

Testimony of Kristyna S. Mills, Jefferson County District Attorney

First I would like to thank the Senators involved in these committees for your commitment and effort in conquering the important task of re-opening our court systems during this unprecedented global pandemic. Your labor is much appreciated by the attorneys, court staff and litigants who all play a huge role in the administration of justice in our state.

Jefferson County is a largely rural upstate county of approximately 110,000 people. We have been fortunate during this pandemic to report only approximately 230 positive cases to date. Our courts began slowly re-opening in June and we empaneled our first grand jury in the second week of July. Thanks to our wonderful Commissioner of Jurors, we were able to implement a plan that allowed for the social distancing of our grand jurors within our current grand jury room. We have purchased hundreds of clear face shields to allow the jurors to view the facial expressions of the witnesses who testify. This foray into grand jury during these difficult times has been extremely successful and we have had relatively few problems.

We have approximately 22 town and village justice courts in our county and these courts are starting to open and work to clear months of backlog. Each court appears to be adhering to social distancing guidelines and all parties are working in conjunction with one another to ensure that the wheels of justice continue to turn.

We are also currently working on a plan to resume jury trials before the end of the year. This is a huge undertaking as this county does not have adequate court space to use existing facilities. We have identified a second courtroom that may be utilized to virtually televise trials so that they remain "open to the public", as the jury will take over most of the gallery seating in the current courtroom in order to adhere to social distancing guidelines.

Unfortunately, we do not have a smart courtroom allowing for the digital presentation of much of our evidence. We are working to attempt to come up with a solution that minimizes the handling of evidence such as photographs and documents, however, without a smart courtroom and the ability to project these images on a screen large enough to be viewed by the jurors who will be scattered about the courtroom, this continues to be an enormous challenge. The cost of providing binders containing these pieces of evidence to each juror (assuming that we can overcome the question of when the evidentiary foundations for the admission of these items will be laid) will be substantial and it is currently unclear as to who will bear that burden. Furthermore, it remains unclear how actual physical evidence will be presented such as guns, drugs and other objects that routinely get admitted during the course of a trial.

Additionally, we have not considered the ramifications of a witness being unable to appear during the course of a trial due to the pandemic. Remote testimony is a possibility if we can ensure that the witness is in a secure, private location so as to not be influenced by others in the room, however, not all areas of our county are equipped with the technology and high speed internet capabilities to allow this to happen. Furthermore, even if a witness is available for in person testimony, we do not have enough space in our current witness waiting rooms to ensure proper social distancing. As such, the scheduling of witnesses will have to be staggered in such a way that will likely slow down the process of the trial.

Furthermore, the witness stand and witness waiting rooms will have to be cleaned between each witness which will also cause some delay. Additional court staff may be needed to facilitate this.

Furthermore, there remains grave concerns about the availability of both jurors and potential witnesses who are currently at home with school aged children who are attending classes remotely. It is anticipated that it may be difficult to secure attendance of these individuals. And if a juror, witness or participant in the trial becomes ill during the course of the trial, it is unknown the ramifications that their need to quarantine will have on the outcome of the trial. And certainly any time issues because of the pandemic should not be chargeable to the People for speedy trial purposes.

While we recognize the need to ensure justice and to keep the court processes moving, these are some of the concerns we are currently grappling with. Thank you for your consideration on these very important issues.

Yours truly,

Kristyna S. Mills
Jefferson County District Attorney