

Indiana jury trial checklist

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Here is a checklist of things that worked relative to our recent jury trial:

1. Notify members of *venire* of the CDC protocols that you have implemented to keep them safe.
2. Implement a mask requirement (provide, if necessary).
3. Implement a social distancing mandate, with signage throughout the courthouse, hallway, and courtroom.
4. Provide readily available access to hand sanitizer and alcohol wipes.
5. Have your Bailiff question all persons as they enter the sight of jury selection as to the state of their wellness. Also have Bailiff require everyone to receive a squirt of hand sanitizer and have them scanned with a temporal thermometer. The scan should include the judicial officer, court staff, attorneys, litigants, potential jurors, and observers from the general public.
6. Hold *voir dire* in room large enough to accommodate the *venire* in a socially distant manner. As persons are struck from the "box" area of the room, have the table and chair scrubbed in the jury's presence and seat a new prospective juror. If you are not in a courtroom (we were not), record *voir dire* with a downloadable recording system or other appropriate mechanism.
7. Once chosen, each of the jurors were escorted to the courtroom where the large benches in the audience area of the courtroom had been removed. In place of the benches, we placed non-movable, socially distanced chairs for use by the jurors, each labeled with the Juror's #1, #2, etc.
8. Instruct the jurors to use the public restrooms rather than the one restroom in the traditional jury room, as the former was set-up in a more socially distant manner.
9. The entire courtroom will be used as a socially distanced jury room where jurors will meet, store their personal items, take breaks, have lunch brought to them, and ultimately deliberate.
10. The courtroom was cleaned throughout the day and again at night. Each juror was provided with hand sanitizer, alcohol wipes, and new masks, as needed.
11. Jurors stayed in the courtroom and the judge, attorneys, and litigants adjourned to an adjacent courtroom, or to the traditional jury room, where argument was recorded outside of the presence of the jury (in the latter case, on a portable recorder).
12. Members of the general public were seated in a socially distanced manner within the traditional jury box.
13. I held the trial with the attorneys facing toward the back of the courtroom where the jury sat; this meant that the attorneys had their backs to me for much of the trial.
14. Witnesses testified from the traditional witness stand, with a pane of plexiglass placed between him/her and the closely-seated Court Reporter.

15. Rather than continually wiping down the podium and the witness stand between users, the court staff sanitized once and every person that went to the podium/witness stand was reminded to apply hand sanitizer prior to taking their position, and again upon leaving.
16. Because we had the room to do so, attorneys were permitted to remove their masks while standing at the podium. Similarly, witnesses were permitted to remove their mask when seated on the witness stand.
17. Prior to the trial, I discussed with the attorneys the need for this Court to be very lenient with members of the *venire* as to recent illness, fear of illness, recent unemployment because of the pandemic, and recent childcare issues because of the pandemic. Rather than immediately excusing Potential Juror #1 ("PJ#1") because of his / her fear, recent unemployment, etc. (and starting a stampede), before they were to exercise their peremptory challenges, I brought counsel to the bench, notified that I intended to excuse PJ#1 for cause. I then excused the attorneys to go back to their clients to consider how to use their challenges and had them return with their written challenges. In this example, I excused PJ#1 along with all the potential jurors upon which challenges had been used by the attorneys. To do otherwise, I feared, would be to lose all of my *venire* based upon the same excuse/reason.
18. Work out evidentiary arguments ahead of time, if possible, because leaving the courtroom to argue on the record can be a pain. We found that short arguments could easily be held while the jurors were excused as a group to use the public rest rooms, but longer arguments required more time.
19. I recommend making yourself an actual checklist. Apparently, our Bailiff thought that our Jury Commissioner did the temporal scans of the potential jurors, and our JC thought it was done by the Bailiff; consequently, our *venire* was never scanned. I did not find out about the oversight until a juror told me, after the trial. I accepted personal responsibility for the oversight, apologized to each of them, and guaranteed them that no such oversight will ever again happen under my watch. They were all very understanding.