



Jury Summons

A Statement from the Action Committee

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The [Action Committee on Court Operations in Response to COVID-19](#) has released this Tip Sheet to help guide the safe resumption of court operations in Canada.

This Tip Sheet is informed by [Principles and Perspectives](#) drawn from health and safety experts, the judiciary, governments and courts administrators – each motivated by a shared responsibility to protect the health and safety of Canadians in planning for the resumption of in-court operations.

It applies a phased method of risk identification and risk mitigation recommended by the Public Health Agency of Canada, and previously released by the Action Committee in its [Orienting Principles on Safe and Accessible Courts](#). This involves surveying the various elements of court operations, identifying risks for COVID-19 transmission, and implementing mitigation strategies according to a hierarchy of controls. Physical distancing is the foundation for this hierarchy, followed by engineering controls, administrative controls, and the use of personal protective equipment (PPE), each of which combine to form an integrated and thorough approach to protecting health and safety.

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- When putting health and safety measures in place, always consider the hierarchy of controls, continue to evaluate how effective they are, and make changes when needed. Consultation with key stakeholders is also necessary, including workplace health and safety committees.

Process Survey and Risk Identification: Jury Summons

The operation of criminal jury processes differs by jurisdiction, location, and court facility. Common elements of the jury summons process are summarized below in order to help define risks and inform appropriate control measures. A more detailed account of these elements is available in the Action Committee's [Phases and Steps of a Criminal Jury Trial](#).

- **Form and method of transmission** - A summons is a letter sent in the mail asking the recipient to go to a courthouse and participate in a jury selection process.
 - **Hazards:** COVID-19 can be transmitted through contaminated paper mail; receipt of summons may provoke anxiety about the safety of attending the courthouse for jury selection.
- **How recipients are identified** - Recipients are selected randomly from a list of qualified jurors, who have been previously identified through a combination of random selection from existing government databases and completion of mailed questionnaires.
 - **Hazards:** Random community selection may include individuals at high risk of COVID-19 exposure; attendance of these persons at the courthouse could result in transmission.



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- **Options upon receipt** - Compliance with a summons is mandatory. However, there are alternatives for persons with clear reasons why they cannot serve on a jury to defer or be excused from service without having to attend a selection process (e.g., by contacting the courthouse in writing with supporting documents).
 - **Hazards:** COVID-19 transmission through contaminated paper mail; failure to understand or be provided with options to decline jury service may cause unnecessary attendance at courthouse, including by persons with COVID-19 exposure.
- **Passage of time before attending courthouse** - There is likely to be a significant passage of time (several weeks) between receipt of a summons and the date on which the recipient is required to participate in a jury selection process.
 - **Hazards:** Recipients may be exposed to COVID-19 after receiving summons and still attend at courthouse, thus raising transmission risk.

Mitigating Risks

Accounting for each element in the jury summons process, the following control measures could be introduced to reduce risks of COVID-19 transmission and to help protect the health and safety of court users and personnel.

Physical Distancing

- Consider how the jury summons can be formulated to ensure that no persons attend the courthouse unnecessarily and thus add to volume and exposure risks. Options may include:
 - Providing clear, actionable guidance for recipients to decline jury service remotely (by telephone, return mail, or electronically) due either to risk of COVID-19 exposure or to traditional grounds of deferral or excusal;
 - Provide clear information to recipients on risk factors for COVID-19 exposure (recent health symptoms, travel, or proximity to ill persons) that can be reported as reasons for declining jury service;
 - Provide recipients with the ongoing ability to contact the courthouse and decline jury service should they become ill or be exposed to COVID-19 during the period leading up to their attendance date.

Engineering

- Not applicable at this stage.

Administration

- Consider using a health screening assessment questionnaire to identify individuals who may have COVID-19; if the individual screens positive, they are not to attend the courthouse.
- Consider whether any elements of the summons process can be replaced by electronic alternatives, such as email or text messaging, to avoid the use of paper mail and facilitate easier communication.
- Develop a communication package for all summons recipients, providing:
 - Clear options and instructions for declining jury service without attending the courthouse (as described above under Physical Distancing);
 - Guidance for contacting the courthouse should the recipient contract or become exposed to COVID-19 prior to their attendance date (as described above under Physical Distancing);
 - Reassurance of health and safety measures in place at the courthouse, including any advance guidelines to prepare for attendance at court (for example, direction to wear a face mask, bring hand sanitizer, arrive within a specific timeframe, or arrive at a specific entrance to the court facility).
- Consider enclosing a leaflet or brief statement with the jury summons to encourage hand washing after handling mail.
- Implement administrative guidelines and appropriate training for court personnel who receive and process return mail from summons recipients (concerning the use of face masks, sanitizing surfaces, and any other health and safety measures).



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Personal Protective Equipment (PPE)

- Provide appropriate protective equipment and training on safe donning and doffing to court personnel responsible for handling return mail (face masks, and/or other measures as appropriate).

Get further guidance on [protecting court personnel and general practices for sanitation and disinfecting](#) applicable to all court operations.

Resources and References

- Action Committee on Court Operations in Response to COVID-19 Terms of Reference:
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Jury Selection

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- When putting health and safety measures in place, always consider the hierarchy of controls, continue to evaluate how effective they are, and make changes when needed. Consultation with key stakeholders is also necessary, including workplace health and safety committees.

Process Survey and Risk Identification: Jury Selection

The operation of criminal jury processes differs by jurisdiction, location, and court facility. Common elements of the jury selection process are summarized below in order to help define risks and inform appropriate control measures. A more detailed account of these elements is available in the Action Committee's [Phases and Steps of a Criminal Jury Trial](#).

- **Travel to and from courthouse** - Persons summoned for jury duty typically arrange for independent travel to and from the courthouse, sometimes over the course of several days, to participate in jury selection. This involves movement between their homes, the courthouse, and other public spaces (such as public transport).
 - **Hazards:** Persons attending jury selection may transmit COVID-19 following exposure in their homes or in public; the courthouse itself could be a location for contraction and transmission to the outside community.
- **Arrival at courthouse and initial processing** - Arrival, registration, and assembly at the courthouse will likely involve passing through common points of entry; waiting in lines; waiting in public reception areas; use of common court facilities; and eventual direction to an assembly room or courtroom.



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- **Hazards:** Multiple points of physical proximity to other persons, including waiting areas and interaction with court staff; multiple potential contacts with common surfaces; physical handling of registration documents and passage between persons; physical contact with surfaces in washrooms and other common facilities.
- **Gathering of potential jurors in assembly room** - Once transferred to an assembly room, prospective jurors ("panels") will be seated, ordinarily in close proximity to one another in an audience-style format. They may remain in the assembly room for an extended time, until being selected to participate in jury selection in a separate courtroom. Some panellists may be dismissed and asked to return to court on a different day. Others may be permanently dismissed.
 - **Hazards:** Prolonged physical proximity between individuals; physical contact with chairs and other surfaces; departure of some prospective jurors could lead to community exposure if they contract COVID-19 while at the courthouse.
- **Assignment of potential jurors to courtrooms** - Selected panel members are directed to individual courtrooms, where the jury selection process is completed for each trial. This typically involves their remaining in a courtroom for an extended period, together with the presiding judge, court clerk(s), counsel for the crown and the accused person, and possibly other personnel such as sheriffs, victim support officers, and security staff. Criminally accused persons will almost always be present.
 - **Hazards:** Physical proximity to others and contact with surfaces during movement between locations (use of doors, elevators, etc.); prolonged physical proximity between individuals in the courtroom; contact with common surfaces such as chairs, railings and desks.
- **Calling of prospective jurors for questioning** - Prospective jurors will be called one at a time to sit in the witness box and answer questions from the presiding judge and counsel. Prior to receiving questions, prospective jurors take an oath or affirmation, which may involve contact with a religious text or close proximity to a court officer.
 - **Hazards:** Physical contact with elements of the witness box, such as the chair or railing; physical contact with a religious text; proximity to the oath-taking official or other individuals.
- **Deferral, excusal, or elimination** - As jurors are selected, they sit together in the jury box. Any prospective juror deferred, excused, or eliminated for cause may depart the courthouse immediately.
 - **Hazards:** Close proximity between individuals in the jury box; contact with common surfaces in the jury box; passage of deferred, excused or eliminated individuals through common areas while exiting the courthouse; possible transmission to the community of COVID-19 contracted in the courthouse environment.
- **Completion of jury selection** - The jury selection process continues until 12 to 14 jurors and alternates are selected to constitute a jury. This may take as little as several hours or as long as several days, during which time prospective jurors continue to sit in the audience and access the public areas of the courthouse during breaks. When the 12 to 14 jurors are selected, a court services officer will redirect them to the jury room. The trial may commence immediately, or the jurors may be released and asked to return to the courthouse for a specific trial date.
 - **Hazards:** Prolonged close proximity between individuals in the jury box, courtroom, and jury room; potential for physical contact with common surfaces at all stages, and during movement between locations; return of jurors to their homes and communities before attending the trial means they could be exposed to COVID-19 in the interim.

Mitigating Risks

Accounting for each element in the jury selection process, the following control measures could be introduced to reduce risks of COVID-19 transmission and to help protect the health and safety of court users and personnel.

Physical Distancing

- Consider whether any elements of the jury selection process could be replaced by electronic or remote alternatives that would reduce the number of individuals required to attend the courthouse (see Tip Sheet on [Jury Summons](#)).
- Maintain 2 metres (6 feet) distance between people whenever possible, for example by:
 - Staggering arrival times for prospective jurors to alleviate congestion and congregation at building access points and in common areas;



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- Introducing electronic alternatives to physical registration (phone apps, digital barcodes and no-contact scanning points, etc.);
 - Locating physical registration or other administrative processes in spaces that can accommodate appropriate distancing between persons waiting in line;
 - Using markers or barriers to create walking paths;
 - Marking floors with distancing cues;
 - Blocking seats in waiting areas, assembly rooms, and courtrooms;
 - Dispersing prospective jurors in smaller groups, where possible, to different assembly rooms and courtrooms so as to alleviate occupation density;
 - Considering alternatives to locating jurors in jury boxes, or reconfiguring jury boxes to allow appropriate distance between seats.
- Consider the possibility of relocating jury selection to alternate facilities that may be better suited to physical distancing requirements, such as conference facilities, arenas and sports complexes, or large community centres. This could be combined with eventual relocation to the courthouse after completing “high volume” stages of the selection process.
 - Consider whether CCTV can be used to support physical distancing at any stage of the selection process, such as during delivery of common information or presentations to prospective jurors, or during elements of courtroom activities that don’t require in-person interaction between the judge, counsel, and prospective jurors.

Engineering

- Increase building ventilation to the extent possible (e.g., by opening windows) and/or change air filters frequently.
- Install barriers or shielding where physical distancing is impossible or impractical, for example:
 - At registration points where prospective jurors interact with court officials;
 - Between seats in any seating areas or in the jury box;
 - Around the witness box and jury box;
 - In front of the judge or other court officials;
 - Around the stations used by counsel.

Administration

- Provide prospective jurors with advance information on health and safety measures that will be observed at the courthouse, so as to inform their conduct and provide reassurance of safety (see Tip Sheet on [Jury Summons](#)).
- Conduct health screening survey upon arrival at the building.
- Make hand sanitizer available at entrances and exits.
- Provide disposable face masks at appropriate stages, such as upon arrival or registration, with clearly posted instructions on how to safely put on and remove a mask.
- Post signage and instructions throughout the building to promote physical distancing and proper hygiene practices.
- Ensure the availability of court staff to assist with health and safety concerns, answer questions, and reinforce distancing and other requirements.
- Provide an introductory presentation to prospective jurors outlining safe practices while in the courthouse such as handwashing, wearing a mask, following procedures and floor markings to ensure physical distancing, and what to do if they become ill.
- Ensure proper cleaning and disinfecting protocols are followed; clean the building and individual rooms between use by different groups (see Tip Sheet on [General Practices for Sanitation and Disinfecting](#)).



Jury Selection

- Adjust processes to enable physical distancing and reduce contact with objects and surfaces, for example by:
 - Asking prospective jurors opting for a religious oath to look upon but not touch the religious text when being sworn in, or to bring their own text;
 - Eliminating the passage of documents between persons wherever possible;
 - Instructing counsel and court officials to observe distancing in their movements within the courtroom.
- Implement a building movement protocol (including traffic directions, elevator use, floor markings, standing locations in gathering areas, and separately designated entry and exit points).
- Employ a washroom attendant to manage the volume of users at a given time.

Personal Protective Equipment (PPE)

- Provide disposable surgical masks daily by making them available upon arrival at the courthouse, with clearly posted instructions on how to safely put on and remove a mask.
- Provide appropriate PPE, such as face shields, to any court personnel who are required to be in close contact with prospective jurors, such as security officers and court officials responsible for guiding individuals, administering oaths, etc.
- Ensure appropriate safety training of any court personnel required to use PPE, consistent with applicable occupational health and safety laws and regulations.

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In-trial Criminal Jury Proceedings

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Process Survey and Risk Identification: In-trial Jury Proceedings

The operation of criminal jury processes differs by jurisdiction, location, and court facility. Common elements of jury proceedings that occur during the conduct of a criminal trial are summarized below, in order to help define risks and inform appropriate control measures. A more detailed account of these elements is available in the Action Committee's [Phases and Steps of a Criminal Jury Trial](#).

Note: While this Tip Sheet was developed to identify and mitigate risks that arise at each phase of a criminal jury proceeding, it (and [others in the series](#)) could be applied or adapted to other trial participants. Witnesses, for example, share some characteristics with jurors: they are required to attend at various points in a trial; their movements in and out of the courtroom are similarly prescribed; and they may also require safe spaces in which to wait, either individually or accompanied by a support person, while their physical presence is not needed in the courtroom.



In-trial Criminal Jury Proceedings

- **Sitting in the jury stand** - Jurors sit together in a jury stand. Within the jury stand, chairs are usually close together. The jury will remain in the jury stand for most of the time that the court is in session. The proximity of the jury stand to other courtroom elements and individuals varies by setting.
 - **Hazards:** Prolonged physical proximity of individuals within the jury stand; possible proximity of jurors to other individuals in the courtroom; contact with surfaces within the jury stand.
- **Courtroom configuration** - Other individuals in the courtroom include the judge, court clerk(s), court recorder, counsel, and the audience. Security staff, translators, and additional personnel may also be situated at various locations.
 - **Hazards:** Prolonged physical proximity of individuals; contact with common surfaces in the courtroom; instances of close proximity as individuals move and interact in the courtroom.
- **Jury instructions** - In instructions to the jury, the judge will specify the length of each sitting, as well as the time at which breaks will be taken. At the opening of a trial, the jury will be directed to the jury room and asked to decide upon the selection of a foreperson. When moving between the jury room and jury stand, both at this point and other stages during the trial, jurors may carry some personal effects with them.
 - **Hazards:** Physical proximity of jurors within jury room; contact with surfaces in jury room or during movement between the courtroom and jury room; personal effects could become contaminated surfaces and sites for transmission.
- **Exclusion of the jury** - The judge may order the exclusion of the jury from the courtroom in certain circumstances. During the exclusion of the jury from the courtroom, the jury will be directed to the jury room by a court services officer. The jury will remain together, and jurors will be asked to remain in the jury room until the judge calls them back into the courtroom.
 - **Hazards:** Proximity between jurors and court services officers; proximity of jurors to one another within the jury room; contact with surfaces in the jury room or moving between the courtroom and jury room.
- **Presentation and hearing of evidence** - Witnesses give evidence from the witness stand by answering questions posed by counsel. Counsel may "approach" witnesses or the jury in order to show them exhibits or other material, and may also pass exhibits to the court clerk or approach the judge to speak with them privately. Exhibits can include documents, physical objects or photographs, or other materials (such as enlarged images or diagrams). As evidence is presented, jurors may view these materials from afar, or on display screens, or may have opportunities to "interact" with and physically inspect exhibits. Jurors sometimes also use notepads and document binders.
 - **Hazards:** Proximity of individuals (jurors, counsel, the accused, the judge, etc.) during the hearing of evidence; physical contact with exhibits, documents, or any other objects passed between individuals; notepads and binders could become contaminated surfaces and sites for transmission.
- **Discharge of jurors** - During the course of a trial, the judge may direct that one or more jurors be discharged, which results in them being relieved immediately from the jury. This can arise when a juror falls ill or faces other intervening circumstances, or where circumstances arise that disqualify the juror. Alternate jurors, when used, will also be discharged before the end of the trial. Discharged jurors will exit the courthouse and typically arrange for their own transportation home.
 - **Hazards:** An individual who falls ill may have contracted COVID-19 and may transmit to other individuals; discharged jurors may transmit COVID-19 to the community if exposed while in the courthouse.

Note: For guidance on jury sequestering, deliberation and release at the end of trial, see the Tip Sheet on [Jury Sequestering, Deliberation, and Release](#). For guidance on the movement of jury members in and out of the courthouse, including during breaks in trial proceedings, see the Tip Sheet on [Jury Arrival and Departure from the Courthouse](#).



In-trial Criminal Jury Proceedings

Mitigating Risks

Accounting for each element of in-trial jury proceedings, the following control measures could be introduced to reduce risks of COVID-19 transmission and to help protect the health and safety of court users and personnel.

Physical Distancing

- Maintain 2 metres (6 feet) distance between people whenever possible, for example by:
 - Reconfiguring courtroom elements to enable distancing, including expansion of the jury stand or reassignment of jury seating to courtroom space ordinarily reserved for the audience;
 - Using CCTV or secure remote transmission to enable viewing of the trial by media, members of the public, family members of victims or the accused, and others so as to limit the number of persons in the courtroom;
 - Rearranging the layout of desks, lecterns, chairs and other objects;
 - Blocking seating in the audience;
 - Employing visual markers or cues to control the movement of common procedures, such as the display of material to the witness or jury or the movement of jurors between the jury room and jury stand;
 - Reconfiguring seating in the jury room, or using an alternate space for the jury room when current facilities are too small.
- Consider using an alternate facility, such as a conference centre, sports complex or arena, or large community centre where available court spaces are insufficient for physical distancing.
- Ensure the availability of a dedicated space within the courthouse to isolate and care for any individuals who become ill, and ascertain any risk of COVID-19 contraction or transmission to others.

Engineering

- Increase ventilation in the courtroom to the extent possible (e.g., by opening windows) and/or change air filters regularly.
- Consider introducing technological alternatives to the physical inspection of exhibits, documents, or other material, for example using magnified computer or video screens.
- Install barriers or shielding where physical distancing is impossible or impractical, for example:
 - Between seating spaces within the jury stand, and around the jury stand;
 - Around the witness box;
 - In front of the judge, court clerk(s) and court recorder;
 - In front of desks or lecterns used by counsel;
 - Between seating spaces in the audience.

Administration

- Consider using the presiding judge's opening statement as an opportunity to highlight health and safety protocols, and to identify courtroom personnel available to answer questions and provide ongoing guidance.
- Train courtroom personnel, especially those with direct responsibility for jury support, to provide ongoing health and safety guidance to jurors or others, and to isolate and safely assist any person who becomes ill.
- Establish a protocol for jury movement in and out of the jury box, and between the jury box and jury room. Similar practices could be adapted for witnesses as they move in and out of the courtroom, either individually or as a group, with or without accompanying individuals (e.g., victim support workers).



In-trial Criminal Jury Proceedings

- Establish a protocol for the positioning of counsel when approaching witnesses, jurors, or the judge, and employ visual cues such as floor markers.
- Limit the physical handling of exhibits, documents, or other material to only essential cases, and provide hand sanitizer for use immediately after handling materials.
- Consider designating a court officer responsible for handling and displaying exhibits.
- Post signage in the courtroom and jury room to reinforce basic infection control practices (frequent hand washing, coughing or sneezing into folded elbow, etc.).
- Provide hand sanitizer at entrances and exits, and on desks and tables.
- Consider establishing entry and exit protocols for the courtroom to mitigate congestion, and direct entry and exit movement to different doors if possible.
- Create markings on the floor and signage to indicate movement patterns.
- Employ a washroom attendant to manage volume of usage at a given time.

Personal Protective Equipment (PPE)

- Provide disposable surgical masks daily by making them available upon arrival at the courthouse, with clearly posted instructions on how to safely put on and remove a mask.
- Provide appropriate PPE, such as face shields, to any court personnel who are required to be in close contact with other persons, such as security officers, court officials responsible for guiding and assisting jurors, officials responsible for handling and displaying exhibits, etc.
- Ensure appropriate safety training of any court personnel required to use PPE, consistent with applicable occupational health and safety laws and regulations.

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Sequestering, Deliberation, and Release of the Jury

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Process Survey and Risk Identification: Sequestering, Deliberation, and Release of the Jury

The operation of criminal jury processes differs by jurisdiction, location, and court facility. Common elements of jury sequestering, deliberation, and release at the end of a trial are summarized below, in order to help define risks and inform appropriate control measures. A more detailed account of these elements is available in the Action Committee's [Phases and Steps of a Criminal Jury Trial](#).

- **Deliberation and sequestering** - At the end of a trial, the jury will be directed to the jury room to begin their deliberations. From this point, the jury is sequestered. Every juror must stay in the jury room until they reach a verdict. If the jury does not reach a verdict by the end of the day, the jury will be directed to overnight accommodation at a hotel where they will remain sequestered from outside contact. Jurors may be transported to and from the hotel by taxi or chartered vehicle such as a van or bus. They are provided food and refreshments and may take meals together. They will at all times be escorted as a group by court personnel, whether for meals, washroom breaks or short breaks outdoors, to ensure they do not access any news media or come into contact with members of the public. The jurors return each day to continue deliberations in the jury room.



Sequestering, Deliberation, and Release of the Jury

All trial exhibits are provided to the jury, along with any other material deemed helpful to them by the judge including decision trees or a physical copy of the Judge's Charge.

- **Hazards:** Prolonged close proximity of individuals in the jury room; proximity and possibility for close interactions between court personnel and jurors; proximity of jurors, court personnel, and other individuals during transport to and from juror accommodations; proximity between jurors and other individuals at hotel accommodations, restaurants, and other points in between; contact with surfaces or objects in the jury room, during transportation, at hotel, at restaurant, or in any intermittent points; physical material or objects handled by jurors (exhibits, notes, etc.) could become sites of contamination and transmission.
- **Jury questions** - If questions arise during the deliberations, jurors are asked to put them in writing, and provide them to the court services officer in a sealed envelope, who will provide it to the judge. The jury will be redirected to the courtroom and the judge will answer the jury's questions. If the jury cannot recall something, or if various jurors have divergent recollections, counsel or the judge may assist the jury by reviewing their notes or playing back evidence within the courtroom.
 - **Hazards:** Same as those associated with in-trial jury processes (see the Tip Sheet on [In-trial Jury Proceedings](#)); notes and envelope passed between jurors and court official could be sites of contamination and transmission.
- **Verdict** - When the jury reaches a unanimous verdict on the case before them, they will be asked to deliver the verdict. The foreperson records the verdict on a verdict sheet and notifies the court services officer. The jury will be redirected to the courtroom and take their places in the jury stand. The jury's foreperson stands to announce the verdict to the courtroom.
 - **Hazards:** Same as those associated with in-trial jury processes (see the Tip Sheet on [In-trial Jury Proceedings](#)) and deliberation within the jury room (above).
- **Release of the jury** - The verdict represents the termination of the trial, after which the jury is released. With the exception of some trials in remote locations, or where special security concerns exist, jurors arrange for their own transportation home.
 - **Hazards:** Proximity between individuals or contact with common surfaces as jurors depart the courtroom and courthouse; congregation at exit points.

Mitigating Risks

Physical Distancing

- Maintain 2 metres (6 feet) distance between people whenever possible, for example by:
 - Using a jury room with adequate space for physical distancing;
 - Arranging the seating, locations for jurors to deposit personal belongings, and other elements of the jury room to reinforce physical distancing;
 - Considering the use of floor markers or other visual cues to direct positioning and movement in the jury room;
 - Arranging a mode of jury transport that allows for physical distancing between seats (a chartered bus, or multiple vehicles where one large vehicle is not available);
 - Where possible, booking accommodations that enable the separation of jurors from other guests via the use of a dedicated floor or wing;
 - Where possible, providing meals to jurors individually via room service, or arrange for jurors to dine in restaurants with sufficient space for distancing from other patrons and from each other (reservation of a large private room or other dedicated section of a restaurant could be ideal).
- Consider relocating jury deliberations to an alternate facility, such as a hotel conference room, where jury rooms available at courthouse are inadequate for physical distancing. Conducting deliberations in the same facility where jurors are accommodated avoids the need for transportation.
- Train court personnel responsible for accompanying jurors in physical distancing protocols.
- Incorporate physical distancing guidelines in basic information and guidance given to the jury by court personnel and/or the presiding judge.



Sequestering, Deliberation, and Release of the Jury

Engineering

- Where physical distancing is impossible or impractical, consider introducing plexiglass or other barriers, for example:
 - Between seating spaces in the jury room;
 - Between seating spaces in vehicles used for jury transportation.

Administration

- Include basic health and safety guidance, and information on what to do if feeling ill, in directions to jury upon the commencement of their deliberations.
- Train jury support personnel to guide and assist with any issues related to health and safety, including safe isolation and care for any juror who becomes ill.
- Reinforce to jurors the need to frequently wash hands, especially before entering or re-entering the jury room, before and after meals, and after contacting common surfaces.
- Encourage regular breaks in jury deliberation to allow for frequent hand washing.
- Establish movement protocols to govern routine processes such as arrival and seating for transportation, and entry and exit from the courthouse and jury room.
- Consider implementing electronic substitutes for the handling of physical material (for example, inspection of evidence or exhibits, and transmission of jury questions).
- Consider eliminating or minimizing juror contact with evidence and exhibits by designating a court official with responsibility for displaying these materials to jurors on request.
- Minimize the extent to which jurors are required to share materials by providing them with individual packages on key trial information, directions, and exhibits.
- Provide hand sanitizer at entrances and exits, on desks and tables, and after handling documents and materials.
- Post signage and instructions throughout the courthouse, including within the jury room, to promote physical distancing and proper hygiene practices.
- Provide jurors with information upon release from the trial, asking them to advise the courthouse should they contract COVID-19 symptoms within 14 days of attendance at the courthouse; follow up as appropriate with local health authorities, including to seek direction on whether other jurors, court users, or personnel should be notified of COVID-19 exposure risk.
- Require frequent cleaning and sanitization of the jury room and any vehicles used to transport jurors.
- Ascertain sanitation and other health and safety protocols observed by hotels and meal providers, and ensure adequacy to safeguard against COVID-19 transmission.

Personal Protective Equipment (PPE)

- Provide disposable surgical masks for any processes where physical distancing is impossible or impractical, such as during transportation or deliberation, together with instructions on how to safely put on and remove a mask.
- Provide appropriate PPE, such as face shields or masks, to any court personnel who are required to be in close contact with jurors or with members of the public while guiding and assisting jurors, and to any personnel responsible for handling exhibits or other physical items.
- Ensure appropriate safety training of any court personnel required to use PPE, consistent with applicable occupational health and safety laws and regulations.

Get further guidance on [protecting court personnel and general practices for sanitation and disinfecting](#) applicable to all court operations.



Sequestering, Deliberation, and Release of the Jury

Resources and References

- Action Committee on Court Operations in Response to COVID-19 Terms of Reference:
<https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/term.html>
- Action Committee on Court Operations in Response to COVID-19 Core Principles and Perspectives:
<https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/cpp-pfp.html>
- Action Committee on Court Operations in Response to COVID-19 Safe and Accessible Courts: Orienting principles for Canadian Court Operations in Response to COVID-19 Overview:
<https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/sac-tsa.html>
- Court Operations Tip Sheet series:
<https://www.ccohs.ca/products/publications/covid19/#courts>
- Public Health Agency of Canada:
<https://www.canada.ca/coronavirus>



Jury Arrival and Departure

A Statement from the Action Committee

Our Committee exists to support Canada's courts as they work to protect the health and safety of all court users in the COVID-19 context while upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts.

The [Action Committee on Court Operations in Response to COVID-19](#) has released this Tip Sheet to help guide the safe resumption of court operations in Canada.

This Tip Sheet is informed by [Principles and Perspectives](#) drawn from health and safety experts, the judiciary, governments and courts administrators – each motivated by a shared responsibility to protect the health and safety of Canadians in planning for the resumption of in-court operations.

It applies a phased method of risk identification and risk mitigation recommended by the Public Health Agency of Canada, and previously released by the Action Committee in its [Orienting Principles on Safe and Accessible Courts](#). This involves surveying the various elements of court operations, identifying risks for COVID-19 transmission, and implementing mitigation strategies according to a hierarchy of controls. Physical distancing is the foundation for this hierarchy, followed by engineering controls, administrative controls, and the use of personal protective equipment (PPE), each of which combine to form an integrated and thorough approach to protecting health and safety.

Notice

- This guidance is not exhaustive and is advisory only; it is not intended to replace applicable health and safety laws and regulations, nor does following this guidance ensure compliance with those laws and regulations. Awareness and observation of legal responsibilities must form an integral part of court operations in response to COVID-19. The guidance must be reviewed and adapted by adding good practices and policies to meet local circumstances and needs.
- When putting health and safety measures in place, always consider the hierarchy of controls, continue to evaluate how effective they are, and make changes when needed. Consultation with key stakeholders is also necessary, including workplace health and safety committees.

Process Survey and Risk Identification: Jury Arrival and Departure

The operation of criminal jury processes differs by jurisdiction, location, and court facility. Common elements of jurors' daily arrival to and departure from the courthouse are described below, in order to help define risks and inform appropriate control measures. A more detailed account of these elements is available in the Action Committee's [Phases and Steps of a Criminal Jury Trial](#).

- **Daily arrival to and departure from courthouse** - Jurors are typically responsible for transporting themselves to and from the courthouse for each day of a trial. Although they typically remain together during recesses, they may also leave the courthouse independently (for example, to eat lunch or get fresh air). Jurors typically return to their homes at the end of each day. In certain circumstances, such as trials in remote regions, jurors may be housed in temporary accommodation (such as a hotel) for the duration of a trial.
- **Hazards:** Proximity and exposure to other individuals during commute to and from the courthouse, especially if using public or shared transportation; proximity and exposure to other individuals during breaks, either within or outside the courthouse; proximity and exposure to individuals in jurors' home environments. (Note: hazards relate both to jurors potentially contracting COVID-19 and transmitting it within the courthouse, and to jurors being exposed to COVID-19 within the courthouse and transmitting it to others in their homes and communities.)



Jury Arrival and Departure

- **Movement to jury room and use of common facilities** - Jurors may access courthouses through common points of entry and exit or be directed to designated entry and exit points. They then proceed to jury rooms, where they congregate as individual (12-14 person) juries before being called into the courtroom. Jury rooms sometimes include male and female washrooms; in other settings, jurors make use of washroom facilities in common use areas of the building.
 - **Hazards:** Proximity between individuals congregating at common entry and exit points; contact with common surfaces while passing through the courthouse (doors, elevator buttons, etc.); proximity between jurors and court personnel, such as security personnel overseeing court entrances and exits; proximity with others and contact with common surfaces when using washrooms.

Mitigating Risks

Accounting for each element of jurors' arrival to and departure from the courthouse, the following control measures could be introduced to reduce risks of COVID-19 transmission and to help protect the health and safety of court users and personnel.

Physical Distancing

- Maintain 2 metres (6 feet) distance between people whenever possible, for example by:
 - Designating special entries and exits for jurors, so as to alleviate congestion at common building access points;
 - Designating separate areas for courthouse entry and exit, in order to encourage directional flow and reduce congregation;
 - Using markers or barriers to create walking paths;
 - Marking floors with distancing cues;
 - Blocking seats in waiting areas or other common spaces that may be used by jurors during breaks.
- Consider using an alternate facility, such as a conference centre, sports complex or arena, or large community centre where available court spaces are insufficient for physical distancing.

Engineering

- Increase building ventilation whenever possible, (e.g., by opening windows) and/or change air filters frequently.
- Consider installing plexiglass barriers or dividers around stations for personnel monitoring courthouse entry and exit points.

Administration

- Conduct health screening upon daily entrance to the courthouse.
- Provide hand sanitizer at all entrances and exits, and on desks and tables.
- Post signage and instructions throughout the courthouse to promote physical distancing and proper hygiene practices.
- Where possible, designate single entry and exit points, so as to coordinate directional flow within the courthouse.
- Consider the feasibility of providing catered breaks and lunches for jurors in order to avoid contamination risks associated with jurors accessing public spaces during the trial. Alternatively, encourage jurors to bring their own food and drinks.
- Create markings on the floor to indicate movement patterns, traffic directions, and places to stand in common assembly areas.
- Provide information to jurors (via a common information package or guidance from a designated court official) on basic precautions to prevent COVID-19 contraction or transmission while outside the courthouse.
- Ask that jurors inform a designated court official of any concerns regarding possible exposure to COVID-19 in their homes or communities, or within the courthouse, during the course of a trial.
- Train designated court officials to respond appropriately to any COVID-19 exposure concerns raised by jurors during a trial, including implementation of augmented health and safety measures where appropriate.



Jury Arrival and Departure

Personal Protective Equipment (PPE)

- Provide disposable surgical masks daily by making them available upon arrival at the courthouse, with clearly posted instructions on how to safely put on and remove a mask.
- Provide appropriate PPE, such as face shields, to any court personnel who are required to be in close contact with individuals entering or leaving the courthouse (for example, security officers or personnel responsible for conducting health screening).
- Ensure appropriate safety training of any court personnel required to use PPE, consistent with applicable occupational health and safety laws and regulations.

Get further guidance on [protecting court personnel and general practices for sanitation and disinfecting](#) applicable to all court operations.

Resources and References

- Action Committee on Court Operations in Response to COVID-19 Terms of Reference:
<https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/term.html>
- Action Committee on Court Operations in Response to COVID-19 Core Principles and Perspectives:
<https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/cpp-pfp.html>
- Action Committee on Court Operations in Response to COVID-19 Safe and Accessible Courts: Orienting principles for Canadian Court Operations in Response to COVID-19 Overview:
<https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/sac-tsa.html>
- Court Operations Tip Sheet series:
<https://www.ccohs.ca/products/publications/covid19/#courts>
- Public Health Agency of Canada:
<https://www.canada.ca/coronavirus>



Guidance on Protecting Court Personnel and General Practices for Sanitation and Disinfecting

A Statement from the Action Committee

Our Committee exists to support Canada's courts as they work to protect the health and safety of all court users in the COVID-19 context while upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts.

The [Action Committee on Court Operations in Response to COVID-19](#) has released this document to provide guidance on protecting court personnel and general practices for sanitation and disinfecting.

This document is intended as overall general guidance, and is not intended to replace protocols developed at the level of individual courts and courthouses. This guidance is advisory only and is not intended to replace applicable health and safety laws and regulations, nor does following this guidance ensure compliance with those laws and regulations. Awareness and observation of legal responsibilities must form an integral part of court operations in response to COVID-19.

Guidance on Protecting Court Personnel

- Follow guidance from the Public Health Agency of Canada and local public health agencies.
- Develop written procedures outlining all of the preventative measures that are being taken to reduce the risk of COVID-19 exposure and make sure court personnel know what they are.
- Require court personnel who are experiencing symptoms, have been in contact with someone suspected of having or confirmed to have COVID-19, or have recently travelled outside the country to stay home and self-isolate. Follow the Public Health Agency of Canada's steps for self-assessment: <https://www.canada.ca/coronavirus> and its recommendations.
- Implement and monitor physical distancing measures and other controls such as barriers where possible to protect court personnel and members of the public.
- Ensure that all court personnel and members of the public wash their hands when entering the facility. Recommend that everyone frequently wash their hands with soap and water or use alcohol-based hand sanitizer, especially between activities that involve physical contact with surfaces or close engagement with other individuals.
- Promote good respiratory etiquette, such as covering the mouth and nose with flexed elbow or sleeve when coughing and sneezing. If tissues are used, dispose immediately and wash hands.
- Disinfect surfaces and equipment frequently with disinfectant following the manufacturer's instructions, or with a bleach solution.
- Clean and disinfect all equipment.
- Recommend that court personnel report any health and safety concerns immediately to their supervisor or health and safety representative.
- Ensure that mental health resources and support are available to all court personnel, including access to an Employee Assistance Program (EAP).
- For further information on COVID-19, refer to the Public Health Agency of Canada <https://www.canada.ca/coronavirus>



Guidance on Protecting Court Personnel and General Practices for Sanitation and Disinfecting

General Practices for Sanitation and Disinfecting

Sanitation

A touch point is any surface that can be touched by bare hands by multiple people, multiple times.

- Make sure that any person required to perform cleaning of any type has received the appropriate training plus any required personal protective equipment.
- Train workers on how to work with and care for personal protective equipment, and to understand its limitations.
- Use a dedicated cloth for cleaning.
- Create a checklist of all surfaces that must be cleaned, including door and sink handles, paper towel dispensers, countertops, wheelchair access buttons, turnstiles, kitchen equipment, elevator buttons, vending machines, and printers/copiers.
- Clean all areas, including offices, cafeterias, change rooms and washrooms.
- Determine the frequency of cleaning and disinfection based on the courthouse's needs. Clean at least once per day, but note that more frequent cleaning (e.g., once every 2 to 3 hours) will be required when court is in session. Identify high touch surfaces, such as witness stands, which will require more frequent cleaning.
- Cleaning courtrooms at the end of each day, and ideally between the hearings of distinct matters involving different participants.
- Record when cleaning and disinfection has occurred.

Disinfectants

- Clean visibly dirty or soiled surfaces with soap and water before disinfecting.
- Use a disinfectant or bleach solution to destroy or inactivate the virus.
 - Use a disinfectant with a drug identification number (DIN). This number means that it has been approved for use in Canada.
 - If household or commercial disinfectant cleaning products are not available, hard surfaces can be disinfected using a mixture of 5 mL of bleach (5% sodium hypochlorite) and 250 mL of water. Test surfaces before using a bleach solution. Bleach can be corrosive.
 - If liquids can be withstood, disinfect high-touch electronic devices (keyboards, tablets, smartboards) with alcohol or disinfectant wipes.
- Follow the product manufacturer's instructions, including any need for personal protective equipment such as gloves.
- Apply the disinfectant to a clean cloth. Saturate the cloth before treating touch points. Reapply as needed.
- Apply enough disinfectant to leave a visible film on the surface.
- Allow the surface to air dry. Reapply disinfectant to the cloth between surfaces.
- Change the cloth daily or when it becomes visibly soiled.

Resources and References

Action Committee on Court Operations in Response to COVID-19: <https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/term.html>

Court Operations Tip Sheet series: <https://www.ccohs.ca/products/publications/covid19/#courts>

Public Health Agency of Canada: <https://www.canada.ca/coronavirus>



Court Audit Tool: Adapting Small Court Spaces and Identifying Alternative Facilities

A Statement from the Action Committee

Our Committee exists to support Canada's courts as they work to protect the health and safety of all court users in the COVID-19 context while upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts.

Physical distancing is the foundation for any strategy to mitigate risks of exposure to COVID-19 in court environments. Small courthouses and courtrooms present special challenges, since their limited size reduces the degree to which appropriate physical distancing can be maintained between individuals. Canadian courthouses and courtrooms vary widely, ranging from modern, large-scale facilities to historic buildings that have limited capacity for physical reconfiguration. In some settings, courthouses may be very simple structures, such as trailers or one-room portable facilities.

While technological alternatives to in-person hearings provide a critical means of diminishing pressure on Canada's court facilities, it remains necessary for many proceedings to take place in person. Providing equal and accessible justice to Canadians thus depends upon developing effective strategies to ensure the safety of all court facilities, including small courthouses and courtrooms, and on identifying alternatives where existing facilities cannot be used safely.

The Action Committee has developed this **Court Audit Tool** in order to:

- guide officials in determining the safety adaptations required to maintain operations in any small courthouse or courtroom environment;
- help determine how many courtrooms can remain operational within a given jurisdiction, after accounting for physical distancing and other health and safety requirements;
- help determine the maximum number of occupants that each courtroom can safely accommodate at any given point in time; and
- guide officials in identifying alternative facilities when existing court spaces cannot meet public needs after accounting for health and safety measures.

The audit tool has three parts. **Part 1** defines COVID-19 transmission risks that arise in small courtroom environments, and suggests measures to help mitigate those risks, applying the **hierarchy of controls** introduced in [Orienting Principles on Safe and Accessible Courts](#).

The phased approach to risk mitigation described in Part 1 can be used to implement safety adaptations to small courtrooms. Crucially, it can also be used to inform decisions about whether operations can be maintained in small court facilities at all, and if so, at what levels of human occupancy.

Part 2 illustrates how physical distancing and other health and safety considerations can be applied to complete an inventory of useable court space within a jurisdiction. It recounts the experience of New Brunswick, where the restoration of in-person court activities is relatively advanced. While other Canadian jurisdictions have similarly completed inventories of useable court spaces, New Brunswick's experience serves as a valuable reference point for best practices. These may be relevant if future evolution in the COVID-19 pandemic – including the risk of new outbreaks – demands unforeseen court adjustments or the reversal of decisions to relax physical distancing and other measures.



Court Audit Tool: Adapting Small Court Spaces and Identifying Alternative Facilities

Finally, **Part 3** offers guidance for the selection of alternative facilities where existing court spaces cannot be adapted to safe usage in response to COVID-19.

Identifying safety adaptations for small courthouses and courtrooms – and determining whether small facilities are indeed useable in light of physical distancing and other health and safety requirements – are processes that require close collaboration between court administrators and occupational health and safety experts. The guidance offered in this document is intended to complement necessary engagement between those officials, focused on developing health and safety measures that are responsive to the unique needs of their courts and communities.

Part 1: Risk Identification and Mitigation in Small Courtrooms

Since physical proximity between individuals and contact with common objects and surfaces are the primary modes of COVID-19 transmission, the concentration of individuals within small indoor spaces elevates transmission risks associated with routine activities. In the courts setting, these activities might include:

- Proximity or contact between individuals at points of entry and exit to court facilities;
- Interactions between court users and security or registry personnel;
- Congregation of individuals in waiting areas (e.g., prior to entering specific courtrooms);
- Contact with doors, chairs, railings, tables, physical elements of the witness stand, and other common or high-touch surfaces;
- Close proximity between individuals within courtrooms, whether seated in fixed locations or moving to interact with other individuals, address the court, approach the witness box, or perform some other action;
- Momentary close proximity between individuals when moving in and out of doorways, approaching the bench, traversing seating rows in the gallery, or making other routine movements;
- Handling of evidentiary exhibits, documents, or other material by multiple individuals.

Applying the hierarchy of control measures, these risks could be mitigated as follows:

Physical Distancing

- Maintain a 2 metre (6 foot) distance between people whenever possible, for example by:
 - Blocking seating in the audience;
 - Re-arranging fixed seating areas, such as those used by counsel or court officials;
 - Designating movement flows for entering and exiting courthouses and courtrooms, and for other routine activities;
 - Applying floor markings and other visual cues to reinforce physical distancing.
- Where physical distancing is impossible or impractical, consider:
 - Whether the types of proceeding conducted in the courtroom could be modified to involve occupancy by fewer people; and
 - Whether resort to an alternative facility is required.



Court Audit Tool: Adapting Small Court Spaces and Identifying Alternative Facilities

Engineering Controls

- Increase ventilation to the extent possible (e.g., by opening windows), and/or change air filters frequently, and/or increase hours of operation of ventilation systems.
- Introduce plexiglass or other physical barriers to diminish transmission risks (especially where physical distancing is impossible or impractical), for example:
 - At security screening or registration points near building entrances;
 - Between fixed seating points within a courtroom, such as the witness box, judicial dais, stations for the court recorder or other personnel, audience seating and seating for counsel, etc.
- **Note:** introducing plexiglass and other barriers in small spaces can also increase the number of contact surfaces and must be cleaned thoroughly and frequently to prevent them from becoming possible sites of COVID-19 transmission. This risk must be considered in assessing whether a small space can be practically adapted for safe usage.

Administrative Controls

- Establish clear protocols for the use of facemasks during courtroom proceedings. This may involve having judges explain protocols at the outset of proceedings, and defining appropriate moments when participants can safely remove facemasks (e.g., during witness testimony).
- Plan for appropriate breaks in proceedings to allow handwashing, and ensure the availability of hand sanitizer for use immediately after handling common materials or contact with common surfaces (e.g., for witnesses upon entering and leaving the witness box).
- Train security or other personnel to conduct health screening of all persons entering the court facility.
- Clean and disinfect court facilities frequently (see [Guidance on Protecting Court Personnel and General Practices for Sanitation and Disinfecting](#)).
- Implement cleaning and disinfection protocols that clearly designate the individuals responsible for different elements of cleaning and disinfection, and related time intervals.
- Ensure that advance communication with participants in court proceedings (e.g., witness summons, notices of hearing dates) include clear instructions not to attend the courthouse in the event of recent international travel, illness, or exposure to persons with COVID-19. Provide alternatives for the rescheduling of proceedings to accommodate these cases.
- Consider the use of electronic or other alternatives to in-person court hearings, where possible.

Personal Protective Equipment (PPE)

- Provide disposable surgical facemasks for all persons upon arrival at courthouse, with clear instructions on safe application and removal.
- Provide appropriate PPE, such as face shields, to any court personnel whose responsibilities include close contact with other individuals (e.g., security personnel responsible for handling inmates or accused persons, or for conducting health screening of individuals upon entry to the court facility). Ensure that personnel receive appropriate training in the safe use of PPE, in compliance with applicable occupational health and safety laws and regulations.

Complementing Health and Safety Measures with Accountability and Human Resource Support

Appropriate health and safety adaptations must always be informed by the particular characteristics of courthouses and the needs of their surrounding communities. In addition to the types of measures described above, the Action Committee recommends that, where possible, specific court officials be designated with responsibility for the oversight and enforcement of COVID-19 related health and safety measures at each courthouse.



Court Audit Tool: Adapting Small Court Spaces and Identifying Alternative Facilities

The role of these officials should be to:

- give direction to court personnel and court users on the observance of health and safety measures related to COVID-19;
- intervene where court personnel or court users are not properly observing those measures; and
- respond to COVID-19 related questions and concerns in real time.

The officials should engage directly with local health and safety authorities to establish protocols for dealing with court personnel or court users who become ill or display possible symptoms of COVID-19. They should also liaise on a continuing basis with local health and safety authorities to ensure that courthouse-level practices and policies align with local guidelines, and to implement adaptations as necessary. The identity and role of the designated official(s) should be clearly communicated to all courthouse visitors or participants in court proceedings.

Part 2: Developing an Inventory of Safe Courtrooms

Not all courthouses and courtrooms will be able to support the adaptations suggested above. Moreover, even after applying these adaptations, maintaining operations within small courthouses and courtrooms will likely require reducing their overall occupancy levels in order to support physical distancing. This will diminish the total volume of usable court space within a jurisdiction.

In order to determine how alternatives to in-person proceedings can be combined with measures to allocate necessary in-person proceedings to appropriate spaces, it has been essential for individual jurisdictions to have a strong understanding of their available inventory. More specifically, it has been critical to know which courtrooms can accommodate which types of proceeding once physical distancing and other health and safety measures are accounted for. This analysis at the courtroom level in turn helps to inform safe usage levels for courthouses as a whole.

New Brunswick's recent experience in developing such an inventory is summarized below, with the aim of documenting best practices to aid future court adaptations should these become necessary.

The New Brunswick Experience

- A critical first step in the development of New Brunswick's courtroom inventory was judicial authorization to treat all courtrooms in the province – irrespective of hierarchy or protocol – as part of **a common resource pool, to be allocated based on need**. In other words, courtrooms traditionally reserved for exclusive use by the Court of Appeal, Court of Queen's Bench, or Provincial Court were instead amalgamated into a single inventory. This allowed court officials to plan for the allocation of in-person proceedings to specific courtrooms based on the "fit" between proceedings and the characteristics of each courtroom. Proceedings involving a large number of participants could be allocated to larger courtrooms, and vice versa.
- Court officials then prepared a **ranked list of every courtroom by size**, totaling approximately 60 courtrooms for the entire province. One courts administration official, accompanied by a health and safety expert, inspected each courtroom and made note of their distinct physical features. While such an approach may not be feasible in larger jurisdictions, it ensured that a consistent perspective and approach was applied to the assessment of each courtroom. There may be other methods of ensuring such consistency (for example, by making one individual responsible for the assembly of information into a single inventory, and for ensuring that courthouse-level officials gather and report information according to common definitions and principles).
- Based on this initial inspection of the courtrooms, officials were able to broadly classify **two common elements** in every courtroom:
 - **fixed seating**, meaning stations in the courtroom that were used by counsel, witnesses, judges, court officials, security personnel, or any other persons officially involved in the conduct of courtroom proceedings; and
 - **the gallery**, meaning the public seating area reserved for observers.



Court Audit Tool: Adapting Small Court Spaces and Identifying Alternative Facilities

- These elements, taken together, provided an indication of the **total occupancy level** of each courtroom.
- Applying health and safety guidance issued by provincial and federal authorities, officials **physically audited each courtroom** to identify measures that would be required to maintain a distance of 2 metres (6 feet) between all occupants. This process involved multiple iterations. Officials would physically measure the distance between seats and other objects within the courtroom.
- The decision was made in advance that extensive or time-consuming renovations would not be attempted at this stage. Rather, officials relocated movable furniture and fixtures to the extent possible, and applied floor markings and other visual cues to reinforce physical distancing and anticipated pathways for physical movement. Officials **prioritized physical distancing** at this stage, and did not attempt to introduce additional control measures to any courtroom. This allowed them to **eliminate a small number of courtrooms** that could not accommodate appropriate physical distancing under any circumstances.
- After completing the physical audit, officials were able to revise the total number of properly distanced spaces available within the **fixed seating** and **gallery** sections of each courtroom. This served as an initial estimate of the **maximum safe occupancy level** for each courtroom, accounting for physical distancing requirements.
- Officials then selected **two representative courtrooms in which to conduct simulated trials**. One courtroom was selected in a modern courthouse, with physical characteristics resembling approximately 75% of all courtrooms in the province. The second courtroom was selected to represent a typical small hearing space for a family law matter.
- An **occupational health and safety expert** was retained to observe simulated trials in both courtrooms. The same expert who assisted earlier in the physical inspection of courtrooms was used again at this stage, and was responsible for observing both simulated trials. This helped lend consistency to the guidance being developed.
- Judges, counsel, sheriffs, court recorders, clerks, and other courtroom officials all participated in the simulated trials, which were based on the records of actual proceedings. Court officials volunteered to serve as witnesses and as members of the audience. By observing the simulated proceedings, the occupational health and safety consultant was able to observe **common touch points on physical surfaces and documents (such as exhibits); moments of close physical proximity between individuals; and other transmission risks that had not previously been identified**.
- Simulations also accounted for rare but potential events, such as an emergency that required the courtroom to be cleared. Observations at each stage were used to inform further adaptations to the courtrooms, including changes to prescribed movement patterns; relocation of seating and other objects; and **selective introduction of additional control measures**, such as plexiglass barriers and the use of facemasks. At each step, officials took the least invasive step that would still mitigate the identified risk.
- The maximum number of safe occupants for each courtroom in the provincial inventory was then adjusted a final time, using information gained through the trial simulations. This information was again broken down by the number of safely-distanced spaces available within the fixed seating and gallery sections of every courtroom.
- Courts administrators now had working inventory of the **maximum number of safe occupants for each courtroom**, broken down by **participants in court processes** (spaces available in fixed seating) and **observers** (spaces available in the gallery).
- This inventory can be used to:
 - Inform the allocation of proceedings to specific courtrooms, based on the number of participants;
 - Plan for staged access to individual courtrooms by multiple participants in proceedings (such as witnesses); and
 - Plan for the regulation of access to the gallery in each courtroom (e.g., by family members of litigants, media, or other public observers).

Notably, because New Brunswick's approach to auditing its court facilities involved the application of a phased approach to risk mitigation (beginning with physical distancing, and progressing to additional control measures through the trial simulation phase), officials were able to identify and begin implementing health and safety adaptations within courtrooms at the same time as they completed a functional inventory of useable court facilities. In other words, the auditing of provincial court facilities and adaptation for safe operations were able to proceed hand-in-hand. Completion of the auditing process also gave critical reassurance to the public regarding the safety of New Brunswick's court facilities.



Court Audit Tool: Adapting Small Court Spaces and Identifying Alternative Facilities

Part 3: Identifying Alternative Facilities for Court Proceedings

Physical distancing and other health and safety measures inevitably diminish the total volume of court spaces that can be used in a jurisdiction at any one time. Certain types of court proceeding, such as jury trials and trials involving multiple parties, may be unfeasible using existing facilities. In some cases, communities may be left without operative courthouses, introducing serious access to justice concerns.

Many jurisdictions across Canada have thus relocated court proceedings to temporary facilities, such as convention centres, hotels, churches, and sports complexes, where appropriate health and safety measures can be observed. Use of these facilities by the courts can provide stable tenancy to community resources that have faced suspension of their ordinary activities due to the pandemic.

The selection of alternative facilities should always be driven by local considerations, including the epidemiology of affected communities and their distinct needs in relation to the administration of justice. Alternative facilities should be:

- **Capable of accommodating physical distancing and other health and safety adaptations** (of the type described in Part 1 and in the Action Committee's [Orienting Principles on Safe and Accessible Courts](#));
- **Capable of meeting courthouse operational needs**, including administrative processes, technological fittings, security, and human resource requirements; and
- **Accessible to the communities they serve**, meaning that the facilities should not present undue obstacles or burdens for those seeking access to the courts, and should comply with legal and regulatory requirements related to physical accessibility.

Accounting for these requirements, the Action Committee recommends the following **key considerations** to guide local decision-makers in selecting alternative court facilities:

- **Engagement of local public health authorities** should be foundational to any process of identifying alternative facilities. Those authorities will provide critical insight on local COVID-19 infection rates, community risks, and health needs. Ongoing engagement and collaboration with local health authorities can help to ensure the appropriate selection, adaptation, and operation of facilities.
- The selection of facilities should be informed by **close collaboration between the judiciary, courts administrators, and court security providers**, who together offer key operational perspectives on facility needs.
- The **local knowledge of these officials** should be employed to help identify facilities appropriate for the communities in which they serve. These individuals can impart valuable knowledge of community needs and circumstances, and serve as appropriate points of contact for engagement with community leaders and representatives as needed. Specifically:
 - **Judges** can offer key insights on the types of proceeding common to their communities, the related needs of litigants, accused persons and counsel, and other operational requirements. The latter may include the needs of staff working under judicial supervision, judicial office needs, security considerations, and judicial preferences regarding court protocols.
 - **Local courts administration officials** are best placed to assess the accessibility of proposed facilities, including the suitability of facilities to community needs related to language, cultural practices, physical proximity, and other considerations. They are also best placed to determine the adequacy (or adaptability) of facilities to technological, human resource, and administrative requirements.
 - **Security officials** (which may include sheriffs, police, or other security providers, depending on the individual court) can provide insight on the security requirements needed for local court proceedings, including secure means of access and exit for judges, court personnel, court users and others; secure means of transporting inmates or accused persons into and out of the facility; and regulation of facility entries and exits, internal security and security of the general court vicinity.
- Ideally, these officials should be directly involved in suggesting, evaluating, touring, and planning for the adaptation of proposed facilities. Their collaboration and engagement with one another – and with local community members and health and safety authorities – complements the public interest, as expressed in the Action Committee's [Core Principles and Perspectives](#).



Courtroom Symptom Appearance and Related Situations

A Statement from the Action Committee

Our Committee exists to support Canada's courts as they work to protect the health and safety of all court users in the COVID-19 context while upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts.

Call 9-1-1 if symptoms are acute and life threatening (e.g., severe respiratory problems).

Courts across the country are in the process of reopening their courtrooms and gradually resuming in-person hearings. At the same time, many jurisdictions have administrative measures in place to promote awareness and compliance with physical separation rules and other changes to the court environment, including measures to monitor court staff and users for symptoms or cases of exposure to COVID-19 prior to entry into the court environment (e.g., screening).

That being said, despite the implementation and strict enforcement of controls at the entrance to the courts, special circumstances may require emergency measures to ensure everyone's safety, and the present Tip Sheet seeks to outline these measures. It should be noted that the scope of this Tip Sheet is intended to be limited. It is composed of unique emergency measures and, of course, these measures will vary depending on the individuals concerned and the context in which they are to be applied. The courts that apply them are also required to do so in accordance with the recommendations of the local public health authority. In any event, the staff member within each court who is responsible for the application of administrative controls at the entrance to the court (hereafter referred to as the "court contact person") may also act as a point of contact for any questions arising from the application of this Tip Sheet, including contacting local public health authorities regarding suspected or confirmed cases. The identity and role of the designated contact person should be clearly communicated to all visitors to the courthouse and participants in court proceedings.

Symptoms of COVID-19

According to the [Public Health Agency of Canada](#), symptoms can vary from person to person. They may also vary in different age groups. Some of the more commonly reported symptoms include:

- new or worsening cough
- shortness of breath or difficulty breathing
- temperature equal to or over 38°C
- feeling feverish
- chills
- fatigue or weakness
- muscle or body aches
- new loss of smell or taste
- headache
- gastrointestinal symptoms (abdominal pain, diarrhea, vomiting)
- feeling very unwell.

It is also worth noting that the evidence indicates that the virus can be transmitted to others from someone who is infected but not showing symptoms. This includes people who have not yet developed symptoms (**pre-symptomatic**) or never will develop symptoms (**asymptomatic**). Additional information can be provided by local health public authorities.



Courtroom Symptom Appearance and Related Situations

People who may Develop Symptoms

- Members of the judiciary (judges, prothonotary, justice of the peace, judicial officers, etc.)
- Court staff (clerk, sheriff, security personnel, judicial assistant, etc.)
- Any other person who is in the court to provide a service to a participant (lawyer, probation officer, drug addiction worker, etc.)
- Members of the public (witness, juror, auditors, etc.)
- Victims and the person who accompanies them
- Offenders, accused persons and inmates

A **member of the judiciary** or **court staff** who exhibits or believes they are experiencing symptoms of COVID-19 should:

- wear a non-medical facial mask or face covering;
- notify the court contact person or their supervisor;
- leave the premises or isolate themselves in a room reserved for that purpose if they are unable to leave the establishment, in particular for security reasons;
- use the tools in place in their province or territory (self-assessment guide and telephone consultation services such as Health Support or Telehealth) or obtain advice from a health professional or local public health authorities to determine whether additional measures, including testing, are required.

When a **member of the public**, a **witness**, a **person who is in the court to provide a service to a participant**, or a **victim or the person who accompanies them** exhibits or believes they are experiencing symptoms of COVID-19, they should:

- wear a non-medical facial mask or face covering;
- leave the premises as soon as possible or isolate themselves in a room reserved for this purpose if they are unable to leave the establishment, in particular for security reasons;
- use the tools in place in their province or territory (self-assessment guide and telephone consultation services such as Health Support or Telehealth) or obtain advice from a health professional or local public health authorities to determine whether additional measures, including testing, are required.

Where the **member of the public is a juror**, the above should be done in a manner that complies with jury instructions to ensure both the safety of those present and the integrity of the trial, including the use of the Jury Tip Sheets. For example, a jury member who is still sequestered could be escorted to their hotel room pending further instruction from the trial judge.

When an **offender, accused or inmate** exhibits or believes they are experiencing symptoms of COVID-19, the presiding judge or the court contact person should invite them to wear on a non-medical mask or face covering. With the consent of the presiding judge, the court contact person should ensure that they be placed in isolation in a room reserved for that purpose and that they be removed from the premises as soon as possible. The court contact person should also inform the detention centre, if applicable, so that it can apply institutional protocols and determine whether additional measures, including testing, are required.

Furthermore, if the symptoms appear during the hearing of a case, the presiding judge could decide to suspend the proceedings and evacuate the room so that it can be cleaned and disinfected. The presiding judge, in consultation with the various participants to the hearing, will then have to decide whether the hearing can resume. Similarly, if a participant to a hearing has been in contact with someone who has been infected, the presiding judge may decide on a case-by-case basis to suspend the proceedings after consulting the other participants.

In both cases, several factors may come into play, including the following:

- Is there another courtroom available?
- If the person who experienced symptoms is a court staff member (e.g., a clerk), can they be replaced at short notice?
- If the person is a participant to the hearing (e.g., a member of the judiciary, a lawyer, a witness, a party, an inmate), does their health permit them to continue the hearing remotely from a room set aside for that purpose?
- Is this an urgent matter for which a postponement is not possible?
- When the local health authority offers emergency testing, can the matter be delayed in order to conduct emergency testing of the persons who were in contact with the individual?



Courtroom Symptom Appearance and Related Situations

Daily Reminder and Measures in Case of Doubt

At the beginning of each hearing, the judge should provide a friendly reminder of the contents of this Tip Sheet and invite anyone who exhibits or believes they are experiencing symptoms of COVID-19 or has questions about their own health or that of a third party to communicate with the court contact person. When the doubts relate to the state of health of others, the contact person may approach them in order to re-initiate the control measures that precede entry into the facility.

Sanitation and Disinfecting

Once a person has experienced symptoms while at the courthouse, or if the court contact person is informed that a pre-symptomatic or asymptomatic person was in the courthouse, the court contact person should try to determine where in the facility the person may have been and what objects the person may have touched to see what needs to be sanitized and disinfected. Additional guidance on sanitation and disinfecting can be found in the [Guidance on Protecting Court Personnel and General Practices for Sanitation and Disinfecting](#).

Non-medical masks

It is recommended that courthouses hold a supply of non-medical masks that would be sufficient to accommodate court users who request a mask upon entering the premises.

Isolation Room

If the layout of the premises permits, a room should be set aside for the isolation of the person who exhibits or believes they are experiencing symptoms. Ideally, this room would be equipped with the audio-visual equipment necessary for the immediate resumption of the hearing, if the person's state of health and applicable rules and legislation permit. The room should be sanitized and disinfected according to the facility's protocols after each use.

Contact Tracing

Wherever possible and subject to applicable legislation, it is recommended that information about people who enter the courthouse, including the date and time of their visit and the place they visited (ex: courtroom, court registry, etc.), be collected and retained in a list. This is in order to assist the local public health authority in any contact tracing activities if someone subsequently becomes identified as a case of COVID-19.

Resources and References

- Action Committee on Court Operations in Response to COVID-19 Portal:
<https://www.fja.gc.ca/COVID-19/index-eng.html>
- Action Committee on Court Operations in Response to COVID-19 Terms of Reference:
<https://www.fja.gc.ca/COVID-19/reference-eng.html>
- Action Committee on Court Operations in Response to COVID-19 Core Principles and Perspectives:
<https://www.fja.gc.ca/COVID-19/principles-eng.html>
- Jury Tip Sheets Series:
 - [Phases and Steps of a Criminal Jury Trial](#)
 - [In-trial Criminal Jury Proceedings](#)
 - [Jury Summons](#)
 - [Jury Selection](#)



Courtroom Symptom Appearance and Related Situations

[Jury Arrival and Departure](#)

[Sequestering, Deliberation and Release of the Jury](#)

- Action Committee on Court Operations in Response to COVID-19 – Protecting Court Personnel and General Practices for Sanitation and Disinfecting:
<https://www.fja.gc.ca/COVID-19/pdf/courts-general-practices.pdf>
- Public Health Agency of Canada:
<https://www.canada.ca/coronavirus>