

**COVID-RELATED ISSUES IN CRIMINAL CASES**  
SHEA DENNING, UNC SCHOOL OF GOVERNMENT, DECEMBER 2021



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**ISSUES ARISING IN CRIMINAL CASES**

1. Confrontation rights
2. Right to counsel
3. Speedy trial
4. Fair cross section
5. Statutory procedures

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**RIGHT TO CONFRONTATION**

- Masks and social distancing requirements
  - Does requiring a witness to wear a mask violate a criminal defendant's right to physical confrontation?
  - Does requiring the defendant to wear a mask violate a defendant's right to have witnesses testify in his physical presence?
  - Does social distancing impede a defendant's right to meaningful cross-examination, given that jurors are seated in public gallery?
  - Does the masking of jurors during voir dire compromise a defendant's ability to select a jury?

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**RIGHT TO COUNSEL**

- Does holding a trial during a pandemic interfere with defendant's right to effective assistance of counsel?
  - Counsel's health concerns versus defendant's interests
  - Social distancing requirements

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**SPEEDY TRIAL**

- Do delays associated with COVID deprive defendants of the right to a speedy trial?
- What about statutory deadlines?
  - G.S. 15A-711: Within 6 months of properly filed request, State must request that defendant be returned to the custody of local law enforcement for on the pending charges; if state fails to make timely request, charges must be dismissed

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**JURY POOL**

- Sixth Amendment right to the selection of a petit jury from a representative cross section of the community
  - What if distinctive groups are excused from service in substantial numbers?

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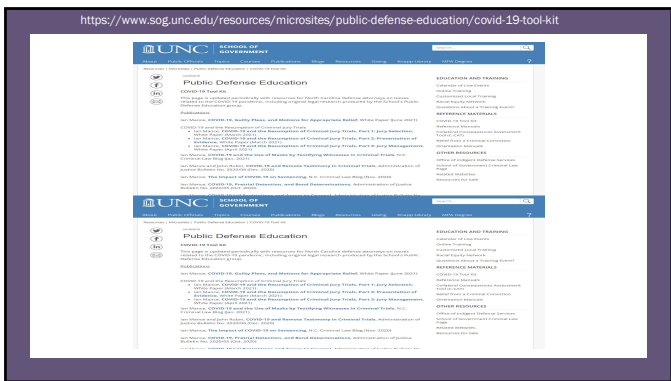
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https://www.sog.unc.edu/resources/microsites/public-defense-education/covid-19-tool-kit



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