



Recent Responses to COVID-19 by the Judicial Conference of the United States and Select Courts Within the Federal Judiciary (December 2020)

December 23, 2020

This Insight provides information related to recent responses to Coronavirus Disease 2019 (COVID-19) by the [Judicial Conference of the United States](#), the [United States Supreme Court](#), and other select courts within the [federal judiciary](#). The responses discussed below have occurred since September 1, 2020. A [previous Insight](#) provides information about responses that occurred in June and July of 2020. [Another Insight](#) provides information about some of the initial responses to COVID-19 by the federal judiciary.

This Insight is not intended to provide a comprehensive overview of policies and practices adopted by each federal court or judicial entity in response to COVID-19. The information provided in this Insight may be superseded by new information from that which is described below.

Judicial Conference of the United States

The Judicial Conference of the United States is a 26-member policymaking body for the federal court system. The Conference, comprised of the Chief Justice of the United States and other federal judges, meets twice each year to “[consider administrative and policy issues](#) affecting the court system, and to make recommendations to Congress concerning legislation involving the Judicial Branch.”

The Conference held its regularly scheduled [biannual meeting](#) by teleconference on September 15, 2020 because of travel limitations caused by the COVID-19 pandemic (the Conference also held its March 2020 session by teleconference). During its September meeting, the Conference received a report on changes to court operations in response to COVID-19. The pandemic report “[focused on](#) actions taken since the Judicial Conference’s last meeting in March 2020 when courts were beginning to leave courthouses and establish remote work environments.”

Congressional Research Service

<https://crsreports.congress.gov>

IN11561

United States Supreme Court

The U.S. Supreme Court, which began its current term on October 5, 2020, [announced](#) on September 16, 2020, that it would hear all oral arguments scheduled for its October session by teleconference. The Court [stated](#) that “in keeping with public health guidance in response to COVID-19, the Justices and counsel will all participate remotely.” The Court also noted that its building remains closed to the public until further notice.

The Court subsequently [announced](#) it would also hold its November and December sessions by teleconference, [as well as its upcoming January session](#). During the teleconference sessions used to hear oral arguments, the Court provides a live audio feed to a media pool. The pool participants have “[in turn provide\[d\] a simultaneous feed for oral arguments to livestream on various media platforms for live public access](#).” The Court itself has continued, during the COVID-19 pandemic, to post on its website the [audio recordings](#) and [transcripts](#) of oral arguments held by teleconference (the Court also provided such materials during past terms when holding in-person oral arguments).

U.S. Circuit Courts

In response to COVID-19, at least some federal appellate courts have also opted to continue conducting oral arguments by video-conference or teleconference. For example, the [U.S. Court of Appeals for the Fourth Circuit](#) ([comprised of](#) Maryland, North Carolina, South Carolina, Virginia, and West Virginia) [announced](#) on September 21, 2020, that it was suspending in-person oral arguments during its October argument session. The court stated that the three-judge panel sitting for each case would determine whether a case would be scheduled for argument by video-conference or teleconference, considered by [submission on the briefs](#), or continued to a later argument session.

The Fourth Circuit subsequently announced that in-person oral arguments for its [December](#) and [January argument sessions](#) are also suspended (no such session was [scheduled for November](#)).

Examples of other federal appellate courts that have suspended in-person oral arguments in response to the COVID-19 pandemic and opted for audio or video conferencing include the [D.C. Circuit](#) (which issued a new [standing order](#) on September 4, 2020, related to oral arguments); the [Ninth Circuit](#) (which also [released the results of a survey](#) on the “positives and negatives” of video and audio conferencing during the pandemic); and the [Seventh Circuit](#) (which [announced](#) on November 10, 2020, that the court would use video and audio conferencing for oral arguments scheduled through April 30, 2021).

U.S. District Courts

In response to the challenges that the COVID-19 pandemic presents to the conduct of jury trials, federal district court judges have “[reinvented](#)” the jury trial “[so that](#) it is not only a fair forum for the administration of justice, but also a safe experience for everyone in the courtroom, including defendants and jurors.” Some of the changes that judges have implemented [include](#) “reconfiguring courtrooms and jury deliberation spaces to allow at least six-feet of social distancing . . . the strategic placement of plexiglass barriers, vetting prospective jurors for health vulnerabilities . . . reliance on technology to present evidence, and the constant cleaning of furniture and surfaces.”

Additionally, by October, all but a few of the U.S. district courts had “[returned to](#) the use of grand juries—the groups of citizens who meet behind closed doors to judge the strength of a prosecutor’s evidence.” For example, the [U.S. district court for New Mexico](#), with concerns over case backlog and the potential risks associated with “[keeping defendants](#) in unsafe conditions while in custody,” resumed grand jury proceedings on May 6, 2020. The court implemented several new policies, including using large jury assembly rooms in an effort to provide for safe social distancing.

More recently, however, in response to a national increase in COVID-19 cases, some U.S. district courts have again suspended jury trials (as well as grand jury proceedings). Specifically, the “[surge in new court orders](#) in [November] mark[ed] a significant pause in efforts by federal courts to resume full operations.” Examples of U.S. district courts that recently issued orders or notices that suspended jury trials and/or grand jury proceedings include those in [Connecticut](#); [Maryland](#); [Minnesota](#); [New Jersey](#); [New Mexico](#); and the [Southern District of New York](#).

Author Information

Barry J. McMillion
Analyst in American National Government

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS’s institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.