii. Establish a process that ensures that confidential exhibits are provided to the clerk in a secure and confidential manner. This could include use of a secure dropbox or a secure email location.

3. CONTESTED HEARINGS

- A. Limit the number of people in the courtroom to those deemed necessary or essential to the proceedings.
- B. Consider designating a separate waiting area for witnesses where social distancing can be maintained.
- C. Pretrial or pre-adjudication hearings are required in abuse, neglect, dependency and termination of parental rights actions. N.C.G.S. 7B-800.1; 7B-1108. Consider conducting the pretrial or pre-adjudicatory hearing remotely to (i) address whether the issues for hearing can be narrowed, (ii) accept consents and/or stipulations; and (3) determine how to manage the contested hearing. There is nothing in the Juvenile Code that prohibits the use of a pretrial conference in a delinquency or undisciplined action where similar issues may be considered. Because the Juvenile Code for both abuse, neglect, dependency and delinquency/undisciplined actions does not prohibit the holding of a pre-trial conference before any dispositional hearing scheduled in a juvenile proceeding, consider holding remote pre-trial conferences for dispositional hearings when they are known to be contested.

4. CALENDARING STRATEGIES

- A. When calendaring cases for June and the subsequent 90 days, plan to schedule contested hearings and trials that will involve significant witness testimony. Districts should anticipate that modifications to operations will continue for several months or longer. Delaying complicated cases until things are “back to normal” is not practical given the current public health guidance.
- B. Implement time-certain calendaring practices so that each hearing is scheduled for a specific time during the designated court session. For example, hearing A is scheduled at 9AM, hearing B is scheduled at 9:45AM, hearing C is scheduled at 10:15AM and so forth. Consider alternating between remote and live hearings to reduce fatigue from remote hearings, reduce prolonged contact, reduce traffic, and facilitate cleaning and sanitizing.
- C. Work with the department of social services, guardian ad litem, parent attorneys, and the clerk to identify cases that should be characterized as priority A/N/D/cases that should be scheduled immediately. This might include adjudications, initial permanency planning hearings, emergency motions on issues that have arisen during the period of modified operations, and termination of parental rights trials. See Appendix 1 for statutory timelines applying to courts.
- D. Work with the prosecutor, juvenile defense bar, office of the juvenile court counselor, and the clerk to identify cases that should be characterized as priority delinquency cases that should be scheduled immediately. This might include matters in which statutory timelines for first appearances and probable cause

hearings have already been extended through emergency orders and cases in which the juvenile is being held in secure custody. See Appendix 2 for statutory timelines applying to courts.

5. ABUSE AND NEGLECT PROCEEDINGS

A. Special Remote Hearing Considerations

- i. Establish a presumption that hearings will be held remotely with the right of each party to object. Factors for the court to consider include (1) each party's meaningful access to and participation in the proceeding through the remote technology used; (2) the nature of the proceeding; (3) the complexity of the evidence; (4) the number of witnesses; and (5) any other factors that are raised on a case-by-case basis.

- ii. In those hearings that are not noticed by the court for a remote format, parties can make motions to allow any of the parties, witnesses, and lawyers to participate remotely. Consider establishing a process for early submission of "motions for remote participation" and issuing a ruling prior to the scheduled hearing. Factors for the court to consider include whether (1) parties consent to the remote participation of other participants in the proceeding, (2) a party waives their own in-person participation, (3) a party or a witness is outside of North Carolina such that N.C.G.S. 50A-111 criteria authorizing alternative participation under the UCCJEA are satisfied, (4) due process is protected, (5) parties have access to appropriate technology to allow for their meaningful participation, and (6) any other criteria the court determines is relevant. An order should address relevant factors. See Appendix 3 (discussing due process and a parent's participation) and Appendix 4a (identifying internet and technology resources) and 4b (the federal Dear Child Welfare Directors letter regarding providing technology).

B. Consent Orders and Stipulations Resolving A/N/D Issues

- i. Whenever possible, encourage parties to enter stipulations of fact and/or consent orders to minimize the number of contested issues for hearing. If parties reach a proposed consent agreement for remote presentation to the court, the court must follow the procedures set forth in N.C.G.S. 7B-801(b1). This requires that (1) all parties or their respective attorneys who are authorized to consent are present; (2) the juvenile is represented by counsel (note that this means a GAL must be appointed in a dependency only case); and (3) the court makes sufficient findings of fact. If stipulations are presented to the court, the procedures of G.S. 7B-807 must be followed – either (1) the court receives the written stipulations of fact, which must be signed by each party

stipulating to those facts or (2) the stipulated facts are read into the record and each party stipulating to those facts makes an oral statement of agreement.

C. Hearings with Limited Evidence and Party Involvement

- i. Consider implementing remote hearing protocols for hearings with limited evidence, including: Post TPR Review Hearings and Voluntary Placement Agreement Hearings.
- ii. Consider implementing remote hearing protocols for review hearings on cases in which parents have not participated.
- iii. Disposition hearings in A/N/D actions are not governed by the Rules of Evidence. Instead, the criteria for the admission of evidence focuses on evidence that is relevant, reliable, and necessary to determine the needs of the juvenile and most appropriate disposition. N.C.G.S. 7B-901(c); 7B-906.1(c). The court of appeals has repeatedly held that there must be some sworn oral testimony taken at these hearings, ensuring there is competent evidence to support findings of fact and conclusions of law in the court's dispositional order. *See, e.g., In re S.P.*, 833 S.E.2d 638 (N.C. Ct. App. 2019).
- iv. Ensure there is a way for sworn testimony, either remotely or in-person, to be heard at every dispositional hearing.

D. Accommodating High Risk Hearing Participants

- i. GAL Volunteers are often older people who may be characterized at higher risk for serious COVID-19 illness.
 1. *Consider implementing protocols that allow electronic submission of volunteer reports.*
 2. *Consider implementing protocols to allow volunteers to participate in the hearing remotely either from a GAL supervisor office or their homes.*
- ii. Consider establishing a process for substitution of counsel or a Rule 17 GAL in situations where a parent attorney or Rule 17 GAL is high risk and unable to perform necessary duties outside of court and for in-court proceedings.

6. DELINQUENCY PROCEEDINGS

A. Special Remote Hearing Considerations

- i. Remote hearings should be limited to circumstances in which remote hearings (1) are authorized by the Juvenile Code (only delinquency hearings on the need for continued custody pursuant to G.S. 7B-1906(h)) or an Emergency Directive of the Chief Justice of the NC Supreme Court or (2) where the parties consent to a remote hearing and there are limited evidentiary issues that do not require substantial testimony.

- ii. Consider continuing the practice of remote detention hearings. A waiver is not necessary for a remote detention hearing because the Juvenile Code authorizes conducting detention hearings by audio and video transmission which allows the court and the juvenile to see and hear each other. Exclusively use Webex as the remote platform for these proceedings. Juveniles are isolated for 14 days after every departure from the detention center.
- iii. Consider implementing the use of remote hearing protocols for adjudications or motion for review (MFR) hearings where the juvenile is entering an admission.
- iv. Consider implementing the use of remote hearing protocols for juveniles in custody whose length of detention would be unnecessarily extended. This may be appropriate when: 1) the juvenile will tender an admission and 2) the juvenile is likely to receive a Level 3 commitment or is likely to be released as part of the disposition and when 1) the juvenile is alleged to have committed an A-G felony at age 16 or 17 and; 2) the hearing is a return indictment hearing.
- v. The use of remote platforms for contested hearings at which significant rights are at stake is not advised.

B. Waiver of Personal Appearance for Juveniles and Parents, Guardians, and Custodians

- i. Obtain a written waiver of in-person participation from the juvenile and the juvenile's parent, guardian, or custodian. It is especially important to engage in a colloquy with a juvenile, who is the respondent in a delinquency proceeding, regarding waiver of in-person participation and the right to confront and cross examine witnesses given the court's affirmative duty to protect the constitutional rights of juveniles under the Juvenile Code. A sample colloquy and juvenile waiver form are provided for this purpose. See Appendices 5 (juvenile waiver form) and 6 (sample colloquy).
- ii. When a juvenile is confined in a juvenile detention facility, the juvenile's attorney or a custodian of the detention facility (i.e., a person located at the facility with the juvenile) should assist the juvenile with completion of the waiver form. Upon completion of the remote proceeding, the juvenile's attorney or detention center staff should forward the juvenile's signed waiver to the clerk of superior court's office for execution by the presiding judge.
- iii. Parents (or guardians or custodians) are also parties in delinquency and undisciplined proceedings. As such, parents (and guardians or custodians) should also complete a waiver of in-person participation. See Appendix 7 (parent waiver form). If the juvenile's parent has access to a computer and printer, the parent (or guardian or custodian) can access the parent waiver form online (if the form is adopted) and deliver it to the clerk of court's office following the remote hearing. For parents who do not have access to a computer and printer, the juvenile's attorney or the juvenile court counselor

should assist the parent (or guardian or custodian) in obtaining a waiver form and should also assist the parent (or guardian or custodian) in forwarding the signed waiver to the clerk of superior court's office following the remote hearing for execution by the presiding judge. Districts should also consider allowing parents to call the clerk's office to request a copy of the waiver form by mail.

- iv. As a last resort, if the court is unable to obtain a written waiver from the juvenile's parent, guardian, or custodian, the court can consider recording the parent's voluntary and knowing waiver of in-person appearance through the audio video transmission.

APPENDICES

Appendix 1: Statutory Timelines of Abuse, Neglect, Dependency and Termination of Parental Rights Actions

Appendix 2: Statutory Timelines of Delinquency Actions

Appendix 3: Due Process Considerations for Parent Participation in A/N/D and TPR Cases

Appendix 4: Juvenile Waiver of Personal Appearance form

Appendix 5: Colloquy for Juvenile Proceedings Conducted by Audio and Video Transmission

Appendix 6: Parent Waiver of Personal Appearance form

Additional Resources

[NC Child Welfare Court Suggested Practices During COVID-19 Pandemic](#), Updated May 5, 2020 (N.C. Administrative Office of the Courts Juvenile Court Improvement Program)

[Conducting Effective Remote Hearings in Child Welfare Cases](#) (Capacity Building Center for State Courts)

[Pandemic 2020 Court Practice Toolkit](#) (April 2020 by the N.C. Guardian ad Litem Program)

Timelines of Juvenile Abuse, Neglect, Dependency, and TPR Proceedings

Interference with DSS Assessment	7B-303(c)	Hearing to be held not less than 5 days after service of the petition and summons on the respondent
	7B-303(d)	If ex parte order granted at filing of petition, hearing shall be held within 10 days after entry of ex parte order to determine whether good cause for continuation of the order or entry of different order
Responsible Individual List Judicial Review	7B-323(b)	Calendar for hearing within 45 days from date petition for judicial review is filed at a session of district court hearing juvenile matters or if there is no such session at the next session of juvenile court
	7B-323(d)	Within 30 days after completion of hearing, the court shall enter an order
Initial Nonsecure Custody Order Authorized by Person with Delegated Authority in an Administrative Order	7B-502; 506(a)	Hearing to determine need for nonsecure custody shall be conducted on the day of the next regularly scheduled session of the court in the city or county where the order was entered if the session is scheduled before 7 calendar days of the entry of the initial nonsecure custody order
Continued Nonsecure Custody Order	7B-506(a)	If a nonsecure custody order was entered, a hearing on the need for continued nonsecure custody must be held within 7 calendar days of the entry of the initial nonsecure custody order; this may be continued up to 10 business days with the consent of the parent, guardian, custodian, or caretaker and the juvenile’s GAL if one has been appointed. This hearing is often referred to as “the 7-day hearing.”
	7B-506(d)	Order must be entered within 30 days of completion of the hearing
	7B-506(e)	If continued nonsecure custody is ordered at “7-day hearing,” a subsequent hearing must be held within 7 business days of the “7-day hearing” and at intervals of no more than 30 days thereafter. These subsequent hearings may be waived.
Adjudication	7B-801(c)	Hearing must be held no later than 60 days from the filing of the petition unless a continuance is granted based on the limited reasons in G.S. 7B-803.
	7B-807(b)	Order shall be entered no later than 30 days after completion of the

		hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Initial Disposition	7B-901(a)	Hearing shall take place immediately following the adjudicatory hearing and concluded within 30 days of the completion of the adjudicatory hearing.
	7B-905(a)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Review Hearing	7B-905(b); -906.1(a)	A review hearing must be held within 90 days from the date of the initial dispositional hearing (unless a permanency planning hearing was required after the initial dispositional order ceased reunification efforts, G.S. 7B-901(d)). A second review hearing must be scheduled within 6 months after the 90-day review hearing.
	7B-906.1(h)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Permanency Planning Hearing	7B-906.1(a), -901(d)	Within 12 months of the date of the initial order removing custody (this includes the initial nonsecure custody order) or If court ordered (1) reasonable efforts to reunify are not required at the initial disposition hearing or (2) reunification efforts would be clearly inconsistent or contrary to the child’s health and safety at a review hearing, within 30 days of that order. Permanency Planning hearings must be held at least every 6 months

		thereafter unless waived under G.S. 7B-906.1(k) or (n).
	7B-906.1(h)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Visitation Change by DSS	7B-905.1(b)	If child is in DSS custody and DSS temporarily suspends all or part of a the court-ordered visitation plan, DSS must expeditiously file a motion for review and request that a hearing be scheduled within 30 days.
Last Permanency Planning Hearing Because Child Aging Out	7B-912(b)	At least 90 days before teen turns 18, the court shall inquire as to whether the juvenile has a copy of his/her birth certificate, social security card, health insurance information, driver's license or other identification card, and any educational or medical records the teen requests. And, the court shall determine the person/entity who will assist the teen in obtaining those documents before the teen's 18 th birthday.
Voluntary Foster Care for Young Adults (Foster Care 18-21)	7B-910.1	Within 90 days of when the voluntary foster care 18-21 agreement was executed
TPR: Preliminary Hearing on Unknown Parent	7B-1105	Within 10 days of filing the petition (or if there is no court in that county in the 10-day period, at the next term)
TPR Adjudicatory Hearing	7B-1109(a), (d)	No later than 90 days from date of filing petition; continuances may only be granted beyond 90 days in extraordinary circumstances
	7B-1109(e); -1110(a)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Selection of adoptive parents	7B-1112.1	After the child's GAL or foster parent files a motion for judicial review of the adoption selection, hearing to be scheduled for hearing on the next juvenile calendar.
Post-TPR Placement Review	7B-908(b)	Conducted no later than 6 months from the date of the TPR hearing

		where parental rights have been terminated after a petition or motion has been filed by a guardian, DSS or child-placing agency with custody through a court order or by virtue of a relinquishment, the child’s GAL, or a person the child has continuously resided with for two years immediately preceding the filing of the petition <u>and</u> a county department or child-placing agency has custody of the juvenile, and every 6 months thereafter until the child is adopted
	7B-908(e)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.
Post-Relinquishment Reviews	7B-909(c)	Within 30 days of petition or motion for a post-relinquishment review has been filed unless the court orders otherwise and every six months until the child is adopted.
Reinstatement of Parental Rights	7B-1114(e), (h), (j)	A preliminary hearing shall be scheduled within 60 days of the filing of the motion at a session of the court scheduled for hearing juvenile matters. If the court does not dismiss the motion but orders reinstatement as part of the juvenile’s permanent plan, the court shall conduct interim hearings every 6 months until the motion is granted or dismissed (these hearings may be combined with hearings under 7B-908. The motion must be granted or dismissed within 12 months of its filing unless the court specifies a different time frame.
	7B-1114(l)	Order shall be entered no later than 30 days after completion of the hearing; if this does not occur, clerk must schedule a hearing at first session of juvenile court following the 30 day period to determine and explain the reason for delay and obtain any needed clarification of the contents of the order. The order shall be entered within 10 days of that subsequent hearing.

Delinquency Timelines

- First appearance (required for any juvenile alleged to have committed a felony) within 10 days of filing of the petition
- Probable cause hearing
 - For all felonies alleged to have been committed by a juvenile at ages 13 – 15 and for any matter in which the most serious charge is an H or an I felony alleged to have been committed at age 16 or 17, a probable cause hearing is required within 15 days of the first appearance. This timeline can be continued for good cause.
 - For all matters in which the most serious charge is a Class A – Class G felony alleged to have been committed at age 16 or 17, a probable cause hearing is required within 90 days of the first appearance. This timeline can be continued for good cause.
- Hearings on secure or nonsecure custody
 - Initial hearing on secure custody must be held within 5 calendar days of entry into secure custody
 - Initial hearing on nonsecure custody must be held within 7 calendar days of entry into nonsecure custody
 - If the first custody order was issued by a court counselor under delegated authority pursuant to an administrative order, the initial hearing on secure or nonsecure custody must be held on the day of the next regularly scheduled session of district court if the session precedes the applicable 5- or 7-day requirement.
 - Ongoing hearings on the need for continued secure custody must be held every 10 calendar days for most juveniles
 - Ongoing hearings on the need for continued secure custody must be held every 30 calendar days for juveniles who are alleged to have committed Class A – Class G felonies at age 16 or 17. The juvenile can request and the court can grant, for good cause, a 10-day interval.
 - Ongoing hearings on the need for continued nonsecure custody must be held every 30 calendar days

EXCERPT From Chapter 2 of Abuse, Neglect, Dependency and Termination of Parental Rights Proceedings in North Carolina (2019 ed.) (UNC Sch. of Government)

B. Notice and Opportunity to Be Heard

1. **Entitled to due process.** As a party to the juvenile proceeding, a parent is entitled to procedural due process, including proper service of process, notice of proceedings, and fair procedures. *See Santosky v. Kramer*, 455 U.S. 745 (1982) (holding that a state must provide respondents with fundamentally fair procedures when it moves to destroy weakened familial bonds); *see also In re H.D.F.* 197 N.C. App. 480 (2009) (reversing a neglect adjudication when the required notice of key events in the proceeding was not given to the *pro se* respondent parent). “Due process of law formulates a flexible concept, to insure fundamental fairness in judicial or administrative proceedings which may adversely affect the protected rights of an individual.” *In re S.G.V.S.*, 811 S.E.2d 718, 721 (N.C. Ct. App. 2018) (quoting case not cited here).

When one parent is served in an abuse, neglect, or dependency case, the other parent’s due process rights are not necessarily violated if he or she is not served before the adjudication and disposition hearings. *In re Poole*, 151 N.C. App. 472 (2002) (in case where mother was served with summons, discussing due process rights of father who was not served and to whom no summons was issued and deciding his rights were adequately protected in light of state’s interest in the welfare of children, the child’s right to be protected, the father’s ability to seek review of the court’s order, and the potential for the child’s return to his care), *rev’d per curiam for reasons stated in the dissent*, 357 N.C. 151 (2003).

2. **Participation in hearings.** Parents have a right to participate in proceedings in a meaningful way. The summons in an abuse, neglect, or dependency case requires the parent to appear for a hearing at a specified time and place. G.S. 7B-406(a). In a termination of parental rights (TPR) case, the summons or notice includes notice that the parents may attend the hearing. G.S. 7B-1106(b)(6); 7B-1106.1(b)(6). The court of appeals has held that a parent does not have an absolute right to be present at a hearing but “the magnitude of ‘the private interests affected by the [termination] proceeding, clearly weighs in favor of a parent’s presence at the hearing.’ ” *In re S.G.V.S.*, 811 S.E.2d at 721 (N.C. Ct. App. 2018) (reversing and remanding for new hearing; holding the magnitude of the interests at stake in a TPR hearing and the trial court’s denial of mother’s continuance request because mother was previously scheduled to appear in a criminal action in another county at the same time as later scheduled TPR hearing involved a misapprehension of law and substantial miscarriage of justice).

(a) **Incarcerated parent.** When a parent is incarcerated, the parent’s attendance may be impossible or require special steps. On application of a party or the attorney for a party who wants the parent to attend or testify, the court may issue a writ to have the parent brought before the court. The closest statutory authority for such a writ, G.S. 17-41, provides for a writ of habeas corpus ad testificandum. Although an application for the writ must state that the person’s testimony is believed to be “material and necessary,” the same procedure is used when a parent wants to attend but does not plan to testify or has already testified. The court may issue the writ only for someone who is in a facility in North

Carolina. If the parent is in a federal facility in this state, the person seeking the parent's attendance should contact that facility directly to determine whether the parent can be brought to court if a writ is issued. A North Carolina court has no authority to effect the attendance of someone who is incarcerated in another state, but parties may explore with an out-of-state facility the possibility of having the incarcerated party participate remotely.

The court's consideration of whether to issue a writ of habeas corpus ad testificandum or take other steps to facilitate a parent's participation in a hearing requires application of the balancing test articulated by the U.S. Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319 (1976). In determining whether due process requires a particular procedure, the court must weigh three factors: (1) the private interests at stake, (2) the risk of deprivation posed by the use (or absence) of the procedure, and (3) the state's interest in providing (or not providing) the procedure. *Mathews*, 424 U.S. at 335. North Carolina courts have applied the test in several juvenile cases. *See, e.g., In re K.D.L.*, 176 N.C. App. 261 (2006) (upholding trial court's denial of incarcerated father's motion to have his deposition taken); *In re Quevedo*, 106 N.C. App. 574 (1992) (holding that father's due process rights were not violated when court denied his motion for transportation to hearing and allowed hearing to proceed in his absence); *In re Murphy*, 105 N.C. App. 651 (holding that the court did not violate the parent's statutory or due process rights by denying a motion for transportation from a correctional facility to the termination hearing), *aff'd per curiam*, 332 N.C. 663 (1992).

Even when the parent does not attend the hearing, other steps to ensure protection of the parent's rights may be appropriate. In *In re Quevedo*, the court said:

We note that the use of depositions is allowed in civil cases where a witness is unable to attend because of age, illness, infirmity or imprisonment. N.C. Gen. Stat. § 1A-1, Rule 32(a)(4). Therefore, when an incarcerated parent is denied transportation to the hearing in contested termination cases, the better practice is for the court, when so moved, to provide the funds necessary for the deposing of the incarcerated parent. The parent's deposition, combined with representation by counsel at the hearing, will ordinarily provide sufficient participation by the incarcerated parent so as to reduce the risk of error attributable to his absence to a level consistent with due process.

106 N.C. App. at 582.

AOC Form:

AOC-G-112, [Application and Writ of Habeas Corpus ad Testificandum](#) (June 2012).

Resources:

See the Office of Indigent Defense Services (IDS), Office of Parent Defender, chart, ["Participation in Abuse, Neglect, Dependency, and Termination of Parental Rights Proceeding by Incarcerated Parents."](#)

For the North Carolina Department of Public Safety Policy and Procedures related to inmate access to the courts and to their attorneys, see [Chapter G, Section .0200 “Court Related Procedures”](#) (Jan. 16, 2018).

- (b) **Exclusion from courtroom.** Use of the *Mathews v. Eldridge* due process test is not limited to applications for writs to be brought to a hearing. It is also used when parents have been excluded from the proceeding. *See, e.g., In re J.B.*, 172 N.C. App. 1 (2005) (holding that mother could be excluded from the courtroom during the child’s testimony); *In re Faircloth*, 153 N.C. App. 565 (2002) (upholding removal of disruptive parent from termination hearing, without providing means for him to testify, based on strong governmental interest and low risk of error).
- (c) **Testimony of parties or witnesses in other states.** All abuse, neglect, dependency, and TPR proceedings are subject to the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), G.S. Chapter 50A. G.S. 50A-511 addresses taking the testimony of parties or witnesses in another state and provides:
- (a) In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.
- (b) A court of this State may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this State shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.
- (c) Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

_____ County

In The General Court Of Justice
District Court Division

NOTE: Use this form for a juvenile delinquency proceeding being conducted by audio and video transmission pursuant to Emergency Directive 3 in the Order of May 1, 2020, by the Chief Justice. This form need not be used for a proceeding for which the General Statutes expressly authorize audio and video transmission: continued secure and nonsecure custody hearings, G.S. 7B-1906(h).

IN THE MATTER OF

**WAIVER OF PERSONAL APPEARANCE AND
CONSENT TO AUDIO-VIDEO PROCEEDING
(JUVENILE DELINQUENCY)**

 Order of the Chief Justice of the Supreme Court of North Carolina
1 May 2020

Name Of Juvenile			
Juvenile's Date of Birth	Age	Date Of Proceeding	
Location Of Juvenile		Offense(s)	G.S. No.
Parent/Guardian/Custodian	Location Of Parent/Guardian/Custodian	Nature Of Proceeding (e.g., motion for review, adjudicatory hearing, disposition hearing)	
Parent/Guardian/Custodian	Location Of Parent/Guardian/Custodian	Attorney For Juvenile	Location Of Attorney
Attorney For State	Location Of State's Attorney	Juvenile Court Counselor	Location Of Juvenile Court Counselor

NOTE TO CUSTODIAN/COUNSEL: Complete all fields above for the case(s) for which this remote audio-video proceeding is conducted **before** the juvenile's execution of the waiver below. Sign the waiver as witness below after juvenile has executed the waiver. Upon completion of the proceeding, deliver this waiver along with any other documents resulting from the audio-video proceeding to the clerk's office for execution by the presiding official.

ACKNOWLEDGMENT OF RIGHTS AND WAIVER

As the undersigned juvenile in this action, I freely and voluntarily declare that:

- I have been advised of my right to appear in a courtroom and be personally present for the proceeding described above;
- I have been advised that I am not required to waive my right to be present, and if I do not waive that right, my case will not be unreasonably delayed;
- I have been advised that I have the right to appear in juvenile court for the purpose of confronting and questioning any witnesses who may testify in this proceeding;
- I have been given the ability to speak privately with my attorney and understand that I will be able to speak with my attorney privately during this proceeding;
- I have had the opportunity to speak to my attorney about this right to personally appear in juvenile court; and
- I fully understand and appreciate the consequences of my decision to waive the right to appear personally in juvenile court for the proceeding described above.

I therefore freely, voluntarily, and knowingly waive my right to be present in the courtroom for this proceeding, including for the purpose of confronting and questioning any witnesses who may testify, and I consent to participate in this proceeding by audio and video transmission.

Date	Signature Of Juvenile		
Name Of Witness	Signature Of Witness	<input type="checkbox"/> Counsel for Juvenile <input type="checkbox"/> Other (specify) _____	

CERTIFICATE OF DISTRICT COURT JUDGE

I certify that the above named juvenile was advised on the *Date Of Proceeding* above of the right to appear in a courtroom and be personally present for the proceeding described above; that he/she was advised that his/her case would not be unreasonably delayed if that right was not waived; that he/she was advised of the right to appear in juvenile court for the purpose of confronting and questioning any witnesses who may testify; that he/she understands and appreciates the consequences of his/her decision to waive the right to personal appearance; and that the juvenile voluntarily, knowingly and intelligently waived the right to personal appearance and consented to conduct the proceeding described above by audio and video transmission.

Location Of District Court Judge During Proceeding Described Above

Date	Name Of District Court Judge (type or print)	Signature Of District Court Judge
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NOTE TO PRESIDING OFFICIAL: Upon verification of the information above that identifies the case(s) and proceeding conducted by audio and video transmission, complete this signature section and file with the clerk of superior court for the county in which the case(s) is pending.

Colloquy for Juvenile Proceedings Conducted by Audio and Video Transmission

NOTE TO PRESIDING OFFICIAL: *This colloquy is to be used in proceedings conducted by audio and video transmission pursuant to the Chief Justice's May 1, 2020, order authorizing remote proceedings. Note that Part 2, the juvenile's waiver of the right to personal appearance, and Part 3, the parent/guardian/custodian's waiver of the right to personal appearance, are not necessary in order to conduct statutorily authorized audio and video transmission proceedings under G.S. 7B-1906(h) (continued secure or nonsecure custody).*

Part 1 - Establish that Audio and Video Transmission is Functioning for All Parties and Juvenile Court Counselor

[Juvenile], please state your name for the record.

[Juvenile], please tell me where you are located at this time.

[Juvenile], are you able to see and hear me?

[Juvenile], is your parent/guardian/custodian with you?

If the answer to the previous question is no, ask the following question:

[Juvenile], are you able to see and hear your parent/guardian/custodian through the audio and video transmission?

[Parent/Guardian/Custodian], please state your name for the record.

[Parent/Guardian/Custodian], please tell me where you are located at this time.

[Parent/Guardian/Custodian], are you able to see and hear me?

[Parent/Guardian/Custodian], are you able to see and hear your child?

**Repeat the above questions for each parent/guardian/custodian present during the proceeding*

[Juvenile Court Counselor], please state your name for the record.

[Juvenile Court Counselor], please tell me where you are located at this time.

[Juvenile Court Counselor], are you able to see and hear me?

[Juvenile Court Counselor], are you able to see and hear the juvenile?

[Juvenile Court Counselor], are you able to see and hear the juvenile's parent/guardian/custodian?

[Juvenile], are you able to see and hear the juvenile court counselor?

[Parent/Guardian/Custodian], are you able to see and hear the juvenile court counselor?

NOTE TO PRESIDING OFFICIAL: *The next several questions are designed to ensure that the juvenile's counsel is present, that counsel has an opportunity to consult with the juvenile privately, that counsel can hear and see all parties before proceeding, and that the juvenile is satisfied with the attorney's help in the case and can see and hear his or her attorney. They also ensure that the Attorney for the State is present and that the Attorney for the State can be seen and heard by all parties to the proceeding.*

[Juvenile], is your attorney present with you?

If the answer to the previous question is no, ask the following question:

[Juvenile], are you able to see and hear your attorney through the audio and video transmission?

[Juvenile], have you had an opportunity to talk to your attorney in private?

[Juvenile] Are you satisfied with your attorney's help in this case?

[Juvenile] Do you understand that you can ask to speak privately with your attorney any time during this proceeding?

[Defense counsel], please state your name for the record.

[Defense counsel], where are you located at this time?

[Defense counsel], are you able to see and hear me?

[Defense counsel], are you able to see and hear *[the juvenile]*?

[Defense counsel], are you able to see and hear the juvenile's parent/guardian/custodian?

[Defense counsel], are you able to see and hear the juvenile court counselor?

[Defense counsel], have you had an opportunity to talk to your client, *[the juvenile]*, in private?

[Defense counsel], are you able to speak privately with your client while participating in this audio and video proceeding?

[Parent/Guardian/Custodian], are you able to see and hear defense counsel?

[Juvenile Court Counselor], are you able to see and hear defense counsel?

[Attorney for the State], where are you located at this time?

[Attorney for the State], are you able to see and hear me?

[Attorney for the State], are you able to see and hear the juvenile?

[Attorney for the State], are you able to see and hear the juvenile's parent/guardian/custodian?

[Attorney for the State], are you able to see and hear defense counsel?

[Attorney for the State], are you able to see and hear the juvenile court counselor?

[Defense counsel], are you able to see and hear [*the attorney for the State*]?

[Juvenile], are you able to see and hear [*the attorney for the State*]?

[Parent/Guardian/Custodian], are you able to see and hear [*the attorney for the State*]?

[Juvenile Court Counselor], are you able to see and hear [*the attorney for the State*]?

[To all parties], if you have any problem hearing or seeing at any time during this proceeding, let me know immediately.

[To all parties], if at any time a technological problem occurs, please let me know immediately and the hearing will be stopped and the difficulty corrected.

NOTE TO PRESIDING OFFICIAL: *This portion of the colloquy should follow the advisement of a juvenile's right to counsel and the right to privately confer with counsel during the proceeding.*

If you determine that the juvenile is able to see and hear you, see and hear counsel, confidentially communicate with counsel, see and hear the attorney for the State, see and hear the juvenile's parent, guardian, or custodian, and see and hear the juvenile court counselor, you should make appropriate findings on the record regarding the method by which the proceeding is conducted, the location of the juvenile, counsel, parent, guardian, or custodian, juvenile court counselor, and the judge, and the ability of each party to see, hear and speak with one another. Sample language follows:

Let the record show that this [*specify type of proceeding*] is being conducted by remote audio-video technology. [*Juvenile*] is participating from [*his/her*] location at [*insert name of detention facility or other remote location*]. [*Parent/Guardian/Custodian*] is participating from [*his/her*] location at [*insert location of Parent/Guardian/Custodian.*] [*Defense counsel*] is participating from [*his/her*] location at [*insert location of attorney*]. [*Attorney for the State*] is participating from [*his/her*] location at [*insert location of Attorney for the State.*] [*Juvenile Court Counselor*] is participating from [*his/her*] location at [*insert location of Juvenile Court Counselor.*] The court is participating from [*insert location of judge*]. This court is satisfied that [*juvenile*], [*juvenile's parent/guardian/custodian*], [*defense counsel*], [*attorney for the State*], [*juvenile court counselor*], and this court can see, hear, and speak with each other and that the juvenile is able to communicate privately with counsel. This court therefore finds that the audio-video technology is working properly and that the juvenile has received and is receiving the assistance of counsel.

Part 2 - Establish Valid Waiver of Juvenile's Right to In-Person Appearance in Court

Before proceeding, I want to advise you about the rights you will be giving up if you agree to have this proceeding conducted through audio and video transmission.

You have the right to appear in a courtroom and be personally present for this proceeding. That includes the right to appear in juvenile court where you can confront witnesses who may testify in this proceeding and ask them questions.

You are not required to waive the right to be present. If you do not agree to having this proceeding by audio and video transmission you will be afforded the right to appear in person in juvenile court for this proceeding without unreasonable delay.

[Juvenile], do you understand those rights?

[Juvenile], are you satisfied with having this proceeding today by means of this audio and video transmission instead of being personally present?

[Juvenile], do you waive your right to be personally present for this proceeding and consent to conduct it by means of this audio and video transmission?

[Juvenile], do you waive your right to appear in court to confront and question witnesses who testify at this proceeding?

[Juvenile], do you consent to conducting any such confrontation and questioning by means of this audio and video transmission?

[Juvenile], is there anything about this proceeding or the rights you are waiving that you do not understand or that you would like to discuss with your attorney?

[Juvenile and defense counsel], if you need to confer privately at any time during this proceeding, please let me know, and you will be given the opportunity to do so.

¹[Attorney for the State], do you consent to holding this proceeding by audio and video transmission?

Part 3 - Establish Valid Waiver of Parent/Guardian/Custodian's Right to In-Person Appearance in Court

[Parent/Guardian/Custodian] As a party to this proceeding, you have the right to appear in a courtroom and be personally present for this proceeding. That includes the right to appear in juvenile court with your child.

¹ Note that Emergency Directive 3 of the Chief Justice's May 1, 2020 order provides that consent of the parties is not required to conduct a proceeding by remote audio and video transmission; however, a party may, for good cause, object to the proceeding being held by audio and video transmission. Therefore, the court may want to ask this question to allow the record to reflect whether any parties objected to the proceeding.

You are not required to waive the right to be present. If you do not agree to having this proceeding by audio and video transmission you will be afforded the right to appear in person in juvenile court for this proceeding without unreasonable delay.

[Parent/Guardian/Custodian], do you understand those rights?

[Parent/Guardian/Custodian], are you satisfied with having this proceeding today by means of this audio and video transmission instead of being personally present?

[Parent/Guardian/Custodian], do you waive your right to be personally present for this proceeding and consent to conduct it by means of this audio and video transmission?

NOTE TO PRESIDING OFFICIAL: *If you are satisfied that the juvenile and the juvenile's parent, guardian, or custodian have made a knowing, voluntary, and intelligent waiver of the right to personal presence and that the juvenile has made a knowing, voluntary, and intelligent waiver of the right to confront witnesses, enter appropriate findings on the record. A sample statement follows:*

Let the record show that [Juvenile] has consented to [his or her] participation in this proceeding by way of audio and video technology. [Juvenile] has waived any right to be physically present and to personally confront witnesses in this proceeding. [Juvenile's Parent/Guardian/Custodian] has waived any right to be physically present. [Attorney for the State] also has consented, on behalf of the State, to conduct this proceeding by audio and video transmission.

Instruct the juvenile to execute the copy of the form, Waiver of Personal Appearance and Consent to Audio-Video Proceeding, presented by the custodian or counsel co-located with the juvenile. Once executed, direct the custodian or counsel to sign the waiver form as a witness to the juvenile's execution and then deliver the form to the clerk's office for your subsequent execution of the court's certification on that same form.

_____ County

In The General Court Of Justice
District Court Division

NOTE: Use this form to record a parent's waiver of personal appearance in a juvenile delinquency proceeding being conducted by audio and video transmission pursuant to Emergency Directive 3 in the Order of May 1, 2020, by the Chief Justice. This form need not be used for a proceeding for which the General Statutes expressly authorize audio and video transmission: continued secure and nonsecure custody hearings, G.S. 7B-1906(h).

IN THE MATTER OF

**PARENT'S WAIVER OF PERSONAL
APPEARANCE AND CONSENT TO
AUDIO-VIDEO PROCEEDING
(JUVENILE DELINQUENCY)**

 Order of the Chief Justice of the Supreme Court of North Carolina
1 May 2020

Name Of Juvenile			
Juvenile's Date Of Birth	Age	Date Of Proceeding	
Parent/Guardian/Custodian	Location Of Parent/Guardian/Custodian	Attorney For Juvenile	Location Of Attorney
Attorney For State	Location Of State's Attorney	Juvenile Court Counselor	Location Of Juvenile Court Counselor

NOTE TO PARENT: A separate waiver form must be completed and signed by each parent, guardian, or custodian of the juvenile named in this action. Complete all fields above for the case(s) for which this remote audio-video proceeding is conducted **before** completing the execution of the waiver below. Upon completion of the proceeding, deliver this waiver to the clerk's office for execution by the presiding judge.

ACKNOWLEDGMENT OF RIGHTS AND WAIVER

As the undersigned parent, guardian, or custodian of the juvenile named in this action, I freely and voluntarily declare that:

- I have been advised of my right to appear in a courtroom with my child, the juvenile named in this action, and be personally present for the proceeding described above;
- I have been advised that I am not required to waive my right to be present, and if I do not waive that right, the juvenile's case will not be unreasonably delayed; and
- I fully understand and appreciate the consequences of my decision to waive the right to appear personally in juvenile court for the proceeding described above.

I therefore freely, voluntarily, and knowingly waive my right to be present in the courtroom for this proceeding, and I consent to participate in this proceeding by audio and video transmission.

Date	Signature Of Parent/Guardian/Custodian		
Name Of Witness	Signature Of Witness	<input type="checkbox"/> Counsel for Juvenile <input type="checkbox"/> Juvenile Court Counselor <input type="checkbox"/> Other (specify) _____	

CERTIFICATE OF DISTRICT COURT JUDGE

I certify that the above named parent, guardian, or custodian of the juvenile named in this action was advised on the *Date Of Proceeding* above of the right to appear in a courtroom and be personally present for the proceeding described above; that he/she was advised that the juvenile's case would not be unreasonably delayed if that right was not waived; that he/she understands and appreciates the consequences of his/her decision to waive the right to personal appearance; and that the parent(s), guardian(s), or custodian(s) of the juvenile named in this action voluntarily, knowingly and intelligently waived the right to personal appearance and consented to conduct the proceeding described above by audio and video transmission.

Location Of District Court Judge During Proceeding Described Above

Date	Name Of District Court Judge (type or print)	Signature Of District Court Judge
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NOTE TO PRESIDING JUDGE: Upon verification of the information above that identifies the case(s) and proceeding conducted by audio and video transmission, complete this signature section and file with the clerk of superior court for the county in which the case(s) is pending.



APPENDIX E



CARING FOR YOU

SELF-CARE SUGGESTIONS



No one alive today has lived through a time like this COVID-19 pandemic. **Everyone** is affected in some way, and everyone is subject to stressors at a time like this. Stressors can come from anywhere and everywhere. For example, being overworked; having no work; being isolated; having too much family time with no breathing room; feeling anxious about having to deal with the public; having personal or family health concerns; money concerns; and loss of hope for the future are all potential sources of stress. African Americans, and other friends and colleagues of color, are faced with the compounded stressors of health disparities and structural inequities. Everyone is different, but no one is immune. Even the people who cheerfully say, “I’m fine,” are affected, as well.

During this time, it helps to remember two things. First, the justice system will survive and come through this pandemic, hopefully as a stronger and more equitable institution. Second, your role in making that happen is critical; the work you do matters. It helps us preserve a system of justice that everyone counts on, whether they use it or not. Thank you for doing this work.

Whatever your personal situation, you should be engaging in some self-care. There are many aspects of this situation that cannot be controlled. Practicing self-care is not one of them.

During this pandemic, it is critical that you recognize what stress looks like, take steps to build your resilience and manage job stress, and know where to go if you need additional help. In addition to increased stress, anxiety, fear, sadness, and loneliness are common. And mental health disorders, including anxiety and depression, can develop or worsen.



This document provides some strategies to help promote resiliency and wellness. The material is based on documents prepared by the Mayo Clinic and the Centers for Disease Control and Prevention (CDC). Links to materials from both sources, as well as other helpful resources, are included.

COMMON SIGNS OF STRESS

- Feeling irritation, anger, or being in denial
- Feeling uncertain, nervous, or anxious
- Lacking motivation
- Feeling tired, overwhelmed, or burned out
- Feeling sad or depressed
- Having trouble sleeping
- Having trouble concentrating

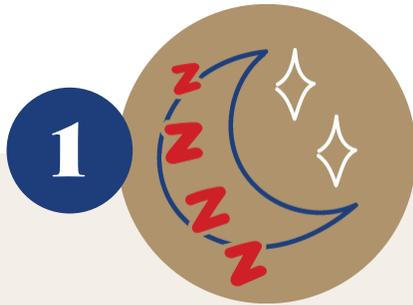
WORK-RELATED STRESS FACTORS

- Concern about the risk of being exposed to COVID-19 at work
- Need to take care of new personal and family needs while working
- Managing new duties
- Lack of access to the safety equipment
- Feeling that you are not doing your part or guilt because others have to be on frontlines
- Having to learn new technologies
- Adapting to a different workspace and/or work schedule



SUGGESTIONS FOR SELF CARE

TAKE CARE OF YOUR BODY



GET ENOUGH SLEEP.

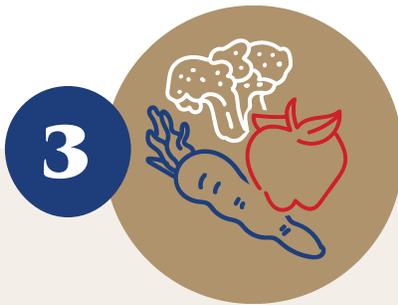
Go to bed and get up at the same times each day. Stick close to your typical schedule, even if you're staying at home.



LIMIT SCREEN TIME.

Turn off electronic devices for some time each day, including 30 minutes before bedtime.

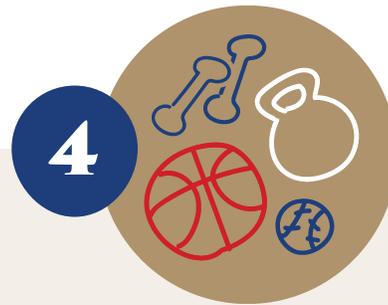
Make a conscious effort to spend less time in front of a screen — television, tablet, computer, and phone.



EAT HEALTHY.

Choose a well-balanced diet. Avoid loading up on junk food and refined sugar.

Limit caffeine as it can aggravate stress and anxiety.



PARTICIPATE IN REGULAR PHYSICAL ACTIVITY.

Regular physical activity and exercise can help reduce anxiety and improve mood.

Find an activity that includes movement, such as dance or exercise apps. Get outside in an area that makes it easy to maintain social and physical distancing. It can be as simple as walking.



SUGGESTIONS FOR SELF CARE

TAKE CARE OF YOUR BODY



5 AVOID TOBACCO, ALCOHOL AND DRUGS.

Because COVID-19 affects the lungs, the risk to smokers and vapers is increased.

Using alcohol to try to cope can make matters worse and reduce your coping skills.

Avoid taking drugs to cope, unless your doctor prescribed medications for you.

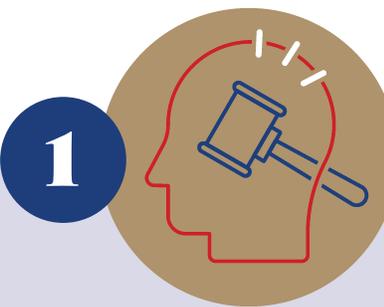


6 RELAX AND RECHARGE.

Set aside time for yourself. Even a few minutes of quiet time can be refreshing and help to quiet your mind and reduce anxiety. Many people benefit from practices such as deep breathing, tai chi, yoga, or meditation.

Soak in a bubble bath, listen to music, or read or listen to a book — whatever helps you relax. Select a technique that works for you and practice it regularly. There are many sources online for meditation to assist you in starting some of these practices.

TAKE CARE OF YOUR MIND



1 REMEMBER THE REASONS YOU WORK IN THE JUSTICE SYSTEM.

The work you do is vital to the functioning of our state. Without a justice system, a democracy cannot function. The importance of your work hasn't changed. And this crisis will end.

What you do matters, no matter how stressful it is right now; it is helpful to remind yourself of that.



2 LIMIT EXPOSURE TO NEWS MEDIA.

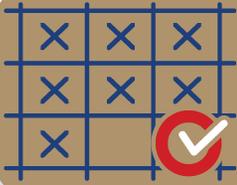
Constant news about COVID-19 from all types of media can heighten fears about the disease. Limit social media that may expose you to rumors and false information. Limit reading, hearing, or watching other news, but keep up to date on national and local recommendations. Look for reliable sources of authority such as the NC DHHS or the CDC.



SUGGESTIONS FOR SELF CARE

TAKE CARE OF YOUR MIND

3



KEEP YOUR REGULAR ROUTINE.

Maintaining a regular schedule is important to your mental health. In addition to sticking to a regular bedtime routine, keep consistent times for meals, bathing and getting dressed, work or study schedules, and exercise.

Set aside time for activities you enjoy. Predictability can make you feel more in control.

4

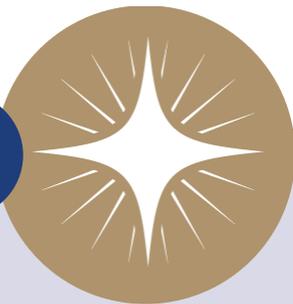


STAY BUSY.

A distraction can get you away from the cycle of negative thoughts that feed anxiety and depression.

Enjoy hobbies that you can do at home, identify a new project, or clean out that infamous closet or drawer.

5



USE YOUR MORAL COMPASS OR SPIRITUAL LIFE FOR SUPPORT.

If you are part of a faith community or tradition, seek out the sources of comfort and support it provides.

If you draw strength from a belief system, let it bring you comfort during difficult times.

6



FOCUS ON POSITIVE THOUGHTS.

Choose to focus on the positive things in your life, instead of dwelling on how bad you feel.

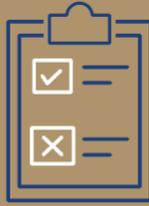
Consider starting each day by listing things you are thankful for. Ask yourself, "What else is true?" Maintain a sense of hope, work to accept changes as they occur, and try to keep problems in perspective.



SUGGESTIONS FOR SELF CARE

TAKE CARE OF YOUR MIND

7



SET PRIORITIES.

Don't become overwhelmed by your to-do list. Set reasonable and achievable goals each day.

Give yourself credit for positive steps and recognize that some days will be better than others.

CONNECT WITH OTHERS

MAKE CONNECTIONS.

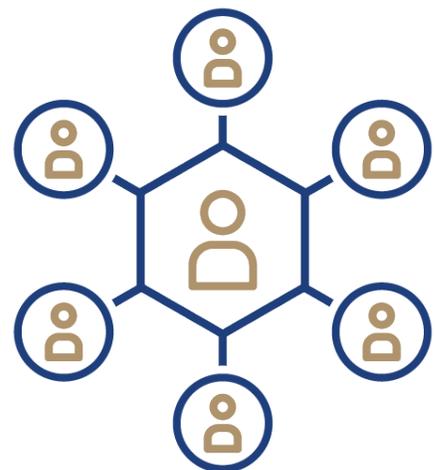
If you need to stay at home and distance yourself from others, avoid social isolation. Find time each day to make virtual connections by email, texts, phone, or FaceTime or similar apps. If you're working remotely from home, ask your co-workers how they're doing and share coping tips. Enjoy virtual socializing and talking to those in your home.

DO SOMETHING FOR OTHERS.

Find purpose in helping the people around you. For example, email, text, or call to check on your friends, family members, and neighbors — especially those who are elderly. If you know someone who can't get out, ask if there's something needed, such as groceries or a prescription picked up, for instance. But be sure to follow guidelines on social distancing and group meetings.

SUPPORT A FAMILY MEMBER OR FRIEND.

If a family member or friend needs to be isolated for safety reasons or gets sick and needs to be quarantined, come up with ways to stay in contact—electronically, by phone, or by mail.





SUGGESTIONS FOR SELF CARE

GET HELP IF YOU NEED IT

Despite your best efforts, you may find yourself feeling helpless, sad, angry, irritable, hopeless, anxious, or afraid. You may have trouble concentrating on typical tasks, changes in appetite, body aches and pains, or difficulty sleeping, or you may struggle to face routine chores.

When these signs and symptoms last for several days in a row, make you miserable, and cause problems in your daily life so that you find it hard to carry out normal responsibilities, it's time to ask for help.

Hoping mental health problems such as anxiety or depression will go away on their own can lead to worsening symptoms.

If you have concerns or if you experience worsening of mental health symptoms, ask for help when you need it, and be upfront about how you're doing. To get help you may want to:

Contact the Employee Assistance Program provided by the Administrative Office of the Courts through Deer Oaks EAP Services, available 24 hours a day, seven days a week. Contact information is provided below.

Call or use social media to contact a close friend or loved one — even though it may be hard to talk about your feelings.

Contact a minister, spiritual leader, or someone in your faith community.

Call your primary care provider or mental health professional to ask about appointment options to talk about your anxiety or depression and get advice and guidance.

Contact organizations such as the National Alliance on Mental Illness (NAMI) or the Substance Abuse and Mental Health Services Administration (SAMHSA) for help and guidance.

FURTHER INFORMATION

In the United States, call the **National Suicide Prevention Lifeline at 1-800-273-TALK (1-800-273-8255)** or use its webchat at suicidepreventionlifeline.org/chat.

If you're feeling suicidal or thinking of hurting yourself, seek help. Contact your primary care provider or a mental health professional. Or call a suicide hotline.

Continue your self-care strategies.

Sometimes symptoms may take as long as 9-12 months to show up after the initial event

And, stress won't disappear from your life when the health crisis of COVID-19 ends.

Self-care is a life-long activity.

Centers for Disease Control and Prevention (CDC)

[cdc.gov/coronavirus/2019-ncov/community/mental-health-non-healthcare.html](https://www.cdc.gov/coronavirus/2019-ncov/community/mental-health-non-healthcare.html)

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>

Mayo Clinic

[mayoclinichealthsystem.org/hometown-health/speaking-of-health/self-care-tips-during-the-COVID-19-pandemic](https://www.mayoclinic.org/health/self-care-tips-during-the-COVID-19-pandemic)

NCAOC Employee Assistance Program (EAP)

[juno.nccourts.org/human-resources/employee-assistance-program](https://www.juno.nccourts.org/human-resources/employee-assistance-program)

Administered by Deer Oaks EAP Services. In addition to website resources, in-person consultation is available 24 hours a day, seven days a week for Judicial Department employees.

American Bar Association (ABA) Lawyer Assistance Program

[americanbar.org/groups/lawyer_assistance/resources/COVID-19--mental-health-resources/](https://www.americanbar.org/groups/lawyer_assistance/resources/COVID-19--mental-health-resources/)



APPENDIX F



CARING FOR YOU

SELF-CARE SUGGESTIONS



BE AWARE

Be upfront about how you're doing. Despite your best efforts, you may find yourself experiencing symptoms or signs of stress.

Signs of Stress

Irritation or Anger	Trouble Concentrating
Anxious/Nervous	Sad or Depressed
Overwhelmed	Lack of Motivation
Lack of Energy	Feeling Uncertain
Trouble Sleeping	Denial

Work-Related Factors

Concern of Exposure
Personal & Family Needs
Managing New Duties
Guilt
Adapting to New Processes/ Technologies/Work space

BE ENGAGED

Here are some ways to take care of you, to de-stress.

Body

Sleep
Physical Activity/Exercise
Eating Healthy
Avoid Tobacco/Alcohol/Drugs
Relax & Recharge

Mind

Purpose
Routine
Stay busy
Limit Media
Positive Thoughts
Remember You Matter

Spirit

Draw on Your Belief System
Set Priorities
Make Connections
Support Others

GET HELP

When these signs and symptoms last for several days, make you miserable, or cause problems in your daily life, it's time to ask for help.

Employee Assistance Program (EAP)

Deer Oaks EAP Services	
Phone Number	866-327-2400
Website	deeroakseap.com
User & Password	NCAOC

North Carolina Resources

NC 2-1-1	Simply Dial 2-1-1
NC HopeLine	877-235-4525

National Suicide Prevention Lifeline

800-273-8255

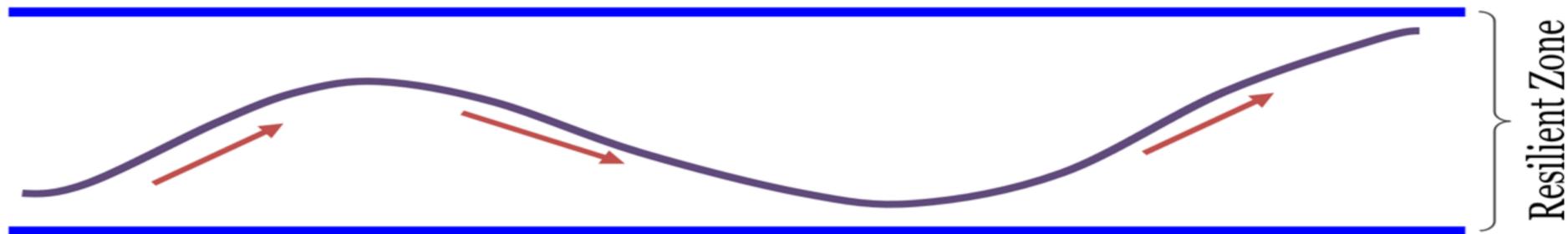
juno.nccourts.org/human-resources/employee-assistance-program



APPENDIX G



Help Now!



Drink a glass of water



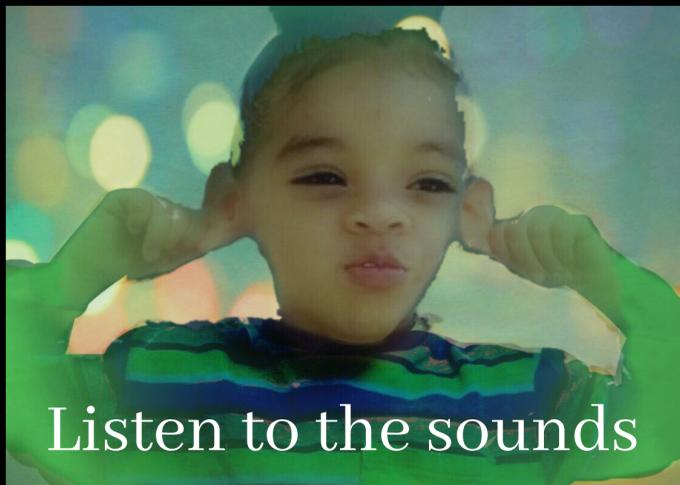
Count backwards from 20



Go for a walk



Listen to the sounds



Name six colors you see



Push against a wall



Notice your surroundings



Notice the temperature



Touch the furniture



Touch something in nature

