



Chambers of
KIRK H. NAKAMURA
PRESIDING JUDGE

Superior Court of California County of Orange

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701

ADMINISTRATIVE ORDER NO. 20/19

Procedure for Granting In-Person Public Access to Criminal Jury Trials

This Order establishes the procedure to determine which spectators, if any, may be permitted to be present in the courtroom for criminal jury trials conducted during the next 90 days.

The World Health Organization, the United States Centers for Disease Control and Prevention, the State of California, and the County of Orange have recognized that the world, country, state, and county face a life-threatening pandemic caused by the COVID-19 virus. The CDC, the California Department of Public Health, and the Orange County Health Care Agency have recommended stringent social distancing measures of at least six feet between people to mitigate the spread of the virus.

The Court recognizes that public access to criminal proceedings is a right guaranteed to the press and public by the First Amendment of the United States Constitution and article I, section 29 of the California Constitution, and to the defendant by the Sixth Amendment of the United States Constitution and article I, section 15 of the California Constitution. However, the Orange County Superior Court is committed to protecting the health and safety of jurors, judges, attorneys, staff, law enforcement, other court users, and the general public while performing our constitutional duties, and has implemented protocols designed to protect health and safety. The combined impacts of the COVID-19 pandemic and social distancing measures have significantly impacted the Court's capacity to provide public access to court proceedings.

To comply with six-foot social distancing as advised by the CDC, the California Department of Public Health and the Orange County Health Care Agency, jurors must be seated in both the jury box and the audience area. This practice will significantly reduce the number of seats available in the courtroom

to accommodate members of the public and the media, and the trial court may not be able to admit all members of the public who wish to attend a jury trial.

Before excluding members of the public from any stage of a criminal trial, the trial court will make findings on the record determining whether the risk to public safety from the COVID-19 virus is an overriding interest which requires that restrictions to the attendance of members of the public be imposed in each trial, whether the exclusion of members of the public is a restriction no broader than necessary to protect the interest of public safety, and whether the court has considered reasonable alternatives to excluding members of the public from the proceeding.

In conducting this analysis, on each day that a court is conducting a jury trial the court will make the following findings on the record:

- The number of total seats available to accommodate jurors, alternates, and the public after seats are marked off to ensure social distancing
- The number of seats remaining to accommodate the public after jurors and alternates are seated pursuant to social distancing protocols

If, after jurors and alternates are seated pursuant to social distancing protocols, there remain seats available to accommodate the public, the court will prioritize the attendance of the defendant's family and friends and any victim and his or her support persons over other members of the public and the media. The court will state for the record which spectators are permitted to attend trial proceedings for each session. This process will occur prior to the commencement of jury selection, then again at opening statement, and if necessary, prior to the commencement of proceedings on every day of trial. As these findings are made, the court clerk will notify Court Operations of the seating arrangement for each session of trial.

Spectators who are permitted to remain in the courtroom will be ordered not to speak when in the courtroom, or to make any attempt to communicate with the jurors. If a spectator becomes disruptive or interferes with the jurors in any way, he or she will be excused from the courtroom at that time, and a record will be made of the reason for the excusal.

Each criminal trial court is outfitted with a camera to allow live streaming of courtroom proceedings available to the public on the Orange County Superior Court's public website. It is the policy of the court not to preserve the live streaming for later viewing.

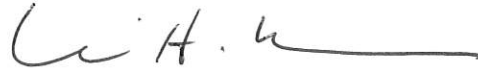
June 15, 2020

This Order is effective immediately and shall remain in effect for 90 days. This relief is temporary, intended to address the current COVID-19 pandemic as it poses a challenge to jury trials.

IT IS SO ORDERED.

6/15/20

Date



Kirk H. Nakamura
Presiding Judge