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# The New Normal:

## EBR District Attorney Adaptation to Pandemic



**MAY 2020**

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Louisiana and the United States saw the outbreak of the novel coronavirus quickly transform the State and much of the country to a paralyzed stop. The Centers for Disease Control and Prevention emphasized the need to engage in “social distancing” and avoid group settings in order to combat the spread of the virus. Quickly announced restrictions, imposed or suggested, become more and more stringent for the community and the criminal justice system.

Courts suddenly found themselves canceling hearings, trials, and conferences. As news and circumstances rapidly evolved, the Courts in East Baton Rouge Parish began to accommodate bills, briefs, and filings electronically. Judges and court staff made adjusted to gathering size and close contact restrictions by arranging emergency arguments via video or telephone. The District Attorney’s Office worked quickly to allow staff to safely work from home, all the while being mindful of constitutional and safety issues for those involved in the criminal justice system.

There is a remarkable amount of flexibility in the system and in the implications of our constitutional rights when it comes to disasters, such as waiving delays and prescription, right to speedy trial. These measures effectively put many cases on “pause.” But, those of us in the trenches of the criminal justice system are still left with a difficult question. In this public health crisis, what do you do with those whose cases, because of an emergency are on hold, but who, nonetheless, are left in jail? Do you release pregnant, homeless, mentally ill inmates who are drug addicted, many with no home, no transportation, and no health care or keep them incarcerated while the virus subsides? With much of State effectively shut down, re-entry barriers have only increased.

These are tough calls that needed to be made. It is a balancing act between the need to continue to detain rightfully held arrestees to ensure the safety for our community versus the public health benefits of a lower jail population which also, in these extraordinary times, protects the safety of the community, arrestees, and law enforcement. It is often times called for making decisions that under normal circumstances would not have been made or would have been made differently.

We recognized early in this emergency that the answers to these questions would only come from collaboration among all of our criminal justice partners. Once restrictions and closures began to take form, each of my prosecutors worked with their counterparts at the Public Defender’s office to reach consensus on which defendants could be safely released back into the community under these extraordinary circumstances. The Public Defender’s Office compiled lists of several cases for prosecutors in my office to review for pre-trial release. Our joint recommendations to the Court led to an historic low in

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the jail population in East Baton Rouge Parish. Led by the Courts, our system found new and innovative ways to conduct proceedings. Despite its official closure, the 19<sup>th</sup> JDC presided over approximately 20 emergency closure dockets. Over 400 arraignments and case dispositions were accomplished through these dockets that were all done remotely. The open lines of communication among criminal justice agencies and advocacy groups proved invaluable during this time as well. Officials at the Parish Prison provided daily updates on the jail population and health conditions inside of the jail. The East Baton Rouge Criminal Justice Coordinating Committee, led by Executive Director Chris Csonka, hosted weekly calls that allowed for criminal justice agencies to report on the progress and challenges of their respective responses to the pandemic.

As the community slowly resets, the District Attorney's Office has examined what our offices and the criminal justice system may look like as we return to business and the "new normal" of 2020. Lessons were learned from the great flood of 2016 in East Baton Rouge, and our office applied those lessons during the readjustment period as the virus wove through the fabric of both the community and the justice system. When the court system eventually re-opens, our services will be needed even more. In response to the extended court closure, we anticipate a significant backlog of cases and extensive litigation including the possible re-trials of defendants impacted by the recent Supreme Court decision in *Ramos*. To effectively meet the demands that are forthcoming and to ensure the safety of our community, it is imperative that my office secure funds to replace the anticipated loss of revenue resulting from this pandemic.

No one currently knows what the financial impact will be on the criminal justice system, but we can work together anticipating needs and make productive changes as we adapt to the new normal. In consideration of the potential financial impacts of this pandemic, my office looked at six years of historical data between 2014 and 2019. More specifically, we considered the financial impacts of the business interruptions caused by the Great Flood of 2016. In addition, we looked at the effects that the closures had on our March 2020 finances. As a result, we estimate a total potential loss in revenues of approximately \$1,520,000 in 2020.

Ultimately, we all play a role in protecting the human race. We do not want to be in a position where our health systems have to make life and death decisions because of a lack of resources. Much has been learned from our local criminal justice response to the COVID-19 pandemic. There is also much that remains to be done. During the closure period, the overwhelming majority of our citizens abided by the law and followed all suggested restrictions. Unfortunately, a very small number of our citizens continued to commit serious violent crimes including homicide, domestic violence as well as gun crimes. We also unfortunately saw an increase in overdose deaths. No doubt, it will be difficult work to catch the system up once this crisis passes. But, at the end of the day, the criminal justice system will endure and we should work to sustain the

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good work done by all stakeholders during this crisis. The citizens of East Baton Rouge Parish should be proud to know of the collaborative efforts that all of the members of our local criminal justice system including the courts, prosecutors, public defenders, clerk of court, parish prison staff, law enforcement agencies, and the Mayor-President. All worked on a daily basis with much risk and personal sacrifice to ensure that our criminal justice system continued to function for all involved.

This document is a “living” document, highlighting current best practices in the prosecution of the East Baton Rouge criminal justice system. Prosecutors are encouraged to continue developing this guide by contributing information on emerging best practices as we all adjust to society and the criminal justice system’s new normal.

A handwritten signature in black ink, appearing to read "H. Hall", written in a cursive style.

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## Section 1.0 Introduction and Purpose

- 1.0.1 The goal of this document is to assist the prosecutor and staff in preparing to face the issues that arise when a pandemic or other public health emergency impacts the criminal justice system. This resource will provide the District Attorney's Office with practical suggestions and legal authorities as the DA's Office works with the Courts and defense attorneys to keep the justice system open during a pandemic.
- 1.0.2 This guide is narrowly focused on the response of the District Attorney's Office. It examines the response of this office, taking guidance from the Office of the President of the United States, the Office of the Governor of Louisiana, the Louisiana Supreme Court, and the Department of Health and Hospitals.
- 1.0.3 The document was created with assistance provided by the First Assistant, Tracey Barbera, the Chief of Administration, Jermaine Guillory, the Chief of Litigation, Dana Cummings, and each of the DA Section Chiefs. A special acknowledgement to Domestic Violence Section Chief, Melanie Fields for her drafting and editing of this document.

## Section 1.1 Terms and Definitions

- 1.1.0 Administrative Procedure Act is found in R.S. 49:950 *et seq.* R.S. 49:950 *et seq.*
- 1.1.1 "Agency" means each state board, commission, department, agency, officer, or other entity which makes rules, regulations, or policy, or formulates, or issues decisions or orders pursuant to, or as directed by, or in implementation of the constitution or laws of the United States or the constitution and statutes of Louisiana, except the legislature or any branch, committee, or officer thereof, any political subdivision, as defined in Article VI, Section 44 of the Louisiana Constitution, and any board, commission, department, agency, officer, or other entity thereof, and the courts.
- 1.1.2 "Communicable disease, isolation, report to state health officer, and quarantine" are found in R.S. 40:18 *et seq.*
- 1.1.3 "Public Health Emergency Plan" guidelines may be found in R.S. 29:764.
- 1.1.4 "Isolation" means the physical separation and confinement of an individual or groups of individuals who are infected or are reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals. R.S. 29:762.

**"Moore emphasized that his office, along with local law enforcement agencies like BRPD and EBRSO, will still pursue violent crime, including domestic violence cases during the pandemic."**

WAFB By Liz Koh | April 21, 2020 at 4:43 AM CDT - Updated April 21 at 1:41 PM



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## Section 1.2 Office Personnel

- 120 Staffing: Court operations are expected to phase in slowly (with jury trials being the last phase). *See La. Supreme Court Order, dated 22 April 2020*: “No civil or criminal jury trial shall commence in any Louisiana state court before June 30, 2020.” Accordingly, the District Attorney’s Office will stagger the staff in the office and in court, to address modified dockets. Thus, even when the “stay-at-home” order is lifted, some staff may still be working from home when possible. The office may also be able to stagger staffing needs to assist those employees who now have children at home due to school and summer camp closures.
- 121 Both to minimize office personnel exposure, and to provide staff for continuing operations in the event employees must self-quarantine due to COVID-19 exposure, the District Attorney has placed an on-site maximum capacity of staff for each section or unit during the Governor’s order of Phase I reopening.
- 122 Since our closure period, foot traffic at all of our offices has been extremely limited. Cleaning, including sanitizing, at our main office is being done on each workday in accordance with CDC guidelines.
- 123 At this time, no additional access restrictions to the main office are anticipated. When any employee appears at an office site during this emergency order, COVID-19 workplace preventative guidelines should be followed. Information relating to the safety of our workplace and all employees’ well-being will be conveyed in a timely and accurate manner. These are difficult and unprecedented times for our office. All of us should be encouraged and appreciative of our collective efforts in meeting this challenge.

## Section 1.3 Lessening Public Contact

- 130 Both the District Attorney’s Office and the Courts have updated equipment and software to allow all employees to work remotely. However, there is a current need for Digital files rather than paper files. It is therefore, recommended that all law enforcement agencies upload all reports to CASE 365 when cases are referred for prosecution. The District Attorney’s Office will establish a procedure for digitally flagging Heroin, Gun, and felony Domestic Violence cases for District Attorney review.
- 131 The Check Department will initially accept packets via mail only in order to limit personnel contact with the public. The Restitution Department will initially accept payments only via mail or over the phone in order to limit personnel contact with the public.
- 132 Further, Traffic Court usually consists of extremely large dockets and it is recommended that those already scheduled, be reset for smaller dockets to limit public exposure, as well as requesting law enforcement agencies to limit the dates provided to traffic offenders going forward. The District Attorney’s Office will receive traffic citations using Digital options rather than the current procedure of Hand Delivery.





## Section 1.4 Remote Work for Staff

- 1.4.0 It is recommended that each section consider breaking staff members into two teams, with each “team” working from home one week and working at the office the next. This measure would better allow for physical distancing in the cramped office setting.
- 1.4.1 The Families First Coronavirus Response Act (FFCRA) is effective April 1, 2020-December 31, 2020. All EBRDA employees are eligible for two weeks of paid sick time for specified reasons related to COVID-19. Employees employed for at least 30 days are eligible for up to an additional 10 weeks of paid family leave to care for a child under certain circumstances related to COVID-19. Effective April 4<sup>th</sup> and through the duration of any closure period relating to COVID-19, comp. time will only accrue after the completion of 40 *actual* work hours during a work week.
- 1.4.2 When working remotely, all employees must log in to “Fingercheck” and properly document working hours and assignments completed.

## Section 1.5 Investigators

- 15.0 Currently investigators may obtain any evidence that is needed; however, entry into evidence buildings are not permitted. Investigators must order the evidence and meet an officer outside who will deliver it to the investigator. NO evidence may be returned at this time, so it is important to only order that evidence that is particularly needed. Investigators must work with attorneys to prioritize need.
- 15.1 If a defendant’s Rap Sheet is not in CASE365 when the digital file is created, investigators may obtain the information from Omnix. Investigators must save the document at a Word document. Then they must upload the document, properly identified, into the Media and Documents tile of CASE365. After uploading, they must open the document and change the

font size to 9 points. This will create the document that employees regularly see and understand. It is important, going forward, for all employees who cannot see a Rap in the designated tile, to first look in the Media and Documents tile before assuming that the defendant's rap is nonexistent in the digital file.

## Section 2.0 Courts

- 2.0 The District Attorney's Office has incorporated *Microsoft Teams* such that each section may determine the practicality of its use in our current criminal justice system. Sections have already begun having team meetings. This technology may also be utilized by the Courts to better facilitate status conferences and other necessary meetings.
- 2.0.1 Implementation of text or kiosk systems that many agencies already utilize (e.g. Social Security Office and Urgent Care Centers utilize an electronic kiosk check in and then customers are called back to see someone without human interaction) would be beneficial for either the Courts or for the District Attorney's Office, to prevent personnel and public close physical contact.
- 2.0.2 If the District Court chooses to separate hearings of "in-custody" defendants and those who are no longer in custody for all physical appearances, the District Attorney's Office may adjust attorney appearances to accommodate and lessen staff exposure.
- 2.0.3 It is recommended that the criminal justice system, as a whole, make modifications to limit physical contact for the safety of those served and of the public servants that work daily to keep the system current. For instance, it is suggested that defendants are permitted to pay fines and fees electronically or to request more time for payment via electronic or text messaging. It is suggested that defendants, community partners, and bond and probation supervisors be allowed upload or email proof of compliance to the Court. Efficient review would exist if community partners provided proof in real time, (i.e. the defendant just completed the course and slack/team message sent to all parties with proof of completion).

## Section 2.1 Billing and Working with Digital Files

2.1.0 On 15 March 2020 the filing room of the District Attorney's Office began creating digital case files. The office began creating digital files of the expedited or "in custody" cases. The roll out of digital files was then expanded to include bonded cases,

misdemeanor summons cases, juvenile case, and finally pretrial diversion cases.

**File room creates Digital/Physical file in CASE 365**

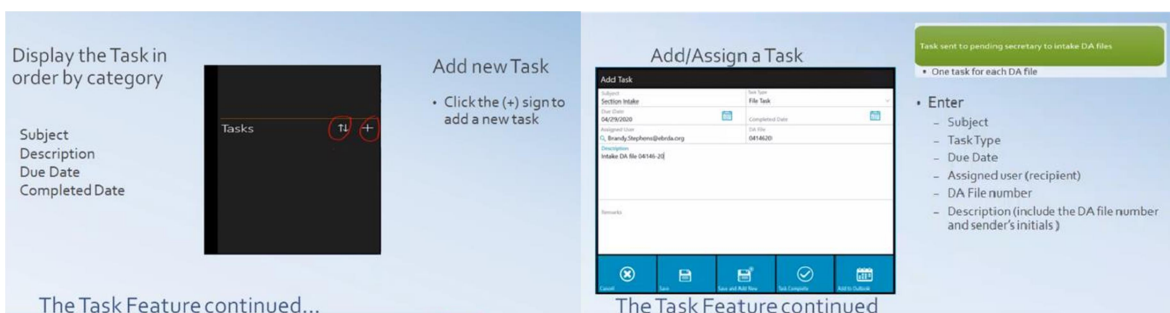
- Uploading all Reports to the DA file
- This includes, expedited scans, agency reports, LA Driving, etc...
- Above listed reports will be uploaded to the Agency Tile
- Other correspondence/work product should be uploaded to the Media and Documents Tile and labeled accordingly including:
  - Bonds
  - Gun review forms (work product gun notes)
  - BOI
  - Petitions
  - Disc, etc.
  - Example 04203-20

**File Creation Process**

**Agency File Tile**

**Media and Documents Tile**

- 2.1.1 The CASE365 “task” feature is to be used by all employees to communicate for each individual file the “tasks” needed to be completed before (and after) a case may be formally billed. The task feature is found on the CASE365 home screen and appears at the bottom right corner. This feature needs to be refreshed each time new tasks are included in a file. The task feature may only be seen by employees when CASE365 is open and visible on a screen; therefore, it is necessary for all employees to check CASE365 daily. Tasks will appear in three colors: Yellow indicates a “pending” task, Red indicates an “overdue” task, and Green indicates a “completed task.” All tasks should also be entered in the “notes” or other appropriate sections of the CASE365 digital file, as when the originator deletes completed tasks, they are permanently deleted from CASE365. Also, tasks only appear on the screen of the person the task was assigned; therefore, the only way for attorneys and others to know about the progress of the case is to notate these tasks within the notes or other appropriate sections of the digital file.



- 2.1.2 Billing worksheets may be completed by typing directly into the worksheet or by individual attorney’s printing and handwriting. When a worksheet is completed, it along with a designated “task” should be sent to the Pending Secretary. Worksheets should be sent to section secretaries via email—as only digital documents will be used going forward. Once completed, the section secretary will return the digital document to the ADA for signing.
- 2.1.3 All documents such as discovery, medical, etc. must be uploaded to the CASE365 digital file. These documents must be properly labeled, as they currently go in the “media and documents” tile. Attorneys, investigators, and VACs may enter personal notes that are considered “work product” into their respective tiles, but at this time, documents may not be entered into those tiles.

## Section 2.2 Formal Filing

- 2.2.0 It is expected that formal filing of all cases will resume 18 May 2020 as the Governor’s stay-at-home order expired 15 May 2020. The Courts will set arraignments based upon the date of filing. Depending upon the volume of backlogged filings, each section may stagger the filings to prevent heavy arraignment dockets; however, each section is to diligently work to delete all backlogs in a timely manner.

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- 2.2.1 Secretaries are encouraged to maintain a paper copy of each bill in a date expandable as a “tickler” to check for appearance dates. This method will allow for our office to make certain all formal bills are set for arraignment within time delays.
  - 2.2.3 The 19<sup>th</sup> Judicial District Clerk of Court has not instituted digital filing as of this date. Until they institute digital filing, paper copies of the formal bill of information or indictment must be filed.
  - 2.2.4 All documents such as discovery, medical, etc. must be uploaded to the CASE365 digital file. These documents must be properly labeled, as they currently go in the “media and documents” tile. Attorneys

## **Section 2.3 Misdemeanor Cases**

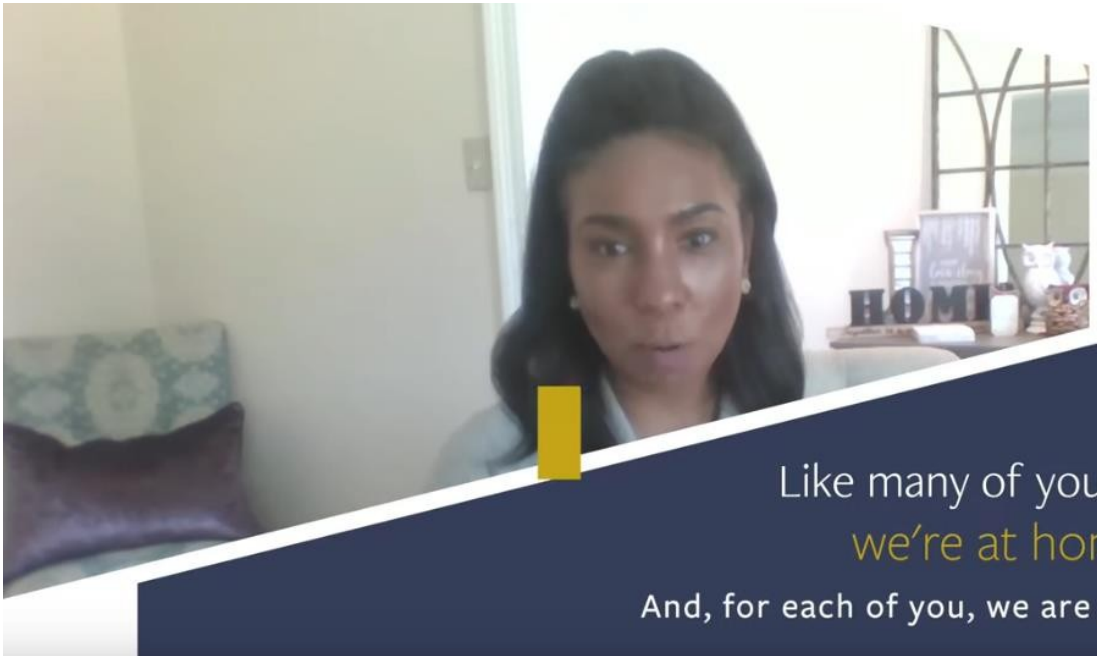
- 2.3.0 Prosecutors have been working with defense attorneys to settle as many misdemeanor cases as possible. Attorneys are encouraged to continue to look at mitigation and to make referrals to Pretrial Intervention (PTI) when appropriate.

## **Section 2.4 Arraignments**

- 2.4.0 The Court is set up electronically to allow for video arraignments; however, concerns have been expressed as to a defendant’s constitutional right to consult with counsel at this critical stage. Prosecutors are encouraged not to oppose defense counsel requests to appear on behalf of client on misdemeanor arraignments, without substantial cause.

## **Section 2.5 Public and Attorney Access**

- 2.5.0 All attorneys currently have the ability to appear remotely from their office issued laptops. The District Attorney’s Office will set up computers in a couple of available offices for victims and/or other witnesses to use to remotely appear and for possible interviewing by office staff while respecting continued concerns about “social distancing.”



Like many of you,  
we're at home, too.

And, for each of you, we are still working.

## Section 2.6 Motions

2.6.0 Assistant District Attorneys will work with defense attorneys to determine which motions lie and require specificity in order to provoke a hearing. When a testimonial motion is necessary, attorneys will work with one another and the Courts to schedule and make witnesses available.

## Section 3.0 Section Trials

3.0 All file work is to be accurately documented by ANY person working on a file within CASE365. It is imperative that our digital files are accurate and up to date.

30.1 Due to not only the backlog of cases, but also due to the number of cases that must be reassigned due to the closer of court, all attorneys are encouraged to re-examine their files for any possible, reasonable and just dispositions while keeping public safety in mind. Code of Criminal Procedure Art. 562 addresses the Use of Simultaneous Audio-Visual Transmission for Certain Proceedings. Of note, attorneys should pay particular attention to:

D.(1) A defendant who elects to appear at the proceeding by simultaneous audio-visual transmission in accordance with the provisions of this Article and enter a plea of guilty or nolo contendere *shall submit to the court a form signed by the defendant and, if represented by an attorney at the proceeding, by the defendant's attorney*, stating that the defendant waives his right to be physically present at the proceeding and that he has been addressed by the court and informed of his rights pursuant to Article 556 or 556.1. The form shall allow for the defendant to sign, or initial where appropriate, each element of the waiver of rights set forth in Article 556 or 556.1.

(2) The defendant and, if represented by an attorney at the proceeding, the defendant's attorney may sign, or initial where appropriate, the waiver of presence as set forth in Paragraph A of this Article and the waiver of



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rights form as set forth in Subparagraph (1) of this Paragraph by use of an electronic signature as defined by R.S. 9:2602. The court, by local rule, shall provide for the method of electronic signature to be used to ensure authenticity of the electronic signature.

(3) The law enforcement agency who has custody of the defendant at the time of the proceeding shall obtain the fingerprints of the defendant for purposes of Article 871. The fingerprints may be taken electronically or in ink and converted to electronic format.

## Section 3.1 Document Redaction and Signing

3.1.0 *Foxit Software* is available to all staff. *Foxit Software* is a reliable source for fast, affordable, and secure PDF solutions. This software is provided for secretaries, attorneys, and investigators to properly redact evidence prior to providing discovery. Employees may search and redact any PDF document. Once the redaction is applied, however, it cannot be undone, so prior to redacting, employees are encouraged to copy and save—redacting the copy. *See Appendix for one page of rules and suggested redactions.*

3.1.1 Attorneys are providing IT with signatures for anticipated electronic signing of preapproved documents. Original bills and indictments must currently be hand signed.

## Section 3.2 Jury Trials

32.0 The District Attorney's Office is working with Jury Management to determine protocols for obtaining juries while keeping public health and safety and economic impact concerns in mind. Attorneys will need to be cognizant of jurors' availability and health concerns and must be vigilant to ensure that the jury panels reflect a fair cross-section of our community.. The office is working with the Court to determine venue for *Voir Dire* that would allow for social distancing. Prosecutors should also be mindful of frustrations and concerns of potential jurors when presenting *voir dire*, evidence and even argument. Too much repetition renders the presentation frustrating rather than compelling.

32.1 As health and safety concerns and negative economic impact for jurors continue, it is expected that the 19<sup>th</sup> Judicial District will limit the number of jury trials from its regular schedule. Thus, all section attorneys are asked to prioritize cases based on 1) prescription issues, 2) custody versus bonded, 3) witness availability, etc. The Chief of Litigation will assist in coordination of priority cases for jury trial. Attorneys are expected to have trials available and ready to go in order, as no scheduled trial time should be wasted due to lack of prosecutor preparation.

32.2 The new normal also forces attorneys to rethink the presentation of evidence. Photographs and all other evidence should be published digitally. There are obviously some pieces of evidence for which that is not possible. In those instances, the prosecutor, the witness, the minute clerk and each juror should handle the evidence with gloves. The court deputy while wearing gloves should distribute the gloves to the jurors, hand off the evidence at arm's length and then dispose of the gloves after the publication is complete. Hand sanitizer should be available to jurors throughout the process.

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## Section 4.0 Grand Jury

- 4.0 Grand jury proceedings with the current grand jurors should be less affected by Covid19 than jury trials because the District Attorney's Office, through our grand jury coordinator, has developed a trust relationship and has continued to communicate with the grand jurors. The largest obstacles will be grand jurors missing more work to attend grand jury after being out of work for six or seven weeks, and grand jurors falling ill or being exposed to someone who has the virus. These issues may be addressed through the continued communication and reassurance through our grand jury coordinator
- 4.0.1 The grand jury coordinator will communicate with the group to relay the plan that we develop to enable them to be socially distant from each other and everyone else when they appear each week. Additionally, they will be assured that their areas will be disinfected prior to their arrival. Masks, gloves, and sanitizer should be available for grand jurors at all times. The jury coordinator and anyone else having close contact with the grand jurors should wear masks. Prosecutors should follow the same rules suggested herein for jury trials for presenting and handling evidence.
- 4.0.2 The courtroom in which the grand jury proceedings are held is secure and roomy enough to accommodate social distancing. Because the deliberation room is not large enough to enable the grand jurors to distance themselves, it is suggested that the assistant district attorney presenting each case leave the grand jury courtroom at the close of the evidence removing all of the evidence and the case file and allowing the grand jury to deliberate in the courtroom. The attorney may wait in the hallway or in what would normally be the deliberation room until a decision is reached. If reportable action is taken by the grand jury, they shall be escorted to the appropriate courtroom to provide the return.
- 4.0.3 All attorneys must provide the First Assistant with a list of cases, dates of arrest, and specific witnesses for each case, that need to be presented to the Grand Jury. Attorneys should expect to be given a date and time for hearings based upon prescription and scheduling to allow officer witnesses to testify as to more than one case on any given day.

## Section 5.0 Domestic and Dating Violence Offenses

- 5.0 During this unprecedented time in our history residents of our parish and State are being advised to shelter in place to slow the spread of the COVID-19. Unfortunately, this means that for survivors/victims of domestic or dating physical and/or sexual abuse, they may be sheltering in place with the perpetrator.
- 5.0.1 Current statistics indicate that law enforcement calls for service involving domestic and dating violence have held steady in East Baton Rouge Parish—with approximately 25 – 30% of all calls involving domestic violence. However, while the overall stats indicate no significant increase in DV, there appears to be a slight increase in violent calls involving weapons and batteries.
- 5.0.2 Taking lessons from during and after the 2016 flood in East Baton Rouge parish, it is expected that after the “stay at home” order has been lifted, domestic and dating violence reports may increase. Factors such as economic stress, home education of children, receipt of stimulus checks, and overall fear of returning to public life and possibly catching the COVID-19 virus may factor into further violent episodes within family homes.

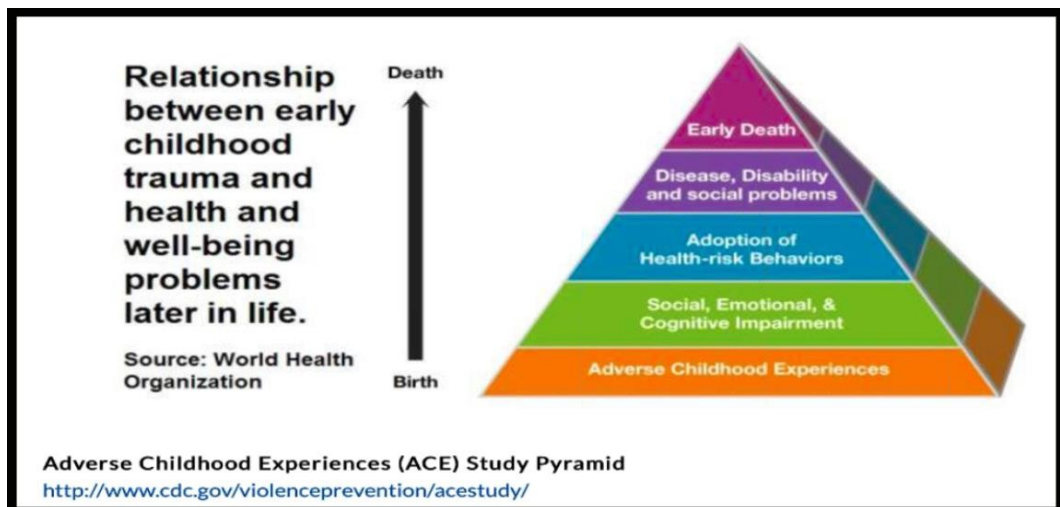


- 5.03 Sometimes danger is in the most intimate spaces. COVID19 is a recipe for stress and disorder. Service providers indicate that there is a decline in service calls due to the inability to call because the abuser is still home with them, but most believe calls will increase when the shelter-in-place is lifted. Isolation is the tool abusers use to increase power over their victim. Firearms are part of this troubling scenario. Research are 2 ½ times more likely to be held by a partner with a gun, than being shot, stabbed, or killed by a stranger. As stay at home orders were being rolled out, gun sales rose.
- 5.04 Firearm Removal/Retrieval in Cases of DV: Gun Relinquishment Protocols
- 5.05 Employees are advised that abusive partners may withhold necessary items, such as hand sanitizer or disinfectants. Abusive partners may share misinformation about the pandemic to control or frighten survivors, or to prevent them from seeking appropriate medical attention if they have symptoms. Abusive partners may withhold insurance cards, threaten to cancel insurance, or prevent survivors from seeking medical attention if they need it. Programs that serve survivors may be significantly impacted —Survivors may fear entering safe shelter because of being in close quarters with groups of people. Survivors who are older or have chronic heart or lung conditions may be at increased risk in public places where they would typically get support, like shelters, counseling centers, or court. Travel restrictions may impact a survivor’s escape or safety plan – it may not be safe for them to use public transportation or to fly. An abusive partner may feel more justified and escalate their isolation tactics.
- 5.06 Victims should be encouraged to have a phone accessible at all times, so that they may call or text for help. Victims should be encouraged to teach children how to get help. Victims should be encouraged to alert friends and neighbors to their situation and give them a code word or signal to get help when needed. Victims are encouraged to call or text 911 during an emergency or contact the DA Victim Assistance for guidance when able.
- 5.07 All victims should be interviewed by VACs for safety planning.
- 5.08 Prosecutors should document historical abuse in CASE365. Prosecutors should look up historical abuse documented in Family Court filings. Prosecutors should follow protocols outlined in the Stop-the-Loss Initiative when it is launched.

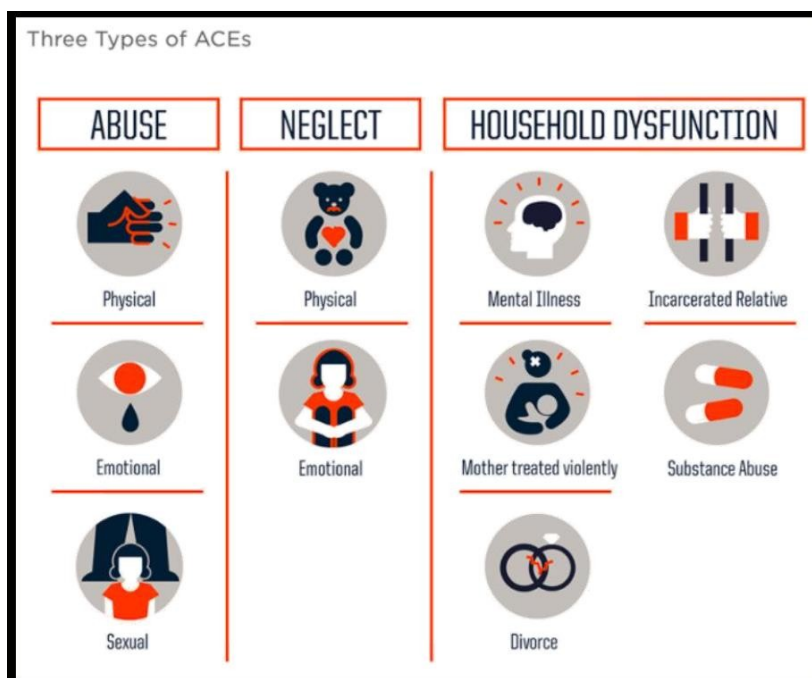


## Section 6.0 Sexual Assault and Child Abuse Offenses

- 6.0 East Baton Rouge Parish has seen an enormous drop in incidents of child abuse. Teachers, counselors, and coaches are not seeing children and are not there to identify abuse. Our mandatory reporters are not seeing children. But, we know abuse still exists. Multi-disciplinary Team meetings are still occurring. If any ADA is aware of a child abuse case, they are to notify the Section Chief of Sex Crimes and provide or seek information as to the individual MDT.
- 6.0.1 Children identified as having experienced child or sexual abuse, are still being referred for forensic examinations by the Child Advocacy Center.
- 6.0.2 While children are not as vulnerable to COVID-19, they are vulnerable to abuse. 1 in 7 children experienced child abuse and neglect nationwide in 2019. Adverse Childhood Experiences (ACE) cause health and mental health consequences.



- 6.03 There are three types of ACEs. If an individual has four or more of these, they are more likely to have long term physical health problem such as heart disease, diabetes, etc. Prolonged exposure to trauma triggers physiological changes in the brain. This causes brain shrinkage, problems with memory, learning and behavior. Risk factors such as children younger than age four, special needs that increase caregiver burden, social isolation, intimate partner violence, parenting stress, community violence, and neighborhood risk factors (poverty, unemployment, high density of alcohol and drug abuse, etc.) contribute to child abuse.

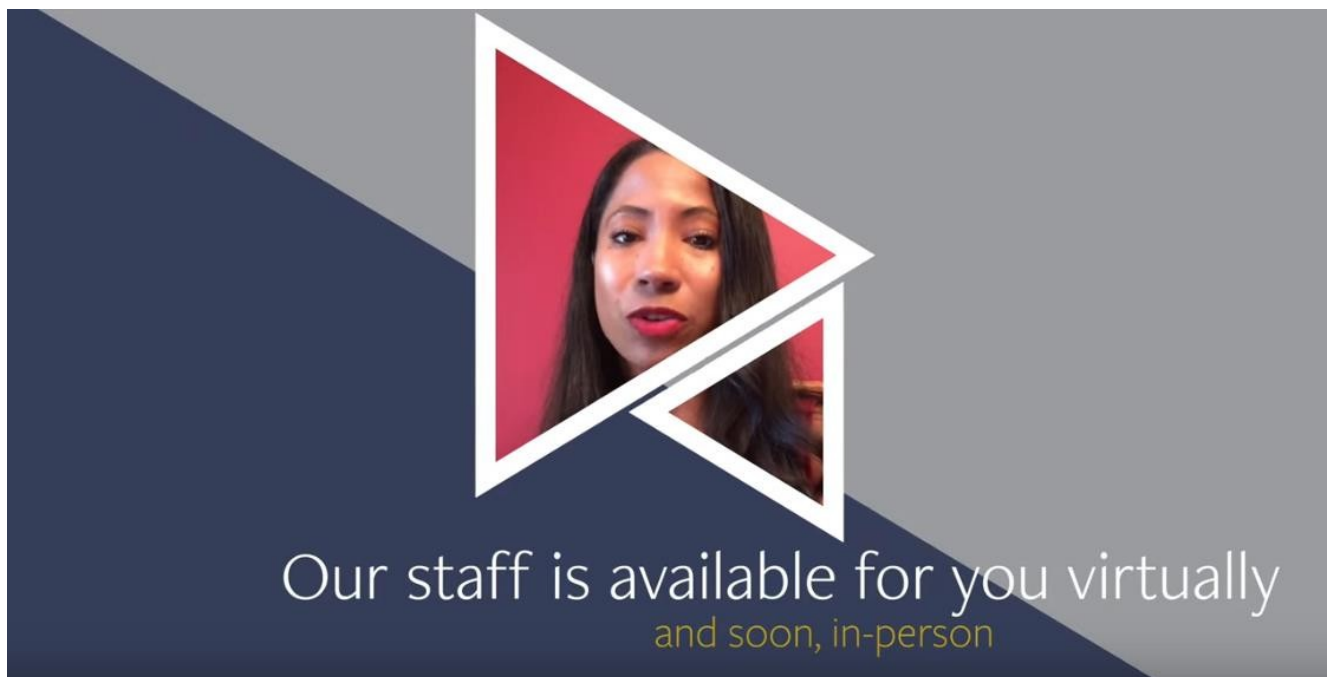


6.04 COVID19 has created a perfect storm for child abuse. Mental health issues, substance abuse and domestic violence have all increased during the pandemic. Protective factors for children include a safe, stable, and nurturing relationship. To support children and families during this new normal, employees may encourage family members and educators to look for injuries while a child is on camera. Look for lack of eye contact—to observe stress. Listen to a child and pay attention to behavioral abnormalities.

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## Section 7.0 Victim Advocacy

- 7.0 Victim Assistant Coordinators (VACs) have maintained contact with victims through use of personal cell phones, using *Google* link during this time. This contact includes keeping victims updated, checking on their safety and making sure they have been signed up with DOC for notifications.
- 7.0.1 During duty weeks, contact is made within 24-hours of the crime, resources are provided, including information regarding the criminal justice system and safety planning.
- 7.0.2 During COVID-19, responding to hospital victims has posed more challenges. VACs are not getting referrals, which means many victims may be missed, who could benefit from services of the Hospital Violence Intervention Program. Post-COVID-19 the hospital VACs will identify victims without referrals and make contact at the most earliest convince for the victim. Going forward, all work will be done remotely to maintain social distancing, including phone contact and video calls.
- 7.0.3 All victims are offered the opportunity to sign up through the District Attorney's office electronic notification that is sent out via CASE365 once set for that victim.
- 7.0.4 VACs will work to ensure no cameras capture victim image or audio recording during livestream interviewing.
- 7.0.5 All victim engagement must be accurately entered into EmpowerDB for grant reporting purposes and statistics analysis. As attorneys do not have access to Empower, all important information must either be entered into CASE365 under the VAC tile, and/or emailed to the individual attorney. *See Appendix for Protocol to Document Confidential Information*



## Section 8.0 Transportation Issues for Witnesses

- 8.0 VACs and investigators must screen witnesses needing transportation for COVID-19 symptoms or exposure. If DA transportation is not available for an essential witness, public

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transportation, Uber, or Lyft may be considered, but costs must be pre-approved by either the Chief of Administration or the Section Chief.

## **Section 9.0 Juvenile Court**

- 90 Although both State and Federal timelines have been suspended to an extent at this point, the District Attorney's Office is still working to prioritize youth in detention and children placed in DCFS custody. Attorneys continue to work hard to keep DCFS cases in compliance with federal requirements.
- 90.1 During the COVID-19 closure, Juvenile Court has been using Zoom on a daily basis to handle DCSF and detention cases. Noticeably, the amount of time spent on Zoom is significant. For example, on one day the court held six (6) detention hearings and four (4) appearances. These cases took four (4) hours on Zoom.
- 90.2 Juvenile Court has been able to facilitate a large number of parents and caregivers to participate by phone/video. Defense attorneys and case workers are working hard to get invites to Zoom meetings to parties involved, so they are able to participate. However, there is difficulty when parents/families do not have phones or change numbers so quickly and often.
- 90.3 There is expected to be a tremendous backlog of cases when court reopens. Juveniles in detention and awaiting trials, will be immediate priority. The DA, VAC, secretaries, and investigators will initially need to focus entirely on these cases. The investigators are expected to spend more time in the field trying to locate and serve with the backlog and reassigning of cases. It is anticipated that the public will be even less willing to allow investigators into homes or speak with them.

## **Section 10.0 Family Law**

- 10.0 The District Attorney's Family Law section will reorganize the waiting room to comport with "social distancing."
- 10.0.1 The section will alter appointment times to reduce the number of clients in the waiting room.
- 10.0.2 The office will explore virtual signing of documents in accordance with State and Federal law.

## **Section 10.1 Family Law Case Initiation and Assessment—Intrastate Cases**

- 10.1.0 The District Attorney's Family Law section will reschedule appointments of AFDC, FITAP and "mandatory medical" referral cases. It will also reschedule appointments for applicants to sign and ADA to notarize paternity affidavit(s).
- 10.1.1 Staff will transition to phone interviews in lieu of in-office interviews of applicants.
- 10.1.2 There is an anticipated expectation of an influx of child support applications/referrals.

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## **Section 10.2 Family Law Case Initiation and Assessment—Interstate and Intergovernmental Cases**

- 10.2.0 The District Attorney's Family Law section will reschedule canceled appointments due to COVID-19 office closure.
- 10.2.1 Staff will also schedule appointments for new UIFSA cases. Staff will address the backlog of UIFSA correspondence and document(s) request.

## **Section 11.0 Bail or Bond**

- 11.0 As to bail and C.Cr.P article 313 hearings, our jurisdiction historically has not complied with the requirements of La. C.Cr.P. Art 320 *et seq.* As we move forward into our “new normal,” this may be an opportunity to address compliance with the courts. It is suggested that arguing that a judge's finding of probable cause in a Domestic Violence case necessarily implies the defendant poses a danger or threat to the victim and thus an LPOR is required.
- 11.0.1 If an LPOR is ordered as a condition of bail, the Court shall initiate a firearms inquiry for possible firearms transfer. This form shall be delivered to EBRSO.
- 11.0.2 All section attorneys are asked to document any position taken during the closure period with respect to bond reductions. This information should be scanned or otherwise uploaded to CASE365 and could include correspondence with the judge and defense attorney. This documentation in the digital file will ensure continuity of position in the office.
- 11.0.3 If a staff member is billing an out of custody case, the bill must have the bond ID number on the bill. This number is printed, not written on the bond.
- 11.0.4 Per usual requirements, the address given by a defendant on his bond, must be the address reflected on the Bill of Information.

## **Section 12.0 Pretrial Intervention (PTI)**

- 12.0 Essentially our Pretrial Intervention programs will have to build from scratch, as this department has virtually been closed during the COVID-19 shut down. However, it is the intention of the District Attorney that this office become fully operational once the closure is lifted.
- 12.0.1 PTI is an opportunity afforded primarily, but not exclusively, to first-time offenders of non-violent crimes. In design, its objective is to potentially eliminate or deter future criminal activity through evaluations, education, counseling, treatment, drug screens, and other proven methods and best practices. In short, before enrollment, a lengthy interview process takes place, which includes an explanation of all expectations of the individual and each document.
- 12.0.2 The primary purpose of the initial interview is to review the facts, examine the cause of the offense, and provide a viable course of action. In some cases, it is just kids being kids, but in other cases the problem is much deeper. Unfortunately, face-to-face is the best method of determining these things. Body language speaks volumes, and the ability to monitor reactions to certain questions is especially important. There is nothing cookie-cutter about the process and these interviews take time and preparation.
- 12.0.3 In the initial meeting, every responsibility the individual will have over the course of the next six to twelve months will be outlined, including dates, times, places, maps, websites, phone



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numbers, email addresses, etc. The abundance of information provided, in great detail, during this process obviously leads to an abundance of questions. However, the more time, effort, and information given at this initial sign up, the fewer questions and problems that occur over the duration of the program.

- 1204 The “new normal” will permanently change the way PTI operates. More phone or web-based enrollments will prevent accurate read of body language and may limit appropriate questions. It is expected that this change in intake procedure will equate to less compliance, more emails, more calls, and questions.
- 1205 Procedural changes will affect DWI enrollments the most. The DWI process has historically taken place in group settings with 30-40 individuals per enrollment. Currently a lengthy process it is great for enrollment and compliance, since the more people in the room, the more questions get asked. Social distancing, no groups larger than ten, etc. will require PTI to do the same things five times versus one. Basically, it will take thirty hours to do something that was done in five or six, and much longer if these things have to be done on an individual basis, through the web or on the phone.
- 1206 A large portion of the people served through PTI are college students as there exists LSU, Southern, and BRCC in this jurisdiction. Students from Culinary Schools, Lake Nursing Programs, Votec Schools, Diesel Driving Academy, etc. are also served by PTI. These students typically work at restaurants or the food service industry. Most of the people served have been unemployed for at least six weeks or longer.
- 1207 In addition, arrests, summons, and traffic violations have been down for at least two months which equal less cases, and less enrollments. PTI clientele is primarily hourly waged employees. For this reason, it is expected that moving forward, scheduling will also be an issue. If clients spend 2 hours at the PTI office, those are two hours the client is not getting paid. It is foreseeable that PTI will have to offer night and weekend enrollments to give clients the ability to get as many hours in on their job as possible.

## Section 13.0 Appellate

- 130 The Appellate Division, generally, does not deal with victims. Similarly, investigation is a rarity. But the division will be affected in big post-conviction cases. The average appellate attorney in the office is in court 1-2 times a month for hearings, so social distance concerns are not as prevalent. Exposure generally comes as supplemental support when an attorney is called over for emergencies. Moving forward, Appellate Attorneys may text or call with the information needed, unless the section attorneys need Appellate attorneys to argue it.
- 13.0.1 Oral arguments are being affected and will be for the foreseeable future. It is tough to continue to prepare for important arguments only to have them delayed. Arguments in February are now scheduled for June and are scheduled via Zoom. That format prevents attorneys from face to face contact with the LASC. This procedure hurts as a practical matter because the court wanted to hear the issue firsthand.
- 13.0.2 Appellate delays are final and when one is missed, the case is concluded. There are no second chances. Thus, it is anticipated that a great deal of responses will be due soon after the delays are lifted.
- 13.0.3 This anticipation also does not consider Louisiana’s particular issue with *Ramos* where it is conservatively estimated that hundreds of petitions will be filed.
- 13.0.4 It is anticipated that Appellate will also have to address Constitutional issues that take up time and significant money to be done properly. Furthermore, the issue that may derail appellate is always unforeseen—for instance, a *Cannon*-type issue or a *Montgomery* claim. What happens

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if the 19th cannot field a jury because people do not want to sit next to one another? Are juries being forced to decide a case? What if a juror sits and someone acquires the virus? Does a defendant still have the right to sit at the table with his counsel? Does it matter? Can a witness with the virus testify? Could they do it through audiovisual without violating the 6<sup>th</sup> Amendment? When does the virus no longer matter enough to affect proceedings? These questions continue.

## **Section 14.0 Discovery**

- 14.0 Electronic or digital discovery is encouraged in all cases. CASE365 provides the opportunity for the creation of a discovery file that may be emailed to defense counsel. Attorneys are expected, however, to document via listing, the discovery being provided on the State's Response to discovery requests.
- 14.0.1 When body and in-car cameras are again available, attorneys are expected to continue the previous practice of providing such discovery through Evidence.com.



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# Appendix

- I. Rules and Suggested Redaction prior to disseminating discovery.**
- II. Protocol to Document Confidential Information**
- III. Teams Tip Sheet**
- IV. Zoom Tip Sheet**



## **Victim-Witness Assistance Program East Baton Rouge District Attorney's Office**



### **Tip Sheet**

#### **What is Zoom?**

Zoom is a video conferencing service that facilitates the virtual meetings of people through video and audio conferencing. Zoom can be accessed via desktop computer, laptop, tablet, phone or via phone call. If you have a tablet or would like to use your cell phone, there are apps for all cell phone platforms that you can download.

#### **How do I get invited to the Zoom hearing?**

A link will be shared with you via e-mail. It will contain a link to the Zoom virtual court hearing and a password. Please follow the prompts for entering the password once the link is clicked.

#### **Will the defendant see me?**

Possibly. Some defense attorneys are waiving their client's presence at the hearing.

#### **Do I have to speak?**

The Louisiana Crime Victims Bill of Rights, La.R.S. 46:1841, *et seq.*, provides individuals who are victims of certain crimes specific rights. Victims have the right to be notified and present at any scheduled court proceedings involving the release, plea or sentencing of the accused.

You are not required to speak; however, any desire to speak should be discussed with your Victim Assistant Coordinator prior to the Zoom virtual court hearing.

### **Tips for Attending a Zoom Court Hearing**

- Please mute your microphone. How?: <https://support.zoom.us/hc/en-us/articles/200941109-Attendee-Controls-in-a-Meeting>
- Limit distractions and background noise. Avoid multi-tasking during the hearing.
- If you want to address the Court, be prepared to speak concisely and with the same etiquette that is expected in traditional court proceedings. It is important to refrain from emotional outbursts as this could result in removal from the virtual court hearing.

**Instructions for joining a Zoom meeting by video:** <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

**Instructions for joining a Zoom meeting by phone:**  
<https://support.zoom.us/hc/en-us/articles/201362663-Joining-a-meeting-by-phone>



## **Victim-Witness Assistance Program East Baton Rouge District Attorney's Office**



### **Microsoft Teams Tip Sheet**

#### **What is Teams Meeting?**

Microsoft Teams is an Office 365 product design for team collaboration and work progress monitoring. It includes video and phone calling, electronic chat, teamwork tracking, file storage, and work tracking features.

#### **How do I get invited to the Team Meeting?**

A link will be shared with you via the Meeting Calendar or email. It will contain a link to the Team virtual meeting. If a password is required, it will be included in the link or email. Please follow the prompts for entering the password once the link is clicked. Meeting attendees may join with the provided link:



Anyone with an email address and internet connection may access the call via the browser, simply by clicking the “Join on the web instead” button.

#### **Will the defendant see me?**

No. Microsoft Team meetings are used by the District Attorney's Office as a means of interoffice meetings, so you will only be seen by DA employees.

#### **Do I have to speak?**

The Louisiana Crime Victims Bill of Rights, La.R.S. 46:1841, *et seq.*, provides individuals who are victims of certain crimes specific rights. Victims have the right to be notified and present at any scheduled court proceedings involving the release, plea or sentencing of the accused.

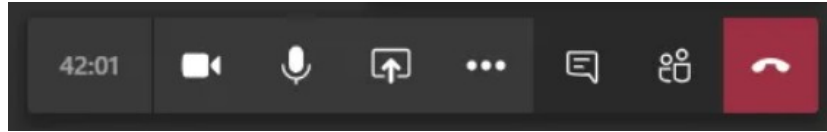
You are not required to speak; however, any desire to speak should be discussed with your Victim Assistant Coordinator prior to the Team virtual meeting.

### **Tips for Attending a Zoom Court Hearing**

- If the meeting includes only one employee and one guest, you may leave your microphone on; however if the meeting includes more than two people or you have children playing in the

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room, please mute your microphone until you wish to speak. You may do this by hovering the mouse on the screen and you will see the bar below toward the bottom of the screen. Simply click on the microphone picture and you will see the icon with a slash through it. Please leave the video on at all times.



- Limit distractions and background noise. Avoid multi-tasking during the meeting.
- If you have papers, pictures, or other evidence you want to share with the District Attorney's Office, please make them aware of the issue and during the course of the meeting, they will instruct you how to do so.

**Instructions for joining a Teams meeting by video:** <https://support.office.com/en-us/article/join-a-teams-meeting-078e9868-f1aa-4414-8bb9-ee88e9236ee4>

**Instructions for joining a Teams meeting by phone:** <https://support.office.com/en-us/article/call-in-to-a-meeting-in-teams-44607421-acae-4481-8c39-d6b40bc5d554>