Trial Process

Summary:

Trials will resume on June 15, 2020. We anticipate that trials will take longer to complete therefore, the Court would like to hold trial sessions on Monday through Friday. Concluding on Fridays by 12 p.m. The Court will require Trial Readiness Conference (TRC) hearings on all cases set for trial. TRCs will be set on Wednesday, Thursday and Friday afternoon calendars in the Home Courts, the week prior to the scheduled trial date. Attorneys shall check in for trials on the Court's Trial Readiness Notification System three (3) court days prior to the TRC date. Each Wednesday, all cases that have notified that they are ready to proceed to trial will be assigned to a trial department for both a pretrial conference and the trial. Pretrial conferences on cases that have been assigned to a trial department would be set on Friday at 1:30 in the trial department. Attorneys shall file any in limine motions electronically with the assigned trial department and they will be heard at the pretrial conference hearing.

The number of jurors summoned will allow for seating within the courtroom while still maintaining physical distance. A modified schedule for the summoning of jurors or trial sessions may be necessary to alleviate large crowds gathering in the courtroom hallways. Jurors will deliberate in a vacant courtroom.

Locations for the seating of defendants, attorneys and jurors will be clearly marked within the courtrooms and hallways. Attorneys are discouraged from "entering the well" except as necessary to approach the digital cart.

Details

Jury Summoning, Selection & Deliberation Procedures

The Court will summon panels at staggered arrival times and, where feasible, will summon for specific cases/departments. The Court is prepared to summon multiple panels at staggered times if necessary. The offices of the CCD, DA and PD will collaborate on an acceptable non-fact specific questionnaire for use in felony cases. They may be augmented by oral questioning. These questionnaires shall be submitted as part of either party's in limine

motions. While trial judges are encouraged to utilize the questionnaire process, such decision will be subject to each judge's discretion. If the judge approves the use of a questionnaire, the questionnaire will be provided to those jurors who have been hardship and cause qualified. If using a questionnaire, the judge should allow one dark day in between the dissemination of the questionnaire and the return of the jury panel. In the interim the Court will scan the completed questionnaires in order according to the random juror list and email them to the respective parties. The parties will review the questionnaire and provide notice to the court clerk of any stipulated excusals by 4:00 the day before the panel returns. The court clerk would then contact the excused jurors and advise them that they need not return. The stipulated excusals will be put on the record at the next court date.

The number of jurors that can be seated in the audience while complying with social distancing requirements is limited to 15 in the courtrooms on the 3rd, 4th and 5th floors. Additional seating is available in Departments 1, 3, 8 & 9. While the Court could accommodate a two-jury trial in Dept. 1, seating limitations would mean that there could only be 2 alternates for each jury. Therefore, the Court intends to conduct voir dire in a hybrid procedure; partially in-person and partially through Zoom. The first 15 jurors that appear on the random list will be seated in the trial department. The remaining jurors in the panel will be seated in an overflow courtroom(s) where a computer will be set up and the voir dire proceedings projected on the courtroom's projector screen. The trial judge will host a Zoom session into the overflow courtroom(s), thereby allowing for jurors in the overflow courtroom(s) to observe voir dire. As jurors in the trial courtroom are excused, jurors from the overflow courtroom(s) will be brought into the trial courtroom. All questioning of jurors will occur in the trial department. A bailiff or court attendant will be present in the overflow courtroom(s). The attorneys are permitted to have a representative in the overflow courtrooms if they so choose.

Jurors will be referenced by their juror ID # and not their names. Jurors faces will not be depicted on video at any point during the trial, including during voir dire.

Jurors will deliberate inside an available vacant courtroom upon conclusion of the trial. No court staff will be present in the courtroom during deliberations. Courtroom staff will post signs on the door to the courtroom, providing notice that a jury is deliberating in the courtroom.

Exhibits

The Court intends to limit the handling of exhibits. Exhibits in the form of documents or photographs shall be prominently marked by the offering party, shared with opposing counsel, and provided to the court on a USB flash drive. The Court encourages the parties to attempt to reduce exhibits to photographs and lessen the need for parties, witnesses and jurors to handle physical evidence. The parties shall coordinate with the courtroom clerk on the receipt of any exhibits that are not capable of being stored on a USB flash drive. Each side shall also provide the court with a binder of their pre-marked exhibits and separated by tabs. These binders will be available to witnesses during their testimony. Once a witness has laid the foundation for an exhibit, the parties may publish the exhibit by utilizing the USB drive on the court's laptop and digital cart. If a witness will be asked to mark on an exhibit, the attorneys should have their own copy of the exhibit to place on the overhead projector and mark on at a witness' direction. This exhibit shall become the official exhibit. The Court discourages attorneys from approaching a witness during testimony. The parties shall provide the court with an electronic copy of their exhibit list in a Word document. The exhibit list shall reference the exhibit number(s) and include a brief description of each exhibit.

Public Access

The Court will permit public access into the trial department. The number of people permitted into a trial department will be subject to the available space in the courtroom, but shall be no fewer than 2 seats. One additional seat shall be available for the media upon request. Seating preference shall be given to a representative of the alleged victim and defendant(s). The term "victim" is defined in Cal Const, Art. I § 28 as follows:

> (e) As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term "victim" also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated.

The term "victim" does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim.

The trial judge should resolve the issue of whether the alleged victim and/or defendant(s) will have a representative attend the trial, at the pretrial conference. The courtroom clerk will notify the court's Public Information Officer at the conclusion of the pretrial conference, as to whether a representative of the alleged victim or the defendant(s) intend to be present in court. If a seat will not be utilized by a representative of the alleged victim or defendant, the court will open the seat up to members of the public by random lottery. The court will post the calendar of the assigned trials and the respective departments on the court's website. The court will also post information on the website regarding how to request to be considered for a lottery selection of a seat in a trial courtroom.

Upon request by counsel, the court will also stream a trial proceeding on Zoom to the offices of the Conflict Criminal Defenders, District Attorney, Public Defender, and/or private counsel so that families of the victim and defendant(s) may observe the proceedings. In order to ensure that witnesses do not view proceedings from these Zoom sessions, and to ensure that persons to not audio or video record the proceedings, the court will require that these entities have a representative from their office in the room with any members of the public during the Zoom session.

Trial Assignment Procedure

1. The Court, through Master Calendar, will send a rough copy of the jury trial calendars to the offices of the CCD, DA, and PD every Friday. The Court will also post these calendars on the Court's website in the "Attorney Information" section of the website, under a tab entitled: "Preliminary Hearing and Trial Assignments." For example, for any trial set the week of June 15th, the Court will distribute rough copies of the trial calendar on Friday, June 5th.

2. Utilizing the Court's Criminal Trial Readiness Notification System, all counsel shall notify the court electronically by 12:00 p.m. – <u>three (3) court days prior to the schedule Trial Readiness Conference hearing</u> date, of their readiness to begin trial.

3. TRC's shall be set for every trial. They will be set on afternoon calendars on Wednesdays, Thursdays and Fridays in their designated Home Court. If the trial is going to continue or resolve, it will be handled at the scheduled TRC date. If a matter is assigned to a trial department, the TRC will be reset as a pretrial conference in the assigned trial department the Friday before the week of the trial.

   *If a matter is going to resolve with a plea for felony probation and immediate J&S, the defense attorney shall obtain probation conditions from the Probation Dept. The Probation Dept. has created an email address to contact them and request conditions. When emailing for conditions, the defense attorney shall include the following:

   a. a defendant's name and x-ref. #,
   b. terms of the plea
   c. the name of the DDA handling the case.
   d. The courtroom email to send conditions to as well.

   Probation Email: AdultCourtLiaison@saccounty.net

4. Trial assignments will be announced electronically each Wednesday by 12:00 p.m. for the following week. The court will send assignments to the email boxes set up by the attorney offices: Conflict Criminal Defender's, District Attorney, and Public Defender and post the assignments on the court's website in the Attorney Information section of the website, under a tab entitled: "Preliminary Hearing and Trial Assignments". Any case nearing its statutory deadline (PC 1382) in which there is no available courtroom will be trailed to its last day to Department 9's 8:45 a.m. calendar.

5. If, pursuant to CCP 170.6, any party intends to exercise a challenge to the judge assigned to preside over the trial, the party shall send an email to the court at MasterCalendar@saccourt.ca.gov and opposing attorneys no later than 4:00 p.m. on the day of the assignment. Counsel shall include a fully executed CCP 170.6 form with the email. The court's Judicial Assignment Administrator shall cause the forms to be filed.

6. If a case is assigned to a trial department, the TRC scheduled in the home court will be vacated and a pretrial conference shall be heard in the assigned trial department on the Friday preceding the trial date at 1:30 p.m. All counsel and defendants shall personally appear at the pretrial conference.

7. All parties shall electronically file any in limine motions with the assigned trial department by 9:00 a.m. at least one (1) court day prior to the scheduled pre-trial conference hearing. Motions shall be filed by email to the assigned department and shall be served electronically on all opposing counsel. Department email addresses are as follows: Dept#@saccourt.ca.gov. *For self-represented defendants, in limine motions shall be filed at the pre-trial conference hearing. Any witness necessary for an in limine motion shall be personally present at the time of the pretrial conference, unless the parties are agreeable to the witness testifying remotely for the in limine hearing.

   Example of timeline for trial starting June 15, 2020:

   - Friday, June 5, 2020 – Calendars distributed;
   - Wednesday, June 10 by 12:00 p.m. – Trial assignments announced for the week of June 15th;
   - Wednesday, June 10 by 4:00 p.m. - CCP 170.6 deadline;
   - Thursday, June 11 by 9:00 a.m. – in limine motions filed with trial court and opposing counsel;
   - Friday, June 12 - 1:30 pretrial conference in assigned trial department.

8. Witnesses may still be subpoenaed to appear in Dept. 9. Attorneys should notify witnesses once an assignment to a trial department is made. The Court will post daily assignments on the wall outside of Dept. 9 and Dept. 9 staff will be available to direct witnesses to assigned departments. *Witnesses should be subpoenaed to appear on the second day of trial.

***Trials & Physical Distancing**

It is important that the administration of justice continues to function whenever it is possible in an environment which is consistent with the safety of all those involved. This plan calls for jury trials to resume for the first time since the start of the court's partial closure due to the COVID-19 pandemic. While we will not be back to business as usual, the plan will allow for trials to proceed under unique circumstances while maintaining the safety of all participants and jurors.

Trials will be spread between four floors so all participants can comply with the distance recommendations specified by public health professionals. Start times, break times, and adjournment times will be staggered to ensure there is no excessive gathering in any public area. Although having static start, break and adjournment times is not ideal, strict adherence to these staggered times is absolutely necessary to ensure our building is safe for all court users. These times will be fluid, depending on the trials in session on any given day. Court staff will be notified daily of these staggered start, break, and adjournment times and will relay them to our judges.