



U.S. Department of Justice

Justice Management Division

Washington, D.C. 20530

May 18, 2020

To: HEADS OF DEPARTMENT COMPONENTS AND
UNITED STATES ATTORNEYS

From: Lee Lofthus
Assistant Attorney General
for Administration

A handwritten signature in blue ink, appearing to read "Lee Lofthus".

Subject: Department Framework for Returning to Normal Operations Status

This memorandum sets forth the Attorney General-approved framework for Department of Justice components to implement their phased return to normal operations. This framework recognizes that the Department's core operations have continued throughout the COVID-19 pandemic, with critical employees continuing to report to their workplace while others are performing their work from home. The plan also recognizes the unique nature of the Department's law enforcement mission and the need to return prudently to the strongest capacity to fulfill that mission while protecting the health of employees. In doing so we are ensuring the fulfillment of the Attorney General's promise in his March 16, 2020 memorandum to U.S. Attorneys that "the critical mission of the Department of Justice must and will continue. We will ensure that the Department's law enforcement functions operate effectively during this outbreak."

On May 7, the U.S. Office of Personnel Management updated the federal agency operating status to begin a phased transition to normal operations in line with the national "Opening Up America Again" guidelines issued by the White House on April 16, 2020. The Department's phased return to normal operations will follow these guidelines.

Department offices will return to the workplace, in phases, and on different dates, based on the operating status of the states or localities in which they are located, and considering other gating factors such as improvements in the medical situation in each area. The White House guidelines can be located here: <https://www.whitehouse.gov/openingamerica/>.

Gating Criteria

Using data provided to agencies by the Office of Management and Budget (OMB), the Justice Management Division (JMD) will monitor state and local operating status announcements for relevant information on what activities are resuming in each state. JMD will combine this information with appropriate medical trend data provided by the Federal Emergency Management Agency (FEMA), the Centers for Disease Control and Prevention (CDC) and other public sources, and apply it to the gating criteria in the White House guidelines cited above. This

will enable us to identify locations that are approaching the Phase 1 gating threshold (and eventually Phase 2 and 3 thresholds) and provide the data. As locations are identified, JMD will advise Department components that they may prepare to move to Phase 1 operations in the identified locations. (See next paragraph for U.S. Attorneys and DOJ field offices.) At that point components are expected to ready their operations and workforce for their Phase 1 return to the workplace following the criteria below.

With respect to the United States Attorneys' Offices and DOJ field locations, including law enforcement field offices, JMD will provide health trend data (described above) to the Districts through the Executive Office for United States Attorneys (EOUSA). Each U.S. Attorney will review this information, coordinate with the U.S. Court and federal law enforcement in his/her district, and then make a determination that all relevant considerations for Phase 1 (and eventually Phase 2 and 3) thresholds have been met for a successful return to the office. Upon making such a determination, the U.S. Attorney shall certify to EOUSA that all relevant criteria have been considered, that the coordination has taken place, and that it is appropriate to move to Phase 1 operations in the district. At this point, DOJ law enforcement components are expected to follow their own established return to normal operations plans.

JMD recognizes that conditions will vary within states and that some areas of a state may reach the re-opening phase before others. We are prepared to work with components and field offices to provide county-specific trend data and trend data for judicial districts to help inform decisions by U.S. Attorneys and other field office heads to gradually return the workforce to the workplace based on your local conditions.

Continued Flexible Use of Telework and Other Workplace Flexibilities

The White House guidelines for Phase 1 and Phase 2 operations continue to encourage agencies to employ broad telework and scheduling flexibilities, where feasible with business operations. While a gradual return to work is contemplated in the Reopening America plan, continued telework (including maximum telework for certain components or offices) will assist many offices in our efforts to effectively achieve necessary social distancing in the workplace, help employees facing issues with the ongoing closures of schools and day care services, and assist mass transit as employees in urban areas, including the National Capital Region, gradually return to work. Component Heads and U.S. Attorneys should make their workforce return plans with this in mind, as appropriate for their locations.

While telework may continue to be used in Phase 1 and Phase 2 whenever feasible and necessary based on your operations, some offices may need to continue gradually returning some employees to the office in Phase 1 and Phase 2. Particularly for employees not eligible for telework, components should consider phasing those employees back to the office when it is safe and appropriate. Offices should return to normal work conditions in Phase 3.

Law enforcement components, in particular, should consider increasing the presence of their employees in the workplace where they can safely do so in order to more rapidly return to normal operations. For example, where an office is currently staggering shifts of employees in the office, they should consider increasing the number of employees present during each shift

where it can be safely achieved with all necessary precautions such as ensuring social distancing, maximum use of face coverings, etc. Additionally, some components are in specialized locations that may afford staff appropriate distancing from their co-workers. In these circumstances, components have the flexibility to phase necessary staff back to the office as appropriate to meet operational needs.

Where employees are caring for children and other family members under the conditions prescribed by OPM, components may opt to leave evacuation orders in place for employees not required to return to the office.

In all three phases, components should be open to continued flexible use of telework as compared to operations prior to the COVID-19 pandemic, with due consideration for balancing operational needs of having employees in their official workplace. In managing telework and other workplace flexibilities, components must factor in the considerations noted here and in the following section for vulnerable and high-risk employees. These factors are likely to change over time, as we proceed into the different phases.

For areas where a high proportion of employees are reliant on mass transit, it will be important to monitor service changes in the coming weeks. Mass transit systems throughout the country will be implementing various social distancing measures and enhanced sanitization procedures as localities begin to reopen. Telework provides a tool to mitigate local transit constraints until service levels increase. Where component offices are in locations that are not as dependent on mass transit, transit limitations may be less important a factor in decisions to return employees to the workplace.

In addition to telework, components should continue to consider and allow other flexibilities to include alternative work schedules. A component may implement an alternative work schedule for employees instead of a traditional fixed work schedule to help an employee balance work and personal responsibilities and enforce social distancing requirements. Under many types of alternative work schedules, an employee can complete his or her biweekly work requirement in less than 10 workdays. Under other alternative work schedules, the employee may choose to adjust arrival and departure times to accommodate childcare or eldercare issues, avoid transit crowding, or address other pressing issues surrounding the related emergency. Components should discuss options with their employees to help maximize productivity at work, while assisting them in meeting their family and personal needs. For additional information on alternative work schedules, please see [OPM's Handbook on Alternative Work Schedules](#).

Reasonable Accommodation

In addition to the flexibilities discussed above, as operational needs require employees to return to the workplace, some employees may request additional accommodations relating to COVID-19. For example, employees at higher risk for severe illness who cannot telework may request to be reassigned to a telework eligible position, or special office configurations, additional PPE, etc., depending on their underlying medical condition and provided documentation. The Americans With Disabilities Act (ADA) and the Rehabilitation Act require agencies to use the interactive process to consider such requests to determine if the requested accommodation poses

an undue hardship on the agency. In considering such requests (including determining what additional medical information may be requested), components should consult guidance on agency responsibilities posted by the EEOC at <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> and <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>. Additionally, supervisors and managers should consult their servicing EEO staff and reasonable accommodation specialists.

Vulnerable Populations and Those at Higher Risk of Severe Illness

As we gradually return to normal office operations, the Department recognizes that some employees are in vulnerable populations or may be at higher risk for severe illness, or are caring for family members or others in these groups. The CDC provides information about these populations as needing to take extra precautions: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>. Those at higher risk for severe illness include individuals who are over 65 years of age and people of all ages with underlying medical conditions, particularly if not well controlled, including those who suffer from chronic lung disease, moderate to severe asthma, serious heart conditions, immune disorders, obesity, diabetes, or chronic kidney or liver disease should work with supervisors to continue telework. Employees who live with or provide care for vulnerable individuals should be afforded available workplace flexibilities to help reduce the chances that they could carry the virus to these vulnerable individuals. Components should continue to allow telework or alternative work schedules for these employees in Phases 1 and 2, and consider these factors in Phase 3 depending on circumstances present at that time.

Facilities Cleaning

The Department has, and will continue to, work with the General Services Administration to ensure that our workspace is properly cleaned and sanitized. In each instance where the Department has learned that an employee, contractor or visitor has tested positive for COVID-19 and that individual has been in the workplace, steps have been taken to have the affected work area specially cleaned and sanitized. As more employees return to the workplace, care should be taken to frequently clean and disinfect high-touch and high-traffic areas such as elevator control panels, door handles, conference room tables, pantry counters and restrooms in accordance with CDC guidance and using products from EPA's list of approved products that are effective against COVID-19. If an employee/contractor/visitor reports having tested positive for COVID-19 after having been in the office, the area that the positive person works in should be closed off to other staff. If possible, doors and windows should be opened to increase outside air flow into the area. After at least 24 hours, the area traveled by the person should be cleaned and disinfected, including any shared electronic equipment. Cleaning should be per CDC instructions mentioned above, and should not include any type of fogging, which is not known to be effective and is not recommended. After having been disinfected, the area can be reopened for workers to return to work.

Information on cleaning recommendations from the CDC is available at: [CDC Guidance on Reopening Buildings](#). The JMD Facilities and Administrative Services Staff will also separately send out more detailed cleaning guidance. Where JMD manages the facilities contracts, we have

arranged to have our areas cleaned and sanitized following GSA and OSHA recommendations. For GSA-managed buildings and multi-tenant buildings, components should consult with GSA and your local Facility Security Committee to ensure enhanced cleaning is available if needed.

Employee Health and Facility Medical Screening

Employees are expected to take their temperatures each day before reporting to work. Employees running a temperature of 100.4 degrees or higher or experiencing other symptoms of illness should remain home and telework or use sick leave as appropriate. Individuals ill with, or exposed to individuals with COVID-19, should self-quarantine for 14 days. Employees that exhibit signs of illness after returning to their duty location should leave work immediately. Supervisors should remind the employee of his or her leave options, such as: requesting sick leave, annual leave, or emergency leave under the Families First Coronavirus Response Act (FFCRA), if available to the employee. See OPM's Fact Sheet issued on March 3, 2020.

If the employee has no leave available, supervisors are authorized to approve requests for advanced leave or leave without pay in certain circumstances. When an employee opts not to take leave or telework voluntarily, a supervisor may find it appropriate to enforce the employee's use of leave. Supervisors should consult with appropriate human resources (HR) staff and general counsel before taking such a step as enforced leave is an adverse action that imposes procedural requirements (i.e., advance notice, an opportunity to reply, the right to representation, and an agency decision) before actually enforcing the use of leave.

The Department, in accordance with CDC guidelines, will not be conducting temperature screening upon entrance to our facilities, with two general exceptions. First, components are strongly encouraged to ensure visitors to DOJ owned or leased buildings have their temperature scanned with a no-contact device upon entry wherever practicable, and are denied entry if their temperature is 100.4 degrees or higher. Scanning is the preferred approach for visitor screening. Where this is not practicable, Component Heads and U.S. Attorneys may opt to use an oral health questionnaire as the most practicable method to obtain information necessary determine whether the individual may enter the building. The Department will not collect, maintain or share individual temperature information. Components are encouraged to limit building visitors during Phases 1 and 2 where feasible for your particular operations. For JMD-managed buildings in the NCR, JMD will arrange a contract for such screening and will establish a nationwide contract which components may use to acquire screening services. For component-managed facilities, the component is responsible for arranging visitor temperature screening procedures. For multi-tenant locations, i.e., locations where DOJ components are located in a facility with other federal agencies, the local Facility Security Committee will make decisions on temperature screening.

Second, where Department law enforcement components operate their own training facilities and/or other specialized operational facilities (immigration courts, laboratories, canine centers, mail operations, warehouses, firing ranges, etc.), those components, at their discretion, may require temperature scanning and/or testing for presence of the corona virus for all entrants wherever it is likely the population of the facility will have close and frequent contact and social distancing cannot be guaranteed.

Face Coverings

Consistent with the Deputy Attorney General's guidance of April 14, 2020, employees returning to the office in Phase 1 and Phase 2 operations are required to wear face coverings within common areas such as entryways, restrooms, elevators, hallways, and similar locations in Department facilities and workspaces-particularly in traditional office-like settings. Most law enforcement components have supplies of cloth face coverings for staff; JMD can be contacted for face coverings by other components in need of a supply. Employees may also wear their own face coverings. Individuals may remove a face covering when working in a private office, cubicle or workspace where *at least* six feet of social distancing can be maintained. In close quarters, e.g. some SCIF locations, elevators, and generally in all in-person meetings, face masks should be worn if safe distances cannot be maintained. Individuals may also be required to lower their face covering in order to pass through security checkpoints.

This requirement is not intended to alter or supersede any component-specific guidance applicable to workplaces that are not a traditional office setting, such as courts, prisons, detention facilities, and law enforcement operations. Components with such facilities have already directed their workforce to follow guidance that is appropriately tailored to relevant locations and circumstances, consistent with applicable workplace safety requirements and recommendations, and that component guidance should be followed.

Physical Office Arrangements

As employees gradually return, each component must take steps to ensure adequate social distancing in the workplace. Multi-person workstation/cubicle arrangements must be modified to accommodate fewer staff at safe distances, even where workstations have higher dividing walls. Employees should not occupy shared offices (unless the offices are sufficiently large to allow adequate distancing). Staff work schedules may be staggered in order to bring employees into work at different times to avoid breaching social distancing protocols. In addition, elevators should be limited to no more than two people at a time (wearing face coverings while in elevators is required). In-person meetings initially shall be limited to under ten individuals (preferably fewer), and social distancing protocols and cloth face covering requirements must be observed by meeting participants. CDC guidelines will be followed for subsequent phases. We must also continue to use technology to the fullest extent possible to conduct meetings. Common service areas (such as cafeterias, gyms, and conference centers) may remain closed. Components should also post appropriate signage to limit the number of people using a restroom at a given time, based on the configurations in your buildings. Employees may elect to wear face coverings throughout the workplace as they deem appropriate.

Travel and Events

Only essential travel is permissible in Phase 1. Staff traveling to areas that still have significant levels of COVID-19 cases must follow the CDC quarantine guidelines before returning to the office. As more areas open and medical conditions improve, travel between improved areas may be authorized, but travel to significant outbreak areas should be considered only in light of the state/locality operating announcements and, as noted above, travelers are subject to the CDC post-travel isolation guidelines. As a general matter, routine travel for discretionary training,

events, conferences, speeches and the like should continue to be postponed in Phase 1 and Phase 2 (considering both departure points and destinations).

All travelers should comply with guidelines and restrictions imposed by airlines and other carriers, hotels and host meeting facilities.

Department components that arrange conference and training events, particularly grants organizations, should continue to cancel or postpone large events until national conditions permit more widespread travel and close proximity attendance. At this point, we do not anticipate restoration of postponed Department events, or scheduling of in-person new events, particularly large events, to occur in the immediate future. Financial commitments for future events should not be made unless the arrangements allow for cancelation without penalty. In July we will assess whether we can more broadly return to in-person event scheduling and travel.

Coordination with Partners

U.S. Attorneys' Offices, the Executive Office for United States Attorneys, and the U.S. Marshals should continue to coordinate among each other, and with the Administrative Office of the United States Courts and local courts for the phased return to normal operations. Similarly, Department law enforcement components should continue to coordinate between each other on their operations and phased workplace plans in shared localities. Where a partner organizations' guidance differs from the Department's, every attempt should be made to minimize conflicting requirements.

The National Capital Region (NCR)

Given the concentration of Federal agencies in the Washington, D.C. area, we expect some coordination of agency return to workplace plans in the NCR and will issue further guidance on the timing of moving to Phase 1 operations (and later Phase 2 and 3) in the NCR in the near future. In the meantime, components should continue to carry out their operations in a maximum telework posture.

Component Plans

In preparation for the phased return of normal operations as framed in this memorandum, components should consider how to implement their own plans, including decisions on which offices and staff members should return to the workplace first during each phase, modifications that may be necessary to physical office configurations, screening arrangements, and any other issues requiring attention as you phase your operations back to the workplace.

As noted above, JMD will monitor State and local reopening announcements and medical trends, and will share this information as locations appear to be nearing the Phase 1 and Phase 2 reopening stages.

Until our offices reach the Phase 1 criteria, most components will remain in a maximum telework posture (excluding BOP and our law enforcement components), particularly in the National Capital Region. Component Heads and U.S. Attorneys, at their discretion, may evaluate the need for critical front line workers to begin a pre-Phase 1 gradual return to offices where staff

are needed for operations, including operations such as supporting the work of grand juries, petit juries, investigative agencies and immigration courts. In doing so, Component Heads and U.S. Attorneys will consider the relevant medical and other conditions in their area. Further, as stay-at-home and similar relevant restrictions are lifted by state and local authorities, Component Heads and U.S. Attorneys, at their discretion, may permit individuals to return to the office where needed, with appropriate facilities safeguards in place (as outlined in this memorandum), after consultation with JMD to ensure local health conditions warrant.

As the nation moves to return to normal life, the Department is committed to restoring workplace operations in a manner that enables our mission critical responsibilities to be met while protecting our workforce. While this guidance is not intended to address every practical situation that may arise, our framework provides basic guidance that each component can work within to restore normal operations. Where available information is not abundant or consistent, components may need to apply discretion and JMD is always available to discuss such decisions with you.

Continuous Monitoring

The Department will continue to monitor nationwide conditions and medical trend data. If circumstances in a state or locality take a turn for the worse, the Department will assess what steps are necessary to minimize any health or safety risks to DOJ employees.

Thank you for your ongoing support of the Department and our workforce as we have navigated the many challenges presented by the COVID-19 situation. My staff and I will continue to be with you and your Executive Officers every step of the way as we transition back to normal operations. Please let me know if you have questions.