

Supreme Court of Florida

No. AOSC20-32

Amendment 8¹

IN RE: COVID-19 PUBLIC HEALTH AND SAFETY PRECAUTIONS
FOR OPERATIONAL PHASE TRANSITIONS

ADMINISTRATIVE ORDER

The Coronavirus Disease 2019 (COVID-19) pandemic continues to have an effect upon the operations of the State Courts System and the lives of Floridians. The Florida state courts have taken measures to mitigate not only the effects of the public health emergency upon the judicial branch and its participants but also the spread of the novel Coronavirus. On April 21, 2020, the Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19² was created to develop findings and recommendations on the continuation of all court operations and proceedings statewide in a manner that protects health and safety and that addresses each of the following anticipated phases of the pandemic:

1. This amended administrative order is issued to reflect the modifications to the attached report titled *Requirements, Benchmarks, and Guidelines Governing Operational Phase Transitions* on May 6, 2021.

2. See *In re: Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19*, Fla. Admin. Order No. AOSC20-28 (April 21, 2020).

- a) Phase 1 – in-person contact is inadvisable, courthouses are effectively closed to the public, and in-person court proceedings are rare;
- b) Phase 2 –in-person contact is authorized for certain purposes but requires use of protective measures;
- c) Phase 3 – an effective vaccine is adequately available and in use and in-person contact is more broadly authorized; and
- d) Phase 4 – COVID-19 no longer presents a significant risk to public health and safety.

Among its charges, the Workgroup was specifically directed to propose guidance – based on the advice of public health experts, medical professionals, or others with expertise in the management of a pandemic and the latest health advisories and safety guidelines – for protective measures that will allow the progressive and safe return of judges, personnel, parties, counsel, jurors, and the public (hereinafter collectively referred to as “justice stakeholders”) to courthouses.

Originally set to expire on June 30, 2020, the Workgroup’s term was extended through December 31, 2020, by Fla. Admin. Order No. AOSC20-51 on

June 15, 2020, and through July 2, 2021, by Fla. Admin. Order No. AOSC20-110 on November 23, 2020.³

Following extensive research and consultation with medical professionals, the Workgroup issued, and has subsequently updated several times, its report titled *Requirements, Benchmarks, and Guidelines Governing Operational Phase Transitions*, May 6, 2021, (hereinafter “report”). In that report, the Workgroup has recognized that: a) the COVID-19 situation remains dynamic and that the requirements, benchmarks, or guidance may have to be modified by a subsequent administrative order as more information regarding the pandemic and best practices becomes available; b) local community needs and resources and the specific public health conditions by county are important considerations that may have a direct bearing on the implementation of the requirements, benchmarks, and guidance; c) funding and the availability of certain equipment and supplies may impact the readiness of a court to move phases; d) justice stakeholders must feel confident that their safety and welfare are the primary considerations on which decisions are made; e) the requirements, benchmarks, or guidance should be no broader than necessary to protect public health and safety while fulfilling the court

3. See *In re: Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19*, Fla. Admin. Order No. AOSC20-51 (June 15, 2020) and Fla. Admin. Order No. AOSC20-110 (November 23, 2020).

system's responsibilities for the administration of justice; and f) both Phase 2 and Phase 3 involve courts managing limited resources to address needs.

The Workgroup has further noted that benchmarks for moving to Phase 3, and the requirements for operations in Phase 3, may need to be reevaluated based on the availability and efficacy of a vaccine, additional guidance and reports from health officials, and experience gained while operating in Phase 2. Additionally, the Workgroup has noted that in both Phase 2 and Phase 3 public health data and local conditions need to be monitored at least weekly.

Under the administrative authority conferred upon me by article V, section 2(b) of the Florida Constitution and by Florida Rules of General Practice and Judicial Administration 2.205(a)(2)(B)(iv) and 2.205(a)(2)(B)(v), I approve and adopt the Workgroup's report, which has been revised by the Office of the State Courts Administrator at my direction and is attached hereto and incorporated herein by reference.

To advance the benchmarks, requirements, and guidelines set forth in the report, IT IS ORDERED that:

1. Court reopening protocols and practices shall be guided by Centers for Disease Control and Prevention recommendations and align with guidance provided by the Florida Department of Health, county health departments, and local medical professionals.

2. In order to transition to Phase 2 and expand in-person activities in a manner consistent with Fla. Admin. Order No. AOSC20-109, as amended, and Fla. Admin. Order No. AOSC20-23, as amended, the supreme court, each district court of appeal, and each trial court must have met the five benchmark criteria provided in the report⁴ and must have developed a Phase 2 operational plan addressing, at a minimum, implementation of the requirements identified in the report.⁵

Requirements for courthouses, as defined in the report, include, but are not limited to, specific public health and safety measures such as:

requiring work in the courthouse to be safely conducted consistent with the court's operational plan; developing a human resources policy to address potential COVID-19 exposure for court employees and judges;

enforcing social distancing and face mask requirements during in-person court proceedings; establishing detailed hygiene, cleaning, and disinfecting protocols; posting signage throughout the courthouse to remind individuals of hygiene, face mask, social distancing, and other requirements; and developing a policy to address individuals who refuse to follow health and safety requirements and guidelines in the

4. See report at pp. 3-5.

5. Id. at pp. 5-9.

courthouse. In developing its Phase 2 operational plan, the court shall consult with judges, court administrators, law enforcement, other justice partners, county administrators, other building occupants, if any, and county health departments or local health experts. A copy of the Phase 2 operational plan, once finalized by the Chief Justice or the chief judge, as applicable, shall be filed with the Office of the State Courts Administrator.⁶

3. In order to transition to Phase 3 and expand in-person activities in a manner consistent with Fla. Admin. Order No. AOSC20-109, as amended, and Fla. Admin. Order No. AOSC20-23, as amended, an effective vaccine must be adequately available and in use. The supreme court, each district court of appeal, and each trial court must have met the Phase 3 benchmark criteria provided in the report⁷ and must have developed a Phase 3 operational plan that addresses the satisfaction of the Phase 3 benchmark criteria and details the health and safety measures being taken.⁸ In developing its Phase 3 operational plan, the district or

6. If a court has transitioned to Phase 2 on or before the date of this order in compliance with the previous versions of this order, the court may remain in Phase 2, but must comply with all requirements of this order and the attached report for continuing and operating in Phase 2.

7. See report at pp. 9-10.

8. Id. at p. 10.

trial court shall consult, as applicable, with judges, court administrators, law enforcement, other justice partners, county administrators, other building occupants, if any, and county health departments or local health experts. The plan must be reviewed by a county health department or local health expert and, once finalized by the Chief Justice or the chief judge, as applicable, shall be filed with the Office of the State Courts Administrator. Each trial court chief judge must certify that a compliant Phase 3 operational plan has been submitted and that the circuit or a county within the circuit is ready to transition on a specified future date to Phase 3. The certification must be approved by the Chief Justice prior to such transition.

4. While operating in Phase 2 or Phase 3, the Chief Justice and the chief judges shall monitor public health data and local conditions at least weekly to determine if a change in court operations, meaning a modification to operations, an amendment to the operational plan, or a reversion in phases, is necessary. The court shall determine if a change in court operations is necessary if the court no longer meets Benchmark 3 pursuant to the methodology identified in the report or if the county health department or local health expert advises, or data or other information establishes, that local health or other conditions have deteriorated or

changed to the point that the court no longer meets one or more of the other benchmarks required for the phase.⁹ When a court is required to determine if a change in court operations is necessary, the court shall:

- Document and maintain locally its reasons in writing for a determination that no change or a modification to operations is necessary; or
- Notify the Office of the State Courts Administrator of a determination to revert to a prior phase or of the changes made to its operational plan.

After a reversion, the Chief Justice and the chief judges must follow the requirements in the report to return from a prior phase.¹⁰

5. Each court shall post the operational plan required by this order on the court's website, except for those portions of the plan that the court determines to be confidential or otherwise exempt from public access pursuant to Florida Rule of General Practice and Judicial Administration 2.420.

This order shall remain in effect until amended or terminated by subsequent administrative order of the Chief Justice.

9. Id. at pp. 10-12.

10. Id. at p. 12.

DONE AND ORDERED at Tallahassee, Florida, on May 6, 2021.

Char. T. Canady
AOSCC20-32 A8 5/6/2021

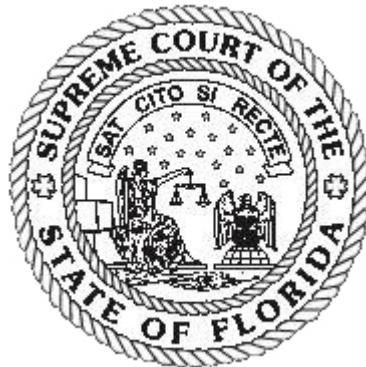
Chief Justice Charles T. Canady

AOSCC20-32 A8 5/6/2021

ATTEST:

JAT
AOSCC20-32 A8 5/6/2021
John A. Tomasino, Clerk of Court

AOSCC20-32 A8 5/6/2021





CONTINUITY OF COURT OPERATIONS
& PROCEEDINGS DURING AND AFTER

Court Operations Subgroup

Requirements, Benchmarks, and Guidelines Governing Operational Phase Transitions^{i, ii, iii, iv, v, vi, vii, viii, ix, x, xi}

May 6, 2021

As used in this report, the term:

- “Courthouse” means any facility or building that houses jury assembly rooms, courtrooms, hearing rooms, judicial officers, or court staff or areas where court business is conducted, whether or not that building is formally called a courthouse.
- “In-person court proceeding” means the assembly of prospective jurors, voir dire, juror deliberations, and any status conference, hearing, trial, or other proceeding conducted by a justice, judge, magistrate, or hearing officer if conducted in person and other court events conducted in person as may be determined by the Chief Justice or chief judge.

Background

In Fla. Admin. Order No. AOSC20-28, the Court Operations Subgroup (COS) was tasked with developing findings and recommendations on the continuation of all court operations and proceedings statewide in a manner that protects health and safety and that addresses each of the following phases of the pandemic, which are currently defined as : a) in-person contact is inadvisable, courthouses are effectively closed to the public, and in-person court proceedings are rare; b) in-person contact is authorized for certain purposes but requires use of protective measures; c) an effective vaccine is adequately available and in use and in-person contact is more broadly authorized; and d) COVID-19 no longer presents a significant risk to public health and safety.

The recommendations below specifically address Charge 3 articulated in Fla. Admin. Order No. AOSC20-28, to:

Propose guidance – based on the advice of public health experts, medical professionals, or others with expertise in the management of a pandemic and the latest health advisories and safety guidelines – for protective measures that will allow the progressive and safe return of judges, personnel, parties, counsel, jurors, and the public to court facilities[.]

The COS conducted an extensive literature review, discussed state and national court reopening practices and guidelines, and consulted with medical professionals.^{xii} The COS

recognizes that the COVID-19 situation remains dynamic and that the benchmarks and guidance offered below may have to be modified as more information regarding the pandemic and best practices becomes available. Local community needs, resources, and the specific public health conditions by county are important considerations and may have a direct bearing on implementation of the benchmarks and guidance offered below. Court reopening protocols and practices shall be guided by Centers for Disease Control and Prevention (CDC) and Florida Department of Health recommendations and align with guidance provided by county health departments and local medical professionals.^{xiii}

The COS recognizes that funding and the availability of certain equipment and supplies may impact the readiness of a court to move to Phase 2 or Phase 3. The COS recommends exploring local, state, federal, and grant funding opportunities to ensure the necessary supplies are available to protect the health and safety of all those entering the courthouse.

Introduction

Florida is a very diverse state, and health and operational conditions vary greatly even at the local level. Precautions and safeguards necessary in one area of the state may not be necessary, appropriate, or feasible in another. Further, variations in caseloads, dockets, facilities, resources, and available employees make it difficult to establish functional and effective statewide directives. The plans and measures for resuming in-person activities may vary out of necessity. However, it is important that lawyers, litigants, victims, witnesses, jurors, and the public know what to expect when they interact with the courts, regardless of where that court is located within the state.

As courts consider additional in-person activities and more judges and court staff return to the courthouse, it is imperative that judges, court staff, justice partners, and the public feel confident that their safety and welfare are the primary considerations on which decisions are made. The requirements and benchmarks provided will establish some uniformity in approach, while the operational guidelines provide needed flexibility for courts to adjust for local conditions.

To the extent possible, and consistent with Fla. Admin. Order No. AOSC20-109, as amended, and Fla. Admin. Order No. AOSC20-23, as amended, courts shall continue to use technology of all types (such as teleconferencing, videoconferencing, or other means) to facilitate the remote conduct of court proceedings as an alternative to in-person court proceedings. Courts should continue to innovate, increase the use of technology, and take other measures to expand remote capacity while limiting person-to-person contact when not necessary.

Benchmark Criteria for Transition from Phase 1 to Phase 2

The Supreme Court has identified four phases of the pandemic: a) in-person contact is inadvisable, courthouses are effectively closed to the public, and in-person court proceedings are rare (Phase 1); b) in-person contact is authorized for certain purposes but requires use of protective measures (Phase 2); c) an effective vaccine is adequately available and in use and in-person contact is more broadly authorized (Phase 3); and d) COVID-19 no longer presents a significant risk to public health and safety (Phase 4). Using the benchmarks provided, courts may consider moving from Phase 1 to Phase 2, wholly or in-part, based on local conditions and resources. If local conditions deteriorate, or resources become strained, it may be necessary for a court to revert to Phase 1 or adjust facets of how it is operating in Phase 2 to meet the current public health situation or the needs of the court. Additional information regarding reverting to and returning from a previous operational phase is found later in this document.

The following benchmark criteria must be met prior to any court transitioning from Phase 1 to Phase 2 and expanding in-person activities:

1. No confirmed or suspected cases of COVID-19 in the courthouse within a 14-day period; or if confirmed or suspected cases have occurred in the courthouse, cleaning and disinfecting of exposed areas in accordance with CDC guidance have been completed and applicable employees have been directed to self-isolate or quarantine in accordance with CDC guidance.
2. No local or state restrictive movement or stay-at-home orders that limit the ability of individuals to leave their homes during the daytime.
3. Improving COVID-19 health conditions over a 14-day period in the community. The public health data^{xiv} necessary to determine whether this benchmark has been met will be provided on an Intranet page maintained by OSCA that will be updated on a weekly basis. This data will provide seven-day averages at the county level for the most recent four-week period for the following four measures:
 - a) The daily number of new positive COVID-19 cases (“new cases”);
 - b) The daily percentage of positive tests based on the total number of tests (“positivity rate”);^{xv}
 - c) The daily number of hospitalizations for COVID-19 (“hospitalizations”); and
 - d) The daily number of emergency department visits for COVID-like illness (“ED visits”).

To ensure uniformity statewide, courts must use this data and the following methodology in determining whether this benchmark has been met. For purposes of the methodology, the phrase “two consecutive weeks of decline or stabilization” with respect to new cases, hospitalizations, and ED visits means that the measure’s seven-day average for:

- a) The most recent week is lower than or equal to the seven-day average for the measure for the prior week; and

- b) The prior week is lower than or equal to the seven-day average for the measure for the week that is two weeks prior to the most recent week.

To meet this benchmark, condition a) or b) below must be met:

- a) Both of the seven-day averages for new cases for the most recent two-week period must be 20 or fewer^{xvi} and both of the following measures must demonstrate two consecutive weeks of decline or stabilization:
 - i. The seven-day averages for hospitalizations for the most recent two-week period; and
 - ii. The seven-day averages for ED visits for the most recent two-week period.
- b) If either of the seven-day averages for new cases for the most recent two-week period exceed 20, then both of the following criteria must be met:
 - i. The seven-day averages for new cases for the most recent two-week period must demonstrate two consecutive weeks of decline or stabilization; and
 - ii. Both of the seven-day averages for the positivity rate for the most recent two-week period must be less than 10 percent. If not, then both of these averages must be less than 11 percent and both of the following measures must demonstrate two consecutive weeks of decline or stabilization:
 - a. The seven-day averages for hospitalizations for the most recent two-week period; and
 - b. The seven-day averages for ED visits for the most recent two-week period.

A decision matrix illustrating the methodology above is attached as Appendix A.

Courts that meet the criteria for this benchmark based on declining or stabilizing new cases and positivity rates less than 10 percent may also wish to consider the data for hospitalizations and ED visits as well as other public health data that may be available before determining whether to transition to the next phase. Given the evolving science and dynamic nature of the pandemic, other factors may weigh against transitioning even when this benchmark is met based on the referenced measures. For example, hospitalizations or ED visits may be increasing or hospital bed or intensive care unit capacity may be decreasing although the numbers of new cases and positivity rates have declined. Moreover, resource constraints, such as insufficient personal protective equipment (PPE) or a shortage in staffing, or other operational issues may exist. In any of these instances, the Chief Justice or chief judge should consider delaying a transition until health conditions improve or operational or other issues are resolved.

4. Sufficient availability of COVID-19 tests to meet community needs.

5. Consultation with other building occupants (if the courthouse is in a multi-tenant building) and with justice system partners (including, but not limited to clerk of court, state attorney, public defender, law enforcement, local bar, and others necessary to resume certain case types, such as the Department of Children and Families).

It is important to ensure capacity exists for increasing or modifying operations and that all health and safety concerns are met.

Operational Plan for Transition from Phase 1 to Phase 2

Prior to expanding operations beyond Phase 1 as outlined in Fla. Admin. Order No. AOSC20-109, as may be amended, and Fla. Admin. Order No. AOSC20-23, as amended, each court shall develop an operational plan. Broadly, the plan should describe the court's planning process and use of the benchmark criteria, detail those involved in the planning, and identify the steps to be taken in order to increase operations. Further, the court must ensure that its plan addresses all requirements discussed below and may wish to also address the guidelines specified below in that plan.

Once the plan has been finalized and approved by the Chief Justice or chief judge, as applicable, a copy shall be provided to OSCA for informational purposes.^{xvii} As the plan is updated, revised copies shall be submitted.

While operating in Phase 2, public health data and local conditions shall be monitored at least weekly to determine if a change in court operations, meaning a modification to operations, an amendment to the operational plan, or a reversion in phases, is necessary.

Requirements and Guidelines for Transition from Phase 1 to Phase 2^{xviii}

The following requirements provide the key elements that must be included in each court's Phase 2 operational plan. Guidelines are also provided for each court's consideration. Each court may develop a single plan that encompasses all courthouses and operations or may develop a separate plan for each courthouse or operational or functional area. Many of these requirements and guidelines may still apply when transitioning from Phase 2 to Phase 3.

In developing the operational plan, courts shall engage and consult with judges, court administrators, law enforcement, other justice partners, county administrators, other building occupants, if any, and county health departments or local health experts. The plan will need to be updated on a regular basis to keep pace with advancements in best practices and to adjust for lessons learned. Courts are encouraged to establish an ongoing relationship and communication with county health departments or local health experts. Those relationships will help inform recommendations regarding the local court's readiness to authorize in-person

contact for certain purposes and institute any appropriate measures to further safeguard public health and safety.

Remote Hearings

To the extent possible, consistent with Supreme Court administrative orders or similar guidance, the Chief Justice and the chief judges shall take all necessary steps to support the conduct of court proceedings with the use of technology (such as by teleconferencing, videoconferencing, or other means). Courts may need to conduct hybrid court proceedings (concurrently in-person and remotely) in certain instances.

Human Resources Policy

A human resources policy shall be developed that addresses potential COVID-19 exposure in the workplace, which shall apply to court employees, including judicial assistants, judges, and justices who enter a courthouse to perform all or part of their work. The policy must address requirements for judicial officers and court employees to provide notice if they have tested positive for or have been diagnosed with COVID-19; are experiencing symptoms consistent with having COVID-19; or have been in close contact with an individual who has tested positive for COVID-19 or who is exhibiting symptoms. The policy must also define the court's responsibilities for contact tracing and for notifying persons who may have been exposed.

Social Distancing

Social distancing guidelines shall be established and strictly enforced during Phase 1 in all areas of the courthouse, including areas of private circulation. In Phase 2, social distancing guidelines shall be established and strictly enforced during in-person court proceedings. Current CDC social distancing guidance recommends staying at least six feet from other people.

- Some areas may need to be reconfigured or have chairs, benches, or other furniture removed to ensure social distancing.
- Special attention should be given to scheduling in-person court proceedings on a staggered schedule to avoid overcrowding in common areas such as hallways, restrooms, and elevators.

Hygiene Protocols and Personal Protective Equipment (PPE)

- Establish hygiene protocols, such as hand washing and covering coughs and sneezes.
- Post readily visible signage,^{xix} where appropriate, reminding individuals of hygiene protocols, including hand washing, social distancing during in-person court proceedings, directional guidance, and any changes to processes due to the pandemic.
- Establish guidelines for the purchase and use of hand sanitizer and PPE.

- Hand sanitizer should be widely available throughout the courthouse, including inside courtrooms.
- Face masks^{xx} covering the nose and mouth are required for everyone during an in-person court proceeding, with no exceptions. If visitors do not have a face mask, one should be provided to them at no cost. Any person may voluntarily choose to wear a face mask in a courthouse when not attending an in-person court proceeding.
 - a) The Chief Justice or a chief judge may adopt a policy authorizing the use of clear face masks or cloth face masks that have clear plastic panels during in-person court proceedings. Like opaque face masks, clear face masks or cloth face masks that have clear plastic panels must completely cover the nose and mouth and fit snugly around the nose, chin, and sides of the face. If such a policy is adopted, it shall apply consistently across all in-person court proceedings in the same courthouse.
 - b) A face shield^{xxi} or other face covering protocol may be used in addition to a face mask but may not be used as an alternative to a face mask.^{xxii}
- Consider other PPE, such as gloves and face shields, for use as appropriate and in addition to a face mask. Health experts have noted that proper hand hygiene is generally preferable to gloves. An example where multiple types of PPE (face mask, gloves, face shield or goggles, and apron or other covering) may be required is during the fingerprinting process.

Judge and Court Staff Training

- Provide training or other technical assistance to justices, judges, and court staff, if necessary, on changes required by the operational plan.

Other Building Occupants

- Collaborate with other building occupants and law enforcement to ensure agreement on health, safety, cleaning and disinfecting,^{xxiii} and related issues to avoid contamination by other occupants if the courthouse is in a multi-tenant building.

Vulnerable Populations^{xxiv}

- Provide accommodations to reduce the need for vulnerable individuals to appear in-person at the courthouse, when feasible.

Courthouse Areas and Security

Interior

- Determine if any occupancy limits or constraints are necessary to allow for maximum social distancing during an in-person court proceeding. Some courts may

- consider only admitting persons with scheduled proceedings or appointments with a person or office in the courthouse. If a person does not have an appointment, provide information on how to set one. Also, limit their entry to, for example, 10 minutes prior to the scheduled appointment or proceeding time.
- Use tape, paint, or other means to demarcate the floor and/or walls, to the extent possible, at six-foot intervals as an aide for social distancing during an in-person court proceeding.
 - Review all space within the courthouse that is used for in-person court proceedings to determine any mitigation measures that can be taken and reconfiguration that may be necessary to allow for proper social distancing.
 - Consider installing physical barriers, such as sneeze guards and partitions, in spaces where an employee might come into close contact with large numbers of people, such as an information desk.

Security

- Determine what security practices or policies may require modification.
- Establish a policy regarding persons who refuse to follow health and safety requirements and guidelines, such as not wearing a face mask.^{xxv}

Cleaning and Disinfecting

- Establish and enforce cleaning and disinfecting protocols for all areas in the courthouse in accordance with CDC guidance.
- Make adequate supplies of cleaning and disinfecting products available throughout the courthouse.
- Make hand sanitizer and sanitizing or disinfecting wipes readily available throughout the courthouse for use by employees and visitors.

Courtroom/Hearing Room

- Establish a courtroom maximum occupancy based on the size and configuration of the room and social distancing protocols for in-person court proceedings.
- Consider a courtroom admittance policy to limit persons from entering with family members or friends who are not essential to the in-person court proceeding. Limit those physically permitted in the courtroom to the parties, attorneys, victims, witnesses, court reporter, court interpreter, and other persons whose presence is essential.
- Follow and enforce strict social distancing protocols during in-person court proceedings.
- Make hand sanitizer and sanitizing or disinfecting wipes available for use.
- Clean or disinfect shared surfaces in accordance with CDC guidance.

Other Business Process Considerations

- Prioritize certain court proceedings or events, if needed.
- Consider dividing employees into shifts so that there is no overlap in scheduling. If a member from one shift tests positive for COVID-19, it will be easier to identify potentially exposed colleagues.
- Take adequate steps to ensure the public is provided a reasonable means of access to court proceedings by live-streaming, recording, or providing other means of access for those proceedings in which the public's right to in-person access is appropriate.
- Develop a process or protocol for handling paper, both from the public and from employees. Use of a drop box may be prudent for some public submissions. Creation and use of electronic documents is a preferable practice. When paper has been submitted, scanning of all paper and transmitting electronically is a preferable practice.
- Consider staffing strategies, such as redeployment of personnel, to meet staffing needs and social distancing requirements for in-person court proceedings.

All aspects of the operational plan should be applied evenly throughout each courthouse. It is understood that differences in locations or facilities may necessitate modified practices at a different courthouse within the same county or circuit.

The operational plan should provide the court with the guidance and structure necessary to navigate moving from Phase 1 to Phase 2, once the benchmark criteria have been met. All pertinent aspects of the plan should be shared broadly to ensure employees and the public are aware of the precautions being taken and are on notice of what to expect when conducting business at the courthouse. In addition to providing such information in hearing notices or other case-related postings, courts are encouraged to utilize their court's public information officer to share the information.

Benchmark Criteria for Transition from Phase 2 to Phase 3

The COS recognizes the importance of mitigating the negative effects of the public health crisis, while keeping courts operating to the fullest extent possible based on the latest recommended public health and safety measures and scientific guidance. Each court must carefully examine and balance increasing court operations with ensuring public health and safety in making a determination to transition to Phase 3. Phase 3 is defined as "an effective vaccine is adequately available and in use and in-person contact is more broadly authorized." Phase 3 represents a more significant "reopening" of the courts where the nature of case types and the volume of cases being heard in-person will increase, with protective measures in place consistent with science-based health guidance.

In addition to an effective vaccine being adequately available and in use, the following benchmark criteria must be met prior to any court transitioning from Phase 2 to Phase 3 and further expanding in-person activities:

- a. Confirmation that the court continues to meet each of the five Phase 2 benchmark criteria.
- b. Confirmation of the availability of adequate resources, supplies, and capacity to accommodate the authorization of broader in-person contact in Phase 3, consistent with national, state, and local public health guidance.

The COS notes that benchmarks for the transition to Phase 3 may need to be reevaluated based on the availability and efficacy of a vaccine, additional guidance, and reports from health officials, and experience gained while operating in Phase 2.

Operational Plan for Transition from Phase 2 to Phase 3

The court shall develop a Phase 3 operational plan that addresses the satisfaction of the criteria listed in a. and b. above. The plan shall be reviewed by the county health department or a local health expert and such consultation with the department or expert must be documented in the plan. The plan must be submitted to OSCA upon completion.

For trial courts, the chief judge must certify to the Chief Justice that a compliant Phase 3 operational plan has been submitted and that the circuit or a county within a circuit is ready to transition on a specified future date to Phase 3. Prior to such transition, the Chief Justice must approve the certification.

While operating in Phase 3, public health data and local conditions shall be monitored at least weekly to determine if a change in court operations, meaning a modification to operations, an amendment to the operational plan, or a reversion in phases, is necessary.

The subgroup recognizes the following with respect to the transition from Phase 2 to Phase 3:

- Both Phase 2 and Phase 3 involve courts allocating limited resources to needs that exceed capacity. Transition to Phase 3 will not be uniform across courts due to differing needs and resources.
- Any requirements for operations in Phase 3 may need to be reevaluated based on further guidance and reports from health officials.

Reverting to and Returning from a Previous Operational Phase

As previously indicated in this document, while operating in Phase 2 or Phase 3, public health data and local conditions shall be monitored at least weekly to determine if a change in

court operations, meaning a modification to operations, an amendment to the operational plan, or a reversion in phases, is necessary.

For purposes of the methodology below addressing the requirement for a court to determine if a change in court operations is necessary when the criteria for Benchmark 3^{xxvi} are no longer met, the phrase “two consecutive weeks of increase” with respect to new cases, hospitalizations, and ED visits means that the measure’s seven-day average for:

- a) The most recent week is higher than the seven-day average for the measure for the prior week; and
- b) The prior week is higher than the seven-day average for the measure for the week that is two weeks prior to the most recent week.

With respect to Benchmark 3, a court shall determine if a change in court operations is necessary if condition a) or b) below applies:

- a) Both of the seven-day averages for new cases for the most recent two-week period are 20 or fewer and either of the following measures demonstrate two consecutive weeks of increase:
 - i. The seven-day averages for hospitalizations for the most recent two-week period; or
 - ii. The seven-day averages for ED visits for the most recent two-week period.
- b) Either of the seven-day averages for new cases for the most recent two-week period exceed 20 and any one of the circumstances described in i., ii. a., or ii. b. below has occurred:
 - i. The seven-day averages for new cases during the most recent two-week period demonstrate two consecutive weeks of increase; or
 - ii. Either of the seven-day averages for the positivity rate during the most recent two-week period is:
 - a. 11 percent or higher; or
 - b. 10 percent or higher, but less than 11 percent and either of the following measures demonstrate two consecutive weeks of increase:
 - The seven-day averages for hospitalizations for the most recent two-week period; or
 - The seven-day averages for ED visits for the most recent two-week period.

A decision matrix illustrating the methodology above is attached as Appendix B.

Further, if the county health department or local health expert advises, or data or other information establishes, that local health or other conditions have deteriorated or changed to

the point that the court no longer meets one or more of the other benchmarks required for the phase, the court shall determine if a change in court operations is necessary to comply with health and safety requirements.

Additionally, due to resource constraints or other issues, a court may want to make a change in court operations in order to adjust to the ongoing nature of the public health crisis.

If a court is required to determine if a change in court operations is necessary, the court shall document and maintain locally its reasons in writing for a determination that no change or a modification to operations is necessary.

If the court amends its operational plan or reverts to a prior phase, the court must notify OSCA of this circumstance and of any changes to its operational plan. If a court reverts from Phase 3 to Phase 1, it must return to Phase 2 before returning to Phase 3. After a reversion, to return to:

- Phase 2, the Chief Justice or chief judge must ensure that the court satisfies all Phase 2 benchmark criteria and has an operational plan as required by this document. The court must notify OSCA of the return to Phase 2.
- Phase 3, the Chief Justice or chief judge must ensure the court satisfies all Phase 3 benchmark criteria and has an operational plan as required by this document. The chief judge of a circuit court must also recertify to the Chief Justice that the circuit or a county within the circuit is ready to return on a specified future date to Phase 3. Before the return, the Chief Justice must approve the recertification.

Resource Items to Consider Having Available as Phase Transitions are Considered

The following is a non-exclusive list of items that courts may need as part of their operational plans. The COS recommends that local, state, federal, and grant funding opportunities be explored to address COVID-19-related equipment and supply needs. The list below is provided as a starting point for each court's consideration.

Hygiene, Cleaning, and Disinfecting

- Hand Sanitizer
- Dispensers for hand sanitizer (touchless preferred)
- Sanitizing or disinfecting wipes
- Dispensers for wipes (touchless preferred)
- Disposable face masks
- Dispensers or storage containers for face masks
- Gloves
- Face shields
- Goggles
- Appropriate cleaning supplies (soap, cleaning or disinfecting spray, etc.)

- Handwashing or hand sanitizing stations
- Tissues/paper towels (in addition for use to cover sneezes, can be used to open doors, etc.)
- Cleanable or disposable covers for commonly touched or used items, such as microphones

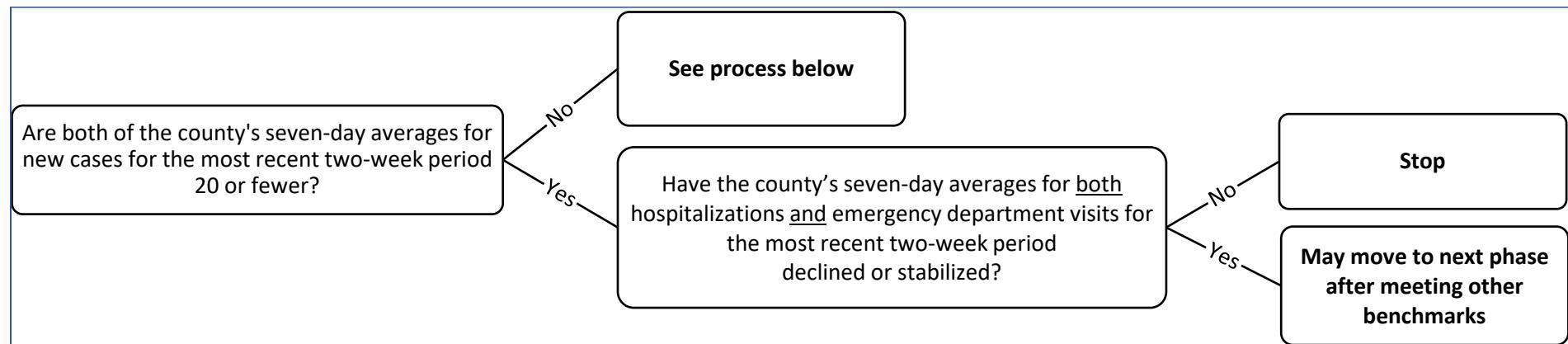
Courthouses, Security, Queuing

- Clip Boards
- Writing Utensils
- Barricades
- Stanchions
- Gaffer's or other type of tape to demark spacing
- Folding tables/chairs
- Radios or other communication devices
- Laptop/tablet for data collection
- Portable document scanners
- Large format monitors
- Medical grade or waterproof keyboards, mice and similar computer accessories (to allow for proper cleaning and disinfecting of shared accessories)
- Fingerprinting pads
- Portable podiums (to limit sharing of existing podium during an in-person court proceeding)
- Acrylic partitions or other barrier in spaces like information desks

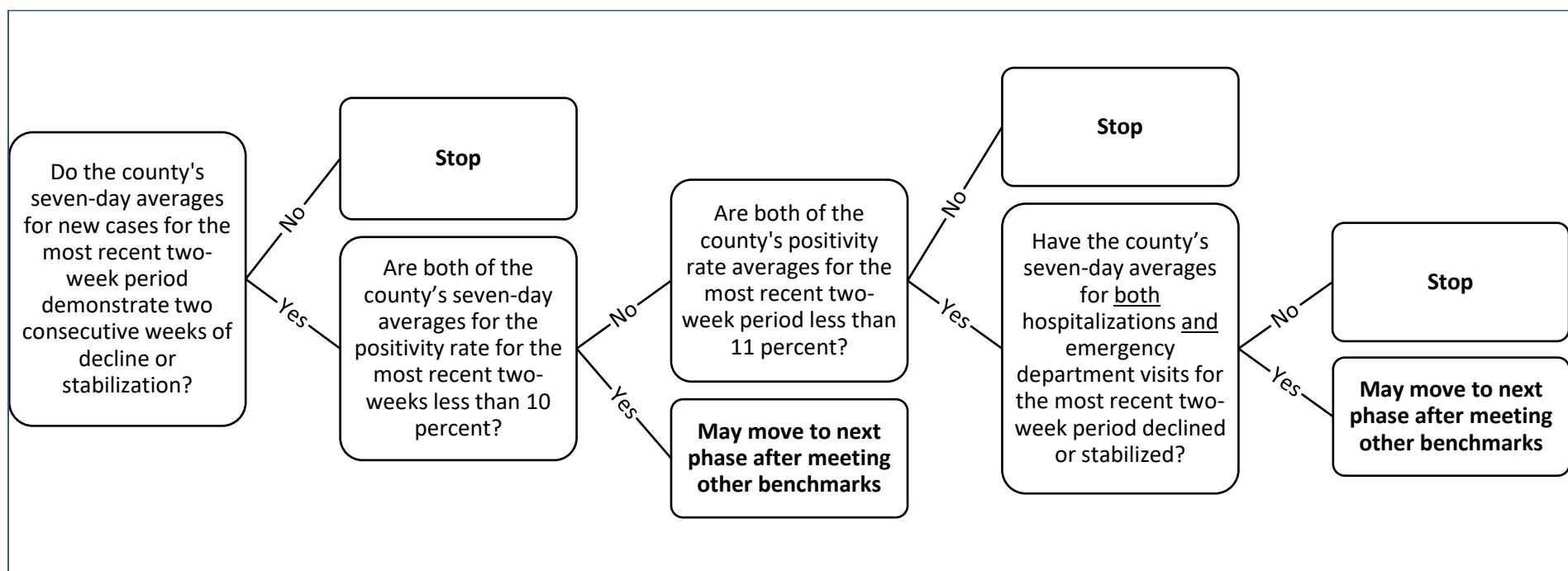
Signage

- Hygiene protocols (hand washing, hand sanitizer, etc.)
- Social distancing reminders
- Markings to note distance
- Directional signage
- Instructions/reminders for new procedures
- Requirement to wear a face mask

Appendix A: Benchmark 3 Transition to Next Phase Decision Matrix

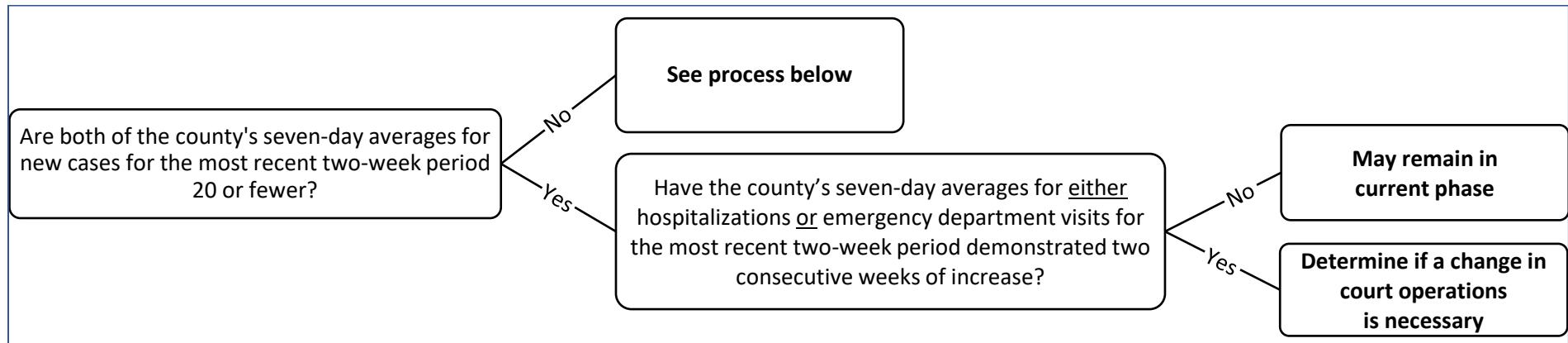


Condition a) to meet Benchmark 3 (as identified on pp. 3-4 of the report)

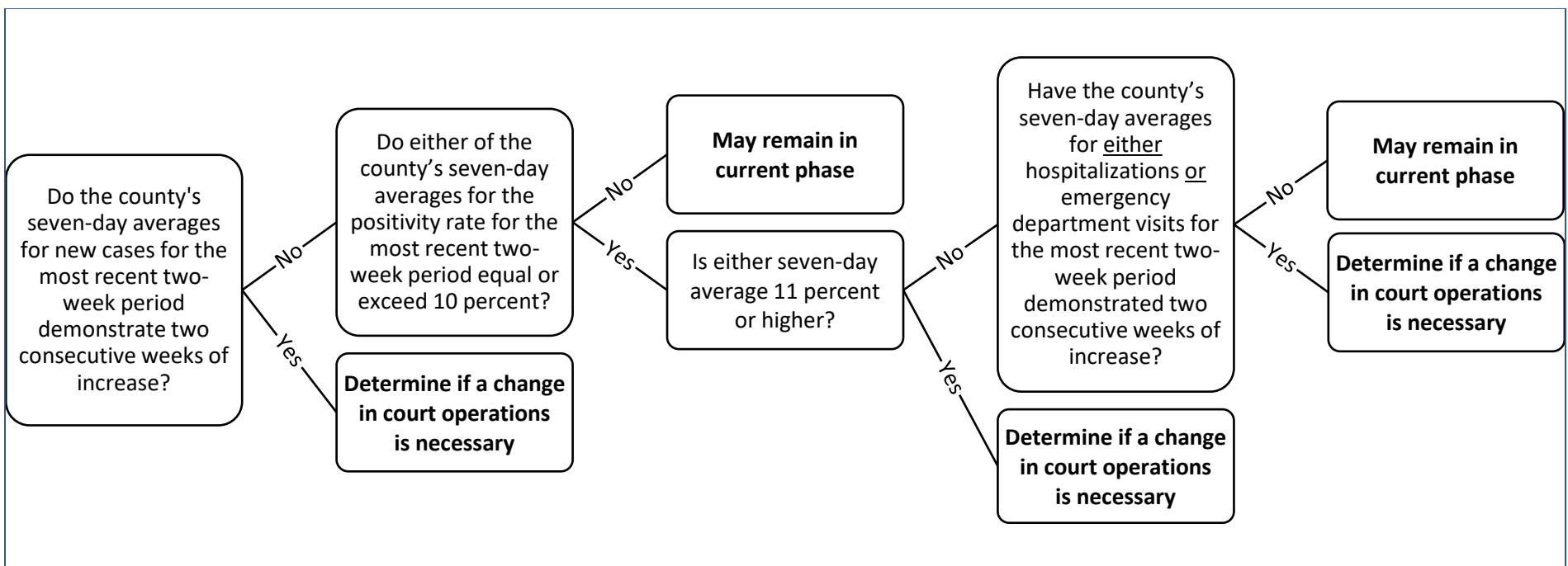


Condition b) to meet Benchmark 3 (as identified on pp. 3-4 of report)

Appendix B: Benchmark 3 Operational Plan Amendment/Phase Reversion Decision Matrix



Condition a) to determine if a change in court operations is necessary (as identified on pp. 10-11 of the report)



Condition b) to determine if a change in court operations is necessary (as identified on pp. 10-11 of the report)

ⁱ On May 20, 2020, the Health and Safety Requirements section was modified to clarify symptoms and comport with the latest Centers for Disease Control and Prevention (CDC) guidance.

ⁱⁱ On June 12, 2020, the Benchmarks for Transition from Phase 1 to Phase 2 and the Requirements and Guidelines sections were modified to clarify Benchmark 3 and to clarify the health and screening requirements, modify personal protective equipment requirements, and clarify the enforcement of requirements.

ⁱⁱⁱ On June 16, 2020, a modification was made to clarify the requirement and guideline exemptions for activities inside of the separate offices of constitutional officers in a multi-use building.

^{iv} On July 2, 2020, a modification was made to update the symptoms of COVID-19 to comport with the latest CDC guidance, clarify inmate and detainee screening, incorporate the benchmarks governing the transition to Phase 3, and clarify the requirements for reverting to and returning from a previous operational phase.

^v On August 6, 2020, modifications were made to: amend the benchmark criteria for transition from Phase 1 to Phase 2 (note that these benchmark criteria are also incorporated by reference for the transition from Phase 2 to Phase 3); require a human resources policy to address potential COVID-19 exposure for court employees and judges; update the health screening requirements for entry into a courthouse; provide that a return to Phase 3 following a reversion does not require spending one month in Phase 2; amend the requirements for reverting to and returning from a previous operational phase; make conforming changes for the amendments throughout the document; and add Appendices A and B.

^{vi} On August 11, 2020, modifications were made to: correct a cross-reference; clarify that a court, which reverts from Phase 3 to Phase 1, must return to Phase 2 before returning to Phase 3; and clarify that specified reversion requirements apply not only to trial courts but also to district courts of appeal.

^{vii} On October 8, 2020, modifications were made to require a court to determine if a “change in court operations” is necessary when the court no longer meets one or more of the other benchmarks required for the phase and to add a definition for the phrase “change in court operations.”

^{viii} On November 9, 2020, Phase 3 was modified to specify that an effective vaccine be adequately available, and the provision providing for the relaxation of protective measures in that phase was deleted. The Phase 3 benchmark that previously required continual operation in Phase 2 for one month prior to proceeding to Phase 3 was deleted.

References to the Chief Justice and the supreme court were included in the requirements and guidelines governing phase transitions. Additional non-substantive language clarifications were also incorporated. Further, on November 19, 2020, “and in use” was added to the new description of Phase 3.

^{ix} On December 17, 2020, the report was modified to disallow the use of a face shield in lieu of a face mask and to authorize the adoption of policies allowing clear face masks and cloth face masks that have clear plastic panels. Further, on December 21, 2020, language requiring face masks to completely cover the nose and mouth was modified to expressly clarify that it applies to all face masks, whether opaque or clear, and to add that all such face masks must fit snugly around the nose, chin, and sides of the face.

^x On March 24, 2021, modifications were made to provisions relating to remote work to conform to changes made in the administrative orders governing court operations and health and safety precautions during the pandemic. Additionally, the report’s footnotes were converted to endnotes.

^{xi} On May 6, 2021, the report was modified to: move the description of a “courthouse” from an endnote to the beginning of the report as a definition and clarify it to expressly refer to jury assembly rooms and judicial officers; create a definition at the beginning of the report for “in-person court proceedings”; uniformly use the term “courthouse” throughout the report; remove references to employees working remotely; provide that cleaning and disinfecting protocols and certain self-isolation and quarantine requirements shall be in accordance with CDC guidance; remove the health screening requirements that were applicable to security points for screening before entering a courthouse; limit social distancing and face mask requirements to in-person court proceedings; and make conforming amendments throughout the report for the aforementioned modifications.

^{xii} The COS met with two medical professionals to discuss their professional opinions related to precautions courts should take in order to open their doors to the public and conduct in-person proceedings: Erin Kobetz, PhD, MPH, Professor of Medicine and Public Health Sciences at the University of Miami Miller School of Medicine, and Cindy Prins, PhD, MPH, CIC, CPH, Clinical Associate Professor in the Department of Epidemiology at the University of Florida College of Public Health and Health Professions and College of Medicine. The Subgroup extends its thanks and appreciation for their invaluable input and expertise.

^{xiii} The CDC’s guidance as of May 6, 2021, recommending at least six feet for social distancing has been included in this report. Staff of the Office of the State Courts Administrator will routinely monitor the CDC guidance and notify the chief judges of the appellate and trial courts of any significant changes in the future.

^{xiv} The data source for the daily number of new positive COVID-19 cases, daily number of hospitalizations for COVID-19, and daily number of emergency department visits for COVID-like illness is: Florida COVID-19 Case Line Data from the Florida Department of Health, <https://open-fdoh.hub.arcgis.com/datasets/florida-covid19-case-line-data/data>. The data source for the daily percentage of positive tests based on the total number tests is: Daily county reports from the Florida Department of Health,

http://ww11.doh.state.fl.us/comm/_partners/covid19_report_archive/. The data dictionary for these sources may be found at: Florida Department of Health, <https://fdoh.maps.arcgis.com/sharing/rest/content/items/efffb9350de948ac9d67f9d74190413d/data>.

^{xv} In using the positivity rate data for purposes of determining whether to transition to Phase 2 or 3 or for reversion, as discussed later in this document, the percentages may not be rounded to the nearest whole number.

^{xvi} Due to the lower rates of testing in smaller counties, positivity rates can be significantly increased by only one or two positive test results. To account for this effect, the methodology authorizes counties having 20 or fewer new cases weekly for the most recent two-week period to consider the hospitalization and ED visit measures instead of positivity rates.

^{xvii} In current practice, courts are required to file their Continuity of Operations Plan and other emergency preparedness plans with the General Services Unit.

^{xviii} In the case of a multi-use building, these requirements and guidelines are not intended to govern activities inside of the separate offices of other constitutional officers.

^{xix} Any signage used should (at a minimum) be in English and Spanish and shall comply with the Americans with Disabilities Act.

^{xx} As used in this report, the term “face mask” refers to face masks that completely cover the nose and mouth and that fit snugly around the nose, chin, and sides of the face as recommended by the CDC here: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html> and <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.

^{xxi} The CDC’s website describes face shields as having gaps below and alongside the face that allow respiratory droplets to escape. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>.

^{xxii} The CDC’s website states that it does not recommend face shields and goggles as a substitute for face masks. *Id.*

^{xxiii} CDC guidance on cleaning and disinfecting public spaces, workplaces, and other public locations is available here: <https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html>.

^{xxiv} CDC guidance on people who need to take extra precautions is available here: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.

^{xxv} The Workgroup recognizes that law enforcement’s primary responsibility is the provision of security. Court employees and law enforcement/security officers shall make reasonable efforts to enforce these health and safety requirements and guidelines, consistent with the local operational plan and judicial direction as applicable.

^{xxvi} Benchmark 3 for Phase 2 applies in both Phase 2 and Phase 3.