



## Sequestering, Deliberation, and Release of the Jury

### **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: 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.



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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.



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### 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>