

ADMINISTRATIVE INSTRUCTION –  
COVID-19 SANITARY MEASURES FOR JUDICIAL HEARINGS

- References:
- A. 1243-1 (SJS DGMSA) CDS/DM Joint Directive – DND/CAF COVID-19 Public Health Measures and Personal Protection dated 1 May 2020
  - B. Annex D to DFHP Advisory 6636-80
  - C. Court Martial Procedures Guide for participants and members of the public dated 31 July 2014 (<https://www.canada.ca/en/chief-military-judge/services/consult-legal-resources/procedure-guide.html>)

1. The intent of this document is to provide guidance to Commanding Officers (CO) who are required to support a court martial. It outlines how court facilities and court participants should be managed during the COVID-19 pandemic. The document describes the strict sanitary measures to be followed to prevent the spread of the virus, considering the restrictions and limitations set out in the references.

2. **Courtroom / Judge’s Chambers / Counsel Offices / CM Panel Room / Witness Rooms.** IAW QR&O 111.12, the CO supporting the court martial is responsible for the provision of adequate accommodation, administration and personnel to ensure that the court martial is conducted in a dignified military manner. Consequently, in this period requiring special sanitary measures, it is essential that the premises where a court martial will be held are adapted to comply with the sanitary and physical distancing requirements set out in the references. Annex A provides details on the management of spaces required in the conduct of a General or Standing Court Martial. The premises include the Courtroom, the Judge’s Chambers, the Counsel Offices, the witnesses rooms and if required the court martial panel room.

3. **Prioritizing sanitary measures.** In accordance with guidance from the Canadian Forces Health Services set out in Annex A of reference A, and reproduced at Annex B to this document, the sanitary measures required are as follows: :

- a. **Administrative control.** Compliance with frequent hand hygiene, physical distancing and cough discipline should be strictly imposed as a duty on all court staff and court participants;
- b. **Engineering control.** Engineering solutions involve such options as the installation of Plexiglas shields or the covering of porous surfaces with waterproof plastic are types of engineering control. In locations where it is not possible to comply with the strict administrative control measures, such as the required physical distancing, such options must be considered and installed;
- c. **Personal Protective Equipment (PPE).** Where strict administrative control measures may be maintained (e.g. 2m physical distancing and hand hygiene) there is no requirement for court participants to wear PPE for a judicial hearing. However, DND approved masks and gloves (if available) must be available by the supporting unit for court staff, as court participants will have been issued their PPE, in the form of masks, by their respective home units and are to be worn in the following circumstances:

- 1) Court staff should wear protective gloves when disinfecting door knobs, the witness table, etc. and
- 2) If a two-metre distancing cannot be maintained for the conduct of their duties, personnel shall wear a DND approved non-medical facemask.

4. **One week prior to the trial.** The week prior to the court martial or the judicial hearing, the Officer of the Court must confirm to the Court Reporter, by email, the following:

- a. That all support staff have completed the COVID-19 Awareness Course when available on the Defence Learning Network (DLN) as required at reference A and that they are aware of the CFHS/DFHP recommendations for required cleaning/disinfection to be conducted twice daily as a minimum (during the lunch adjournment and at the end of the day) with special emphasis on high touch areas such as door knobs, light switches, and horizontal work surfaces, as set out at reference B;
- b. That there is sufficient supply of the following items in the courtroom:
  - 1) Hand sanitizer at the courtroom entrance and a bottle in the courtroom;
  - 2) Protective gloves (if available) and paper towels;
  - 3) Disinfectant (wipes or spray bottle with paper towels) to disinfect the witness desk;
  - 4) Personal Protective Equipment (PPE) for all staff in support to the court;
  - 5) Face masks for all court participants (see Annex C). Note that the non-medical facial coverings are not PPE but a barrier when persons cannot maintain physical distancing of >2m;
  - 6) Confirmation that all court staff have been informed of the required sanitary measures to be complied with, appropriate dress, and advised of the desirability for all staff and participants to bring their own refillable water bottles;
  - 7) Sufficient potable water and glasses are available for all court participants and staff participating in the court martial, in the event that personal water bottles become empty during an ongoing proceeding, or are misplaced or forgotten; and
  - 8) Sufficient soap and disinfectant (including a spray bottle with paper towels) are available in all washrooms.

5. **Possible or confirmed cases of COVID-19.** In the event that any of the court participants or court staff are required to be placed in isolation, the Officer of the Court will contact the local health services to inquire about the procedure to follow. In addition, mitigation efforts must be made to

substitute all porous items which may have been compromised for non-porous items (e.g. cloth covered chairs replaced with plastic chairs) to facilitate cleaning/disinfection. When the substitution of such items is not possible (e.g. carpets, cloth covered furniture) then disinfection in the form of steam/spray must be engaged.

6. **Court participants and witnesses accessing the court facilities.** Except where a separate entry is provided for the military judge, access to the court facilities should be controlled through one entrance to maximize sanitary control measures. All other doors (if any) shall remain locked. In the event that participants, court staff and the public are required to take an elevator, such access must comply with the physical distancing requirements with required limits placed on the numbers of persons permitted in the elevator at a time, and the necessary disinfection. The court staff must also ensure compliance with the following steps for all personnel accessing the court facilities:

- a. If a court participant or a witness is symptomatic, he or she shall not be permitted to enter the court facilities and must be directed to seek medical attention;
- b. All persons entering the court facilities must be directed to use the hand sanitizer available at the door prior to entering. Appropriate signage, as set out in reference B must be posted in both official languages;
- c. Direct all court participants to go directly to their offices;
- d. Court participants should remain in their offices at all times, except when the court is in session or when required to use the washroom facilities; and
- e. The two-metre distancing protocol shall be maintained at all times.

7. **Washroom Facilities.** The intent is to direct the participants to a washroom that meets the Health Canada recommended cleaning protocols. The washrooms to be used are as follows:

- a. The military judge must be assigned a private washroom;
- b. The court reporter, the court staff and the court participants will use washrooms close to the courtroom; and
- c. The officer of the court shall ensure that appropriate sanitary measures are in place, in accordance with base directives, for the use of washrooms.

8. **General sanitary measures in the court facilities.** In conjunction with the other measures already set out in this document, the following measures will ensure distancing is maintained between personnel at all times to prevent unnecessary risk of contamination. They are as follows:

- a. Space counsel tables two metres apart;

- b. Space participant's chairs in order to have counsel, co-counsel and the accused person sitting 2 metres from each other. This may require the addition of tables or the provision of longer tables for counsel;
- c. Install markers (tape) on the floor in front of the desks of all court participants to identify the 2 metres physical distance requirement;
- d. If the public is permitted to attend, space all spectators' chairs and rows two metres apart. Spectators will only be permitted access to the court room to the extent that accommodation permits. In the event that spectator demand exceeds the allowable space, the court staff shall make every effort to provide online or virtual access to the proceedings;
- e. It is highly desirable that all court staff and participants bring their own refillable water bottle;
- f. Restrict the usage of all spaces/offices to the minimum required for the conduct of the judicial hearing;
- g. During adjournments, with the exception of washroom facility use, court participants will be requested to remain in their office;
- h. In order to limit unnecessary travel, all court participants are to be encouraged to bring their own lunches or be provided support in the ordering in of food to be consumed in their respective offices;
- i. If the witness rooms are too small to implement the 2 metres physical distancing, other available spaces must be provided to accommodate the witnesses. Only the number of witnesses that can be accommodated with the 2 metres physical distancing restriction will be permitted in each room;
- j. Every time a door handle is touched or the photocopier is used, it shall be disinfected right away by a court staff using wearing gloves (if available);
- k. Between witness testimonies, the witness table in the courtroom must be wiped with a disinfectant by a court staff; and
- l. Access to the courtroom is restricted to court participants and court staff only. Spectators will be granted access to the proceedings based on seating availability, or via phone connectivity, upon request.

Annexes:

Annex A - Checklists of the spaces/equipment required for the conduct of a Court Martial

Annex B - Personal Protective Equipment (PPE) Guidance

Annex C - CAF – Approved non-medical face masks (COVID-19)

## **COURT MARTIAL (CM) SET-UP CHECKLIST**

The following is a checklist that will help you with the set-up of the spaces required for the conduct of a Standing Court Martial (SCM) and General Court Martial (GCM). It also includes some administrative reminders. Please inform the court reporter ASAP if one of the listed requirements cannot be met.

<p><b>COURTROOM – The Courtroom must be large enough to accommodate a minimum of 2 metres physical distance between each desks.</b> The courtroom must be set up as indicated in the Court Martial Procedures Guide at paragraph 34, with the following items:</p>
<p><input type="checkbox"/> Neutral (without religious signs, unit colours, training aids, unit plaques or trophies, weapon, etc.)</p>
<p><input type="checkbox"/> 5 tables. <b>The judge’s table must be at least 6-feet long.</b> <u>For a GCM:</u> 6 tables. The table for the members of the court martial panel must be long enough to sit 5 people side by side with 2 metres physical distance between them and enough space to take notes and view documents in a binder.</p>
<p><input type="checkbox"/> 7 ergonomic office chairs on wheels (1 at judge’s table, 1 for the court reporter, 2 for the defence, 2 for the prosecution and 1 for the witness). <u>For a GCM:</u> 5 more office chairs for the court martial panel.</p>
<p><input type="checkbox"/> 1 laptop with a mouse connected to DWAN on judge’s table, <b>tested</b> and with the latest antivirus and updates. After the laptop has been tested, the laptop and mouse must be appropriately disinfected.</p>
<p><input type="checkbox"/> 1 network printer close to the court reporter’s table</p>
<p><input type="checkbox"/> DWAN jacks and cables available for counsel and the court reporter tables in courtroom</p>
<p><input type="checkbox"/> Canada and CAF flags</p>
<p><input type="checkbox"/> White tablecloths on all tables if not already skirted (must touch the ground at the front of the table)</p>
<p><input type="checkbox"/> 5 pitchers of water. <u>For a GCM:</u> 7 pitchers of water.</p>
<p><input type="checkbox"/> At least 10 glasses. <u>For a GCM:</u> At least 15 glasses</p>
<p><input type="checkbox"/> Sufficient paper towels to be used for disinfection process and when handling pitchers of water (if gloves not available)</p>
<p><input type="checkbox"/> <u>For a GCM:</u> 5 two-inch binders (not required for a SCM)</p>
<p><input type="checkbox"/> 5 sets of pens, pencils and writing pads. <u>For a GCM:</u> 10 sets</p>
<p><input type="checkbox"/> 1 stapler for the court reporter</p>
<p><input type="checkbox"/> 5 boxes of tissue paper (Kleenex). <u>For a GCM:</u> 7 boxes</p>

<input type="checkbox"/> 2 bibles in a separate clear Ziploc-type bags. <u>For a GCM</u> : 3 bibles in a separate clear Ziploc-type bags
<input type="checkbox"/> 1 clock visible from the judge's table
<input type="checkbox"/> 4 electrical extension cords (1 for each of the following tables: the judge's, court reporter's, prosecutor and defence lawyer's) to connect laptops in the courtroom
<input type="checkbox"/> 1 electrical power bar for the court reporter's recording equipment
<input type="checkbox"/> 1 roll of duct tape to secure the court reporter's microphone wires on the ground
<input type="checkbox"/> Appropriate seating for the spectators, two metres apart
<input type="checkbox"/> Sufficient pitchers of water to refill personal water bottles for all court participants and staff
<b>JUDGE'S CHAMBERS</b>
<input type="checkbox"/> In the vicinity of the courtroom
<input type="checkbox"/> A desk with a comfortable ergonomic-office chair (on wheels)
<input type="checkbox"/> A coat rack
<input type="checkbox"/> A long-distance-enabled phone line
<input type="checkbox"/> A DWAN connection ( <b>tested</b> ) to which the judge will connect <b>own DWAN laptop</b>
<input type="checkbox"/> An electrical extension cord and power bar to connect the judge's laptop
<input type="checkbox"/> A standalone USB printer ( <b>no network printer</b> ) to which the judge will connect own DWAN laptop
<input type="checkbox"/> Printer drivers for the standalone printer <b>on a USB stick</b> (no CD player on judge's laptop). The judge hold administrative rights to the laptop
<input type="checkbox"/> Letter and legal sized paper
<input type="checkbox"/> A stapler, staples and paperclips
<input type="checkbox"/> Writing pads with pen
<input type="checkbox"/> A pitcher of water with a glass
<input type="checkbox"/> A box of tissue paper
<input type="checkbox"/> Chairs for counsel located <b>at 2 metres apart in compliance with the physical distance restriction</b> in event of meetings with the judge in Chambers
<b>JUDGE'S WASHROOM FACILITY</b>
<input type="checkbox"/> A private washroom facility must be reserved for the judge (located in the vicinity of the judge's chambers if possible) with appropriate soap and disinfectant available
<b>COURT MARTIAL PANEL ROOM (when required)</b>
<input type="checkbox"/> Devoid of computers, radios and televisions

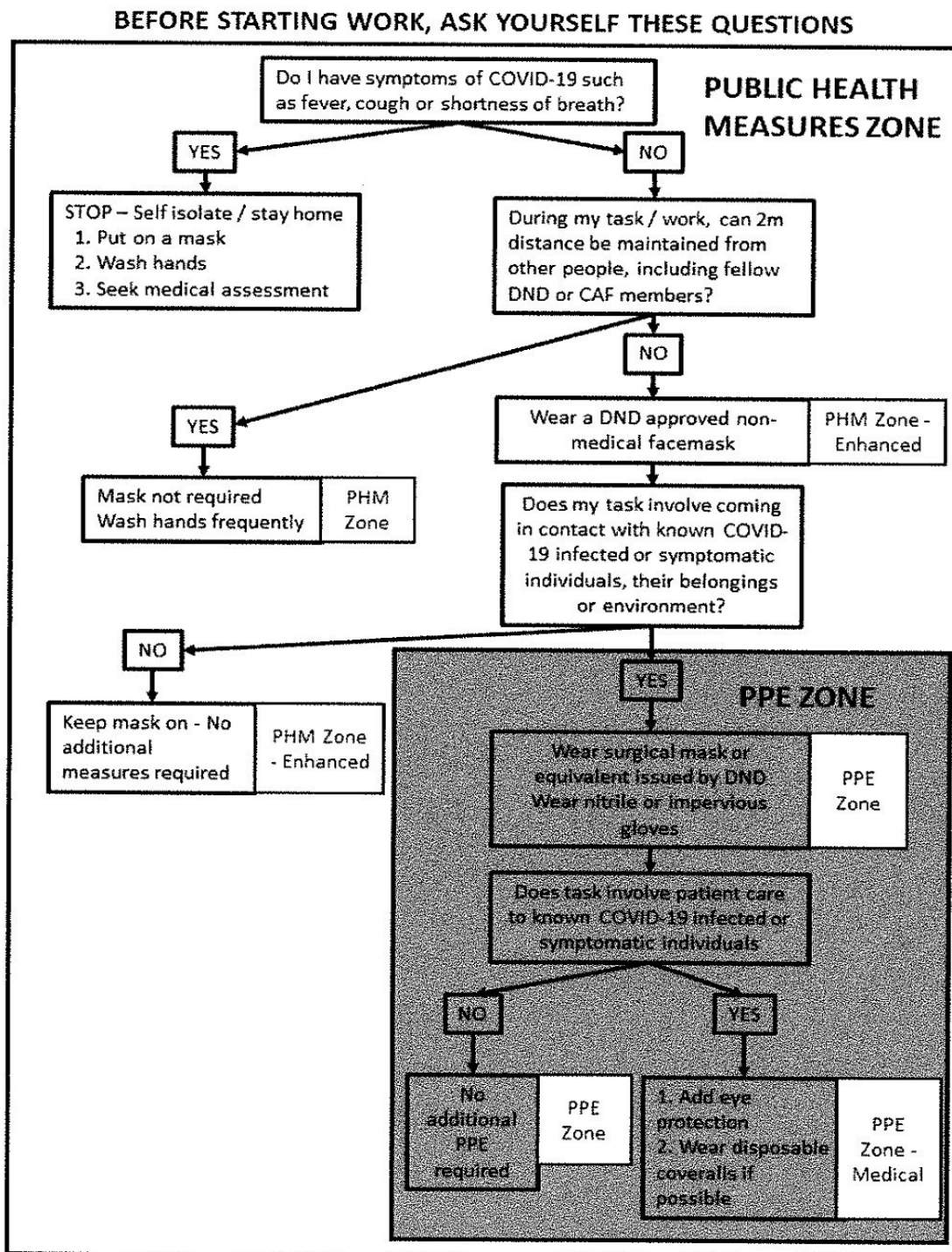
<input type="checkbox"/> 1 table big enough (or 2 tables) to sit 5 people around it with 2 metres physical distance apart, space to write and use binders
<input type="checkbox"/> 7 chairs (5 for the primary panel members and 2 for the alternate panel members)
<input type="checkbox"/> 1 lockable Protected B filing cabinet
<input type="checkbox"/> 1 Protected B lock with keys
<input type="checkbox"/> 1 white board with dry-erase markers
<input type="checkbox"/> 10 envelopes (the standard #10 sized envelopes)
<input type="checkbox"/> 1 stapler with staples
<input type="checkbox"/> 1 three-hole punch
<input type="checkbox"/> 5 sets of pens and pencils
<input type="checkbox"/> 2 coat racks
<b>COUNSEL OFFICES</b>
<input type="checkbox"/> 2 offices (1 for prosecution and 1 for defence counsel)with desks and chairs (counsel and accused person) large enough to have the accused chair in front of the counsel desk at 2 metres physical distance
<input type="checkbox"/> DWAN connections active and tested in each office (with Ethernet cables)
<input type="checkbox"/> Long-distance phone in each office
<b>WITNESS ROOMS</b>
<input type="checkbox"/> 4 witness rooms with chairs (1 for prosecution’s witnesses, 1 for defence’s witnesses and 2 for examined witnesses) large enough to maintain the 2 metres physical distance between each witness
<b>PARKING</b>
<input type="checkbox"/> 1 reserved parking space for the military judge as close to the court entrance door as possible to minimize contact with the public. <u>For a GCM</u> : 2 more reserved parking spaces for the court martial panel members as close to the court entrance door as possible to minimize contact with the public.
<input type="checkbox"/> Sufficient parking spaces should be available for both counsel
<b>GENERAL ADMINISTRATION</b>
<input type="checkbox"/> IT support arranged to be on site the first morning of trial
<input type="checkbox"/> Public Affair Officer contacted
<input type="checkbox"/> Ready access to a photocopier, a facsimile machine and a paper shredder

## **PERSONAL PROTECTIVE EQUIPMENT (PPE) GUIDANCE**

1. General. CAF members serve with greater strength and their families support them with more confidence when they are trained, properly equipped and trust that their kit will permit successful operation in an uncertain environment. The COVID-19 environment in which tasks will be conducted is new and must be managed with an informed understanding of the identified risk levels. Leadership must ensure that the risk and required level of PPE for any particular task is understood. Further, Tactics, Techniques and Procedures (TTPs) are as important as PPE, and their proper execution must be adhered to at all times.

Risk	COA	TTP	Respiratory	Eye/Face	Hands	Body
HIGH	Direct or close contact	Hand Hygiene and distancing where possible	Surgical mask	Balistic eyewear, safety glasses or safety goggles	Gloves (nitrile) or any impervious gloves e.g. latex, butyl rubber gloves, dishwashing gloves, waterproof gloves	Disposable commercial overalls
MED	Handling of contaminated material or contact w/ people not employing counter measures	Hand Hygiene and distancing where possible	Surgical Mask	Balistic eyewear, safety glasses or safety goggles	Gloves (nitrile) or any impervious gloves e.g. latex, butyl rubber gloves, dishwashing gloves, waterproof gloves	Disposable commercial overalls
MED	Not able to maintain 2m physical distance	Hand Hygiene and distancing where possible	CAF recommended mask	Nil required	Nil required	Uniform/environmental clothing
LOW	Physical distancing is maintained	Hand Hygiene and 2m distancing	Nil required	Nil required	Nil required	Uniform/environmental clothing





## CAF-APPROVED NON-MEDICAL FACE MASKS (COVID-19)

### MEDICAL FACE MASKS

Medical grade surgical, procedure, and N-95 masks must be kept for health care workers and those providing direct care to COVID-19 patients.



### NON-MEDICAL FACE MASKS



CAF-approved non-medical masks should be worn for the short periods of time that you are unable to physically distance yourself (less than 2 meters) from others or as directed.

- ▶ Wearing a non-medical mask is an additional measure you can take to protect others around you.
- ▶ Wearing a non-medical mask is another way to cover your mouth and nose to prevent your respiratory droplets from contaminating others or landing on surfaces. Just like our recommendation not to cough into your hands (instead, cover your cough with tissues or your sleeve), a mask can reduce the chance that others are coming into contact with your respiratory droplets.
- ▶ If wearing a non-medical mask makes you feel safer and stops you from touching your nose and mouth that is also good.
- ▶ Warning: Wearing non-medical masks alone will not prevent the spread of COVID-19. You must consistently and strictly adhere to good hygiene and public health measures, including frequent hand washing and physical (social) distancing.

### DONNING OF FACE MASKS



- ▶ Before putting on your mask, wash your hands with soap and water for at least 20 seconds or use alcohol-based hand sanitizer.



- ▶ Put on mask covering your mouth and nose, mould metal piece to the bridge of your nose, secure the elastic loops of the mask around your ears. If your mask has strings, tie them securely behind your head. Make sure there are no gaps between your face and the mask.



- ▶ Do not touch the front of the mask while you wear it. Wash your hands with soap and water for at least 20 seconds or use alcohol-based hand sanitizer if you accidentally touch your mask.



- ▶ Do not remove your mask to talk to others.
- ▶ Do not share mask with others.

### DOFFING FACE MASKS



- ▶ Do not use dirty masks always wash cloth masks between uses.
- ▶ Change the mask as soon as it gets damp or soiled



- ▶ To remove mask, untie bottom tie then top tie, or grasp straps or ear loops.
- ▶ Pull forward off the head, bending forward to allow mask to fall away from the face.



- ▶ Wash hands before and after removing mask.



- ▶ Place cloth masks directly inside a plastic bag until ready to wash, or dispose of masks in lined garbage bin.



- ▶ Cloth masks can be laundered with other items using a hot cycle, and then dried thoroughly before reuse.

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