

“Other Side” Workgroup Recommendations – [Criminal](#)

The Other Side Workgroup has identified three phases of strategies:

1. **Short Term Strategies** – strategies to employ now and during mostly remote work for employees and judges
2. **Transitional Strategies** – strategies to employ as we are transitioning to/from remote work to full capacity in court locations where there is no “Stay at Home” order, but social distancing protocols are likely still in place
3. **Long Term Strategies** – strategies to employ on the “other side” of the pandemic when employees and judges are at full capacity in court locations

During initial meetings, only short-term and some transitional strategies were identified.

Short Term (Now) Strategies & Actions

Strategies	Statewide Actions	Local Actions
<ol style="list-style-type: none"> 1. No expansion of in-person hearings at this time. 2. Seek input from County Attorneys Association, State Public Defenders Office, Sheriff’s Association, MAJ, and Criminal Law Section of MSBA & MACDL on initial transition plan for expanding remote work on criminal cases. 	<p>Convene a call with partners and MJB (include Legal, IT, CSD, Supreme Court designee, 2 District Court Judges (metro and non-metro)) to discuss the following:</p> <ol style="list-style-type: none"> 1. Settlement conferences, prioritizing felony in-custody defendants with speedy trial demands. 2. Settlement conferences for felony non-custody defendants with speedy trial demands. 3. Discuss immediate plans for jury trials, including social distancing protocols. 4. Pleas and sentencings for all major/minor criminal. Expanding remote felony non-testimonial hearings, including how to do these. 5. Discuss the statewide remote hearing approach for Criminal cases. 6. Update on initial strategies for plea petition process for Gross Misdemeanor and Misdemeanor cases as well as juvenile delinquency, traffic, and petty offenses. 7. Discuss with Sheriff’s Association whether there have been any concerns with personal service of documents. 	<p>Local courts discuss and implement plea petition process with local criminal justice partners.</p>

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	<p>8. Communicate strategies being considered on the transition phase and seek feedback (e.g. expanding hours, remote warrant resolution, and expanded specialization by judicial officers regionally or statewide, etc.)</p>	
<p>3. Defining statewide remote hearing definition and minimum standards for criminal cases.</p>	<p>For criminal cases, remote hearings can be held via multiple types of technology, including but not limited to ITV, video conference via WebEx, Virtual Meeting Room (VMR), or Zoom. The minimum standards for a remote criminal hearing should meet the following criteria:</p> <ul style="list-style-type: none"> • The defendant must be visible to the judge in felony cases.¹ • The attorneys do not need to be visible to the judge (can join via phone). • For Rule 20’s with doctor testimony, the doctor need not be visible to the judge. <p>Deploy survey of employees and judges to assess remote hearing experience (including audio, video, how many hearings can reasonably be done in a day, are participants understanding directions, able to access technology, resolve the matter, etc.)</p>	<p>Selecting the right technology solution for the hearing type (e.g. whether lobby/waiting room is needed).</p> <p>Courts/judges establish remote hearing standards and communicate those to court customers.</p>
<p>4. Expand remote hearings in Major and Minor Criminal, the following priority order:</p> <ol style="list-style-type: none"> a. Settlement conferences, prioritizing felony in-custody defendants with speedy trial demands. b. Settlement conferences for felony non-custody defendants with speedy trial demands. c. Pleas and sentencings for all major/minor criminal. Promote through administrative plea petition process. 	<p>Distribute statewide script for remote hearings, other best practices</p> <p>Expand outreach and communication efforts statewide, including through social media, bar association, community groups.</p>	<p>Develop a prioritization plan for remote hearing calendars, communicate these priorities to partners. Specific hearing times should be provided, as feasible.</p> <p>Expand outreach and communication efforts with local agencies, community groups, about process</p>

¹ Any hearings already allowable by Court Rules via phone conferencing can and should continue. This recommendation is not intended to change what the Court Rules currently allow. Judges can use discretion in video or audio conference appearance by a defendant in non-felony cases.

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d. Felony non-testimonial hearings.		changes once strategy and local details are clearer.
5. Expand administrative plea petition process. Increase use of mailed-in plea petitions for gross misdemeanors and misdemeanors (see Rule 15 form) with remote hearings, as necessary, to accept plea and hold sentencing hearing, and issue sentencing order. If defendant does not agree to waive appearance on Rule 15 form, then hold remote sentencing hearing.	Create statewide checklist for judges to clarify process for accept and sentence on mailed-in plea petitions.	Local courts/judges consider whether to hold remote domestic violence case sentencing hearings with victim impact statement at a hearing/via mail.
6. Treatment Court Initiative Advisory Committee should recommend statewide best practices for ramping up remotely.		
7. Promote paper-based expungement process remotely.		
8. Set up Remote Hearing support center for court customers to contact if they are experience issues.	Set up support center	Update documentation with information on statewide support center.
9. Partner with the Minnesota Department of Health (MDH) for direction on starting jury trials with social distancing methods and what those methods might look like for our transitional phase.	Krysta Reuter, MJB Emergency Planning Analyst, will serve as liaison to MDH. Jury Management Resource Team (JMRT) will develop protocol for pilots for jury trials in May.	Identify which districts will pilot jury trials.
10. Plan and begin piloting statewide search warrant hotline. Potentially pilot in the transitional phase.	Develop a pilot plan for a statewide search warrant hotline, including the number of judicial officers needed on-call to support statewide needs, technology needed, and evaluation measures.	Identify judicial officers who would volunteer to participate in pilot

Transitional (transitioning back to workplaces) Strategies

The current presumption is that this “transitional” time period begins when the Governor’s Stay at Home order expires. The current presumption is that this is in early May.

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1. Do not immediately move to jury trials. Transition to ramp up jury trials with pilots (speedy trial demands only) in 3-4 districts in May.² Districts should follow social distancing recommendations with protocol developed with Jury Management Resource Team based on guidance from Minnesota Department of Health. No other jury trials occur in May other than trials within the pilot.
 - a. No jury trials until after June 1. Judicial Council approved jury trial pilots will take place in June.
 - b. Plan for speedy jury trial demands for in-custody felony defendants to gradually begin after July 6, following approved Jury Resource Management Team (JMRT) recommendations.
 - c. Each district develop a plan given their facilities and abilities to meet the social distancing protocols, including assessment of facilities that may serve as trial centers.
2. Prioritize cases by hearing types for ramping up in-person hearings
 - a. Contested hearings with testimony, contested omnibus, implied consent
 - b. Social distancing maintained in the courtroom
 - c. Consider mixture of in-person and remote participants for hearings
 - d. Districts can leverage the Pandemic Dashboard to start to predict the number of calendars needed to address backlog
3. Focus on addressing backlog by prioritizing and scheduling criminal settlement conferences for active pre-disposition cases
 - a. Review assess effectiveness of remote hearings in Short-term strategies to assess whether this transitional time should promote continuing remote hearings
4. Expand hours to address backlog
 - a. Consider late afternoon/evening remote calendars
5. Expand use of Hearing Officers, Referees, Judge specialization to expedite case resolution
 - a. Expand beyond county (regionally/statewide)
 - b. Planning for this should begin now to prepare and address potential barriers

² Those interested in doing a jury pilot should contact the Chief Justice by April 23.

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6. Plan events and processes leveraging lessons learned from previous community events and remote technology usage
 - a. Warrant resolution events (e.g. Outreach to community groups – if you can remote in, you can resolve your warrant)
 - b. Regional treatment court calendars (rather than county-specific) like Veterans StandDown events

Long Term (Other Side) Strategies & Actions

Not yet discussed by the workgroup.