



Jury Selection

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 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](#)).



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- 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.

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>