

County of Santa Clara

Public Health Department

Communicable Disease Prevention & Control Program
976 Lenzen Avenue
San José, California 95126
(408) 885-4214



June 8, 2020

VIA EMAIL

Presiding Judge Deborah Ryan
Superior Court of California, County of Santa Clara
191 North First Street
San José, California 95113
DRyan@scscourt.org

Dear Presiding Judge Ryan,

Thank you so much for the invitation to meet with Santa Clara County Superior Court leadership and tour the Hall of Justice alongside County criminal justice stakeholders to understand your infection prevention planning and offer recommendations for enhanced safety as the Court reopens for more in-person proceedings.

The scope of my visit included the Hall of Justice entrance, lobby, and security screening; main elevators, rear elevators, stairwells, and hallways; 4th floor women's bathroom; and Departments 24, 41, 42, 53, and 54. These included areas that were actively in use or would soon be used for in-custody misdemeanor arraignments, criminal calendars, jury selection, and criminal trials.

I was very pleased to see that the forethought and planning of the Court has allowed you to achieve excellent compliance with the letter and the spirit of social distancing recommendations. This letter describes those existing policies and measures and identifies some additional recommendations from the Public Health Department.

1. Entrance, Lobby, and Common Areas

I appreciate that you have issued an order for use of face coverings during nearly all settings within the courts, which is posted at the door. And the practice of limiting unnecessary visitors will also be key to reducing risk of transmission in the courts.

Places where lines may form—including outside on the Hall of Justice steps prior to entry into the courthouse, and outside the Court Clerk's Office—had tape and signage on the floor marking six-foot distances for persons to stand apart. Sheriff's Office staff who worked at the security station at arrival were usually wearing appropriate face coverings. They also described appropriate hygiene and cleaning practices used for inspecting the personal effects of those

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arriving at the Hall of Justice, including showing me the cleaning solution that is used to clean the countertops at the security screening area and to spray down the baskets used to transport belongings through x-ray machine between each user, and demonstrated use of disposable gloves to handle court visitors' belongings.

In lobby areas, alcohol-based hand sanitizer was available in key locations for both staff and visitors, seating had been blocked off to require a minimum of six feet of space between those seated in most waiting areas currently in use, and food and beverage stations were closed given their use requires removal of face coverings.

You asked for my recommendations regarding other common areas such as elevators and restrooms, which I personally viewed as part of our tour. We will work with the Sheriff's Office to ensure recommendations to wear face coverings are strictly followed by Sheriff's Office personnel working in the Hall of Justice. Provided that face covering requirements are also strictly followed by all court attendees, I believe the larger main elevators can safely accommodate three people at a time, and the smaller rear elevators can safely accommodate two at a time. I recommend posting signs outside the elevator banks on each floor notifying the public of these capacity limits. I also recommend posting signs stating that capacity in all restrooms is limited to the number of stalls inside—in other words, no one should wait inside a confined restroom space for a stall to open up.

In public hallways outside of the courtrooms, the bench seating might allow people waiting for court appearances to inappropriately cluster together. I recommend using tape to mark six-foot spacing on those benches, similar to the markings the Court has already placed in courtroom seating areas, and also putting up additional signage reminding the public about social distancing measures and the reasons they are important. I also recommend the food carts remain closed, as the preparation, sale, and consumption of food onsite add a component of disease exposure risk that I do not believe is outweighed by the benefit of access to this food as long as appropriate break times are offered to staff and food and drink are provided in controlled settings to jurors and other required court attendees.

2. Courtrooms

In Department 42, the visitor seating area is closed and the wooden benches where inmates sit are appropriately marked with taped Xs at least six feet apart, with some rows not in use at all. The overall capacity for each arraignment calendar has been greatly reduced, in part by handling some arraignments (for persons in custody at Elmwood) by video. These measures are all sound, and they are particularly important to prevent introducing infection into high-risk jail settings. Based on discussions we had with Sheriff Smith and her staff, it appears that

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appropriate social distancing is being maintained during inmate transportation and in the holding cells at court, where capacity has been reduced to allow single occupancy when possible, and otherwise significantly reduced numbers sufficient to allow six feet of space between occupants, e.g., only four inmates in a holding cell normally used for 25.

I also understand that prosecutors are currently appearing for arraignments remotely via video, and arrangements will be made in Department 42 for defense attorneys to spread out by using both of the available counsel tables rather than clustering at one table. While I was told that defense attorneys need to circulate in the courtroom to speak with their clients, I also understand the Public Defender's Office is working on procuring a handheld transceiver device system that will allow attorneys and clients to speak confidentially without needing to be near each other. While attorneys and clients should always keep their face coverings on while speaking directly to each other, using a remote device would further reduce risk of transmission, and I strongly recommend it whenever possible.

Department 53 had a criminal jury trial in-progress during my visit. I observed a number of thoughtful infection control measures in place, including:

- All counsel, defendants, and jurors were wearing face coverings, as was Judge Zecher.
- Plexiglass was mounted around counsel tables and defendants' tables, and attorneys and clients were seated separately.
- Jurors were seated with at least six feet between each of them—half in the jury box, and half in the public seating area of the courtroom, with plexiglass dividers placed between jurors who shared a table.
 - The entire courtroom next door, Department 54 (not currently in use for court sessions), is designated as a jury meeting room to allow greater than six-foot spacing during breaks and deliberations. Stations are assigned and the same spaces used repeatedly by the same jurors to avoid cross-contamination. Judge Ryan suggested that all jury trials may be able to have two courtrooms set aside.
- Witnesses are appearing mostly by video. If there is a live witness, the witness walks up to the stand masked, unmask only to speak, and wipes down the microphone before and after speaking. The court is providing butcher paper to cover the witness stand during testimony, which is changed after each person. The witness stand also has an armless chair to reduce the number of high-touch surfaces.
- Jurors' personal items are stored in a clear bag and kept separate, to minimize needed handling of personal effects and risk of cross-contamination to shared surfaces.
- Coffee, water, and food are provided for jurors in individual single-use packaging to reduce need to bring in outside food and beverage, and to control settings when these

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are consumed and may require removal of face coverings or contamination of one's hands by touching one's face.

We also viewed Department 41, which is not yet in use. I understand that before Department 41 is opened, the court will install plexiglass and mark off seating areas for defendants, jurors, and the public similar to what I saw in the other courtrooms. These are all important measures. Judge Geffon also asked whether the court should consider installing plexiglass around the jury box, which I agreed would be beneficial given attorneys' needs to talk to their clients at close range who may be seated in the jury box and to further minimize exposure to and from jurors.

The court's plan to hold video pleas and other video proceedings as much as possible is also strongly advisable to minimize the number of people physically coming to court. Because video proceedings are clearly one of the least risky practices, I would advise enabling this capacity as soon as possible.

After discussing the safest way of handling the jury selection process, we also visited Department 24, a large courtroom in the basement. I understand the court is considering practices like staggering reporting times so that 60-80 potential jurors are not grouped in the jury assembly room or a smaller courtroom together, or using the larger basement courtroom so a group that size can appropriately spread out.

One major consideration would be the impact on Court operations should an exposure occur. Even with the extremely low risk nature of an exposure that would occur in the context of the social distancing and added precautions in place in the Courts, the Public Health Department could possibly recommend home quarantine for all or nearly all individuals in the same room as a confirmed case within their infectious period. Scheduling recurring assignments to the same departments, working with the same individuals, and creating smaller groups such as by staggering juror reporting times will all not only reduce the spread of infection but will likely reduce the number of persons who must be excluded from work or other participation in the courts in the event of an exposure.

3. Other Recommendations

In addition to the recommendations described above for the courtroom settings and common areas, we discussed several recommendations that may enhance the safety of those needing to work in or visit the courts. These included:

- Provide additional stations for hand hygiene throughout the courthouse, including more hand sanitizer stations available to the public, particularly after they must handle doors to courtrooms, the stairwells, or other areas.

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- During document exchange, whether in a courtroom, in the Clerk's Office, or elsewhere, reduce or eliminate sharing of pens, which may be riskier from an infection standpoint than paper, and perform hand hygiene after passing documents or other items.

As we discussed, I *do not* recommend the following:

- Wearing of gloves by anyone other than security staff handling court visitors' belongings, and janitorial staff or others who may come into contact with harsh cleaning solutions and/or bodily fluids they need to clean up. Gloves can offer a false sense of security, and inexperienced wearers frequently touch contaminated surfaces and then touch their own faces or otherwise cause cross-contamination. Gloves are not advisable for most people. Instead I recommend rigorous and frequent hand hygiene.
- Wearing of face shields by any court staff or visitors. Face shields are rarely appropriate for use outside of a medical setting.

In addition, I was asked several times about airflow in various areas of the court, and nothing I observed created concern about possible transmission as a result of poor airflow.

The existing practices that I observed serve to further reduce risk in a court setting where incarcerated populations are additionally protected by parallel screening and social distancing practices in place in custody, defendant transportation, and law enforcement. Your planned and current practices, in combination with the additional suggestions above, are likely to significantly reduce the risk of COVID-19 transmission in the Santa Clara County Superior Court's Hall of Justice. I appreciate your ongoing commitment to public safety in the face of the current pandemic and your willingness to partner with the County and the Public Health Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah L. Rudman".

Sarah L. Rudman, MD MPH
Assistant Public Health Officer