



NAPD Best Practice Recommendations and Considerations for

Return to Fieldwork in the Post-COVID-19 Era

Referral Question: How can criminal defense professionals minimize the risk of contracting and transmitting COVID-19 in all aspects of fieldwork while simultaneously striving to provide clients with high quality representation?

In many ways, investigators, mitigation specialists, and social workers are the community faces and ambassadors of criminal defense teams. We have the highest levels of contact with members of the public outside of the office walls. For many in our profession, the field environment is more of an “office” than any brick and mortar structure. Due to the increased work-related exposures, we are at greater risk of contracting and spreading the COVID-19 virus than other team members who primarily work within office settings.

As public defender offices cautiously move towards reopening in various jurisdictions, fieldwork personnel will face the challenge of delivering high quality work product on behalf of clients while simultaneously keeping ourselves, and everyone around us, as safe as possible throughout the duration of the pandemic. “Everyone around us” includes clients and their family members, witnesses, our colleagues, law enforcement and other government professionals, and our own family members and friends in our home communities.

Criminal defense staff members and law enforcement officials face the same level of COVID-19 risks in the field. We work on different sides but interact with the same populations and share the same measure of contact within the community and institutional environments. Therefore, to ensure that clients are well served and not prejudiced by inadequate representation, it will be important to achieve risk mitigation parity on both sides of the justice ledger. Defense investigators, mitigation specialists and social workers are the first responders of the 6th amendment, and our mission is just as essential as any police officer, federal agent, or corrections staff. Failing to ensure our safety will most likely result in poor work performance. Fear and illness are major impediments to competent client representation.



The goal of this taskforce is to develop discussion materials, inspire productive conversations, and provide resources to consider when facing the challenges of conducting fieldwork in the post-COVID-19 world, especially until effective vaccines and treatments are widely available.

The taskforce endeavored to identify ways to mitigate the risk of contracting and transmitting COVID-19 in all aspects of conducting fieldwork. We sought trusted sources of information and researched available Personal Protective Equipment (PPE) options.

Disclaimers:

- We are striving to list suggested practice "recommendations." The final product is not intended to be used for any legal actions, arbitration or to settle in-office disputes. Rather, this document should be used as a tool to help offices and private practitioners consider these complicated matters and guide decision-making.
- The recommendations and suggestions developed in this effort are not meant to replace guidance or expert advice disseminated by the Centers for Disease Control and Prevention (CDC), the World Health Organization (WHO), National Institutes of Health (NIH), and other experts in the field of public health and infectious disease. If your interpretation of anything stated within this document conflicts with the information you receive from medical health experts, please disregard our suggestions, and follow your own understanding of the expert medical guidance.
- The recommendations address broad areas of concern based on the collective duties and responsibilities of investigators throughout the national criminal defense community. Some recommendations may not relate to the responsibilities of investigators in certain practices or jurisdictions. Each circumstance is individual and will require individualized approaches to the implementation of best practices considerations.



Things to Consider Before Engaging in Fieldwork

Create Team Building Strategies

- To address the fears and anxieties of investigators and other staff members who regularly conduct fieldwork, these staff members should be included in the office's decision-making process when developing COVID-19 policies related to fieldwork.
 - How can we prevent anxiety from leading to poor work-product?
 - How can we prevent anxiety from leading to poor interpersonal relations and distrust among colleagues?
 - How do we build trust between decision makers and field staff?
- Other considerations to address when developing an office-wide policy regarding fieldwork:
 - How can we encourage staff members who are less cautious over COVID-19 related fieldwork concerns to accept and adhere to policy decisions?
 - What happens when attorneys and investigators have different opinions regarding the safety concerns of field assignments? How can these matters be resolved?
- **Diversity & Risk Tolerance**: COVID-19 has affected different communities in different ways; therefore, staff members will have differing comfort levels and perceptions of the risks involved with fieldwork:
 - Staff members from communities [disproportionately impacted by](#) COVID-19 may have increased apprehensions. Other staff members from less affected communities may not be as concerned. ([Article](#) – *an interesting piece from the Harvard Gazette*)
 - The responses and opinions of some staff members may be driven by [political or religious ideology](#).
 - How can we demonstrate empathy for all views and prevent the degradation of interpersonal office relationships, while simultaneously helping staff members reach a place where they are not paralyzed by fear of fieldwork?

Identify and Follow Trusted Sources of Information

- [Centers for Disease Control and Prevention](#) (CDC)



- [World Health Organization](#) (WHO)
- [National Institute of Health](#) (NIH)
- [U.S. Food & Drug Administration](#) (FDA)
- [Occupational Safety and Health Administration](#) (OSHA)
- [MedlinePlus](#) (U.S. National Library of Medicine)
- [U.S. General Services Administration](#) (GSA)

Familiarize Yourself with how COVID-19 can be Transmitted

- [Modes of transmission of virus causing COVID-19](#) (WHO)
- [Other developing areas transmission concerns](#) (Mayo Clinic)

Familiarize yourself with the Signs & Symptoms of COVID-19

- [Symptoms of Coronavirus](#) (CDC)
- [Symptoms of Coronavirus](#) (WebMD)

Conduct COVID-19 Vulnerability Assessments

- Familiarize yourself with the [groups at higher risk for severe illness](#) (CDC)
- Considerations to address when developing an office-wide policy regarding fieldwork:
 - How can inquiries into employee health vulnerabilities be made in a way that does not encroach on medical confidentiality?
 - Should we gather information regarding the medical vulnerabilities of staff members' live-in relatives?
 - Should we consider assessing the vulnerabilities of clients and their family members?
- Should we consider assessing the health vulnerabilities of witnesses and develop enhanced standards of care to reduce the risk of inadvertent transmissions?
 - Do whatever you can to prevent vulnerable witnesses from having to travel to provide testimony. Consider video conference testimony, video depositions, videotaped statements, affidavits, and declarations as alternatives to in-person testimony.



- If possible, consider obtaining facemasks with enhanced filtrations (N95, R95, FFP2/3, KN95, PM 2.5, etc.) for interviews that involve medically vulnerable individuals.
- If possible, only send staff members who have been confirmed COVID-19 negative to any “in-person” meetings with vulnerable witnesses.
- If possible, obtain higher quality PPE supplies for those rare instances when in-person interactions with vulnerable witnesses are deemed necessary.

Mitigating Liability Risks and Concerns

- Discuss the possible COVID-19 liabilities risks to your office, practice, and staff members when making decisions about engaging in fieldwork.
 - What are the duties to keep staff members safe?
 - What are the duties to keep witnesses, clients, and other case related players safe?
 - *Scenario Example:* If a staff member who is COVID-19 positive but asymptomatic goes into the field, conducts interviews without wearing a mask, and unwittingly exposes witnesses to the COVID-19, could this be grounds for a civil lawsuit? ...and if so, will the staff member be indemnified?
- **Liability concerns for private practitioners and court appointed contractors:** how can private practitioners consider their possible exposure to third-party lawsuits before returning to fieldwork?
 - Review your General Liability Insurance policy and ask your carrier whether COVID-19 protections are included.
 - Review your Professional Liability Insurance policy (aka, Errors and Omissions Insurance) and ask your carrier whether COVID-19 protections are included.
 - Review your Directors and Officers (D&O) Liability Insurance policy and ask your carrier whether COVID-19 protections are included.
- If your practice has employees, private practitioners should know their possible exposure to Employee Lawsuits:
 - Review your Worker’s Compensation Insurance policy and ask your carrier whether COVID-19 protections are included.



- Review your Employment Practice Liability Insurance (EPLI) policy and ask your carrier whether COVID-19 protections are included.
- Create your own COVID-19 risk mitigation policies that are based on the [CDC](#) and [OSHA](#) Guidance, as well as any Court Guidance that may be available in your jurisdiction. This will demonstrate that you are following the best available standards of care.
- Consult with underwriters, insurance attorneys, professional associations, and fellow colleagues to make sure you are well informed and current on all COVID-19 coverage updates and changes being implemented within the insurance industry.
- In non-court appointed cases, consider contractual clauses that have clients assume all risks.

Contact Tracing Measures

- How can offices and panel attorneys develop systems of logging and/or documenting the names, dates, times, and locations of everyone they encounter during their fieldwork?
 - Logs could include, but not be limited to, in-person interactions with clients, family members, witnesses, and all other case players. Situations and resources may vary, so there probably will not be a one-size-fits-all solution. The important thing is to create a system that works for you. Ask the visitor to provide their state issued ID, and have the ID copied front and back sides. Will contract tracing measures of any kind be required by all offices and staff members?
- Will offices be mandated to report all possible COVID-19 exposures to every client, witness, or other case players following contact with an asymptomatic staff member? ...or will this be the duty of local health officials?
- Consider taking [John Hopkins's five-hour online COVID-19 Contact Tracing course](#) to better familiarize yourself with the required skills.

How can we research infection rates and COVID-19 activity in and around fieldwork location?

- Speak with clients, family members and friendly collateral witnesses for insight.



- Conduct media searches for local COVID-19 information and updates.
- Check online community health information resources, such as [John Hopkins interactive online COVID-19 map](#) (*this is just one of several resources*).
- Check online governmental resources for the status of state/county closures and reopening phase requirements, such as [Husch & Blackwell's site](#). It may be important to weigh the reliability of conflicting information from medical and government sources.
 - *Example #1 – Most states have reopened [without having met the COVID-19 phased reopening criteria](#) publish by [the federal government](#) or [the states themselves](#).*
 - *Example #2, Some states have [questionable methods of calculating their rates of infection](#).*
- Consider partnering with colleagues in other jurisdictions to assist with:
 - Records searches and requests
 - Subpoena service
 - Locating witnesses
 - Witness Interviews
 - Interviews are challenging because of the limited effectiveness of third-party interviewer, the possible existence of potential conflicts of interest, and client confidentiality matters
- What containment measures can be put in place following possible COVID-19 exposure in the field, during air travel, or trips to hotspots?
 - Establish a quarantined workspace within office for staff returning from fieldwork
 - Require staff to telework from home for a period of time following trips and hotspot visits.

What Kind of Personal Protective Equipment (PPE) is Required for Typical Fieldwork?

- Familiarize yourselves with the relevant guidance:
 - The CDC's guidance for [Law Enforcement Personnel](#)
 - The CDC's guidance on the [types and usage of various PPE](#)
 - The CDC's guidance on [cloth face-coverings](#), [surgical and N95 masks](#), and [other masks options](#).



- The CDC's Strategies to [Optimize the Supply of PPE](#)
- GSA's information on [PPE Procurement](#)
- OSHA's [Guidance on Preparing Workplace for COVID-19](#)
- What types of PPE are most relevant to criminal defense fieldwork?
 - [Face masks](#) (Mayo Clinic)
 - [Cloth Face Coverings](#) (CDC)
 - [N95 Respirators-Use and Limited Reuse](#) (CDC)
 - Recommended for medical workers only
 - [KN95 Alternative](#) (NYT)
 - Similar performance to the N95 Respirator
 - More cost efficient & widely available
 - [Face Shields](#)
 - [Hand Sanitizers & Hygiene](#) (CDC)
 - [Disinfectant wipes and sprays](#) (CDC)
 - Gloves
 - [When to wear Gloves](#) (CDC)
 - [Nitrile vs. Latex & Vinyl](#)
 - [Understand how to use PPE](#) properly
 - Consider purchasing and distributing [COVID-19 supply kits](#) among staff members, as long as they are cost effective.
 - Portable waste bags (for used gloves, masks, and other items)
 - [Door openers/Button pushers](#) and Styluses
- Procurement Concerns
 - When is the best time to procure supplies? (*Note: If you are just now asking this question you are probably behind the curve. Supply chains have been strained and orders backlogged. Orders should be made ASAP*)
 - Stay ahead of the curve. Once you begin receiving and distributing PPE materials to staff members, continue placing orders to make sure all PPE needs are met to support continuous casework.
 - Familiarize yourself with the CDC's guidance on [Optimizing the Supply of PPE](#)



- Investigators, mitigation specialists, social workers and other fieldwork staff should not have to pay for their own PPE supplies. This should be the responsibility of PD offices or court panels when they are hired to conduct court appointed work.
- PD offices should inquire about joining local government supply chains
- Reach out to [GSA representatives](#) for purchase support.
- Court appointed attorneys and case staff should connect with the court's panel management staff to see if the team can be included in the court or local government supply chain.
- Be creative in identifying independent supply resources, especially when the supply chains become overburdened and fracture.
- Consider manufacturing [homemade supplies](#) when there is nowhere else to turn.
- Does your supply inventory meet the CDC's recommendation standards?
- Procure enhanced PPE items for high risk fieldwork situations or tasks that involve staff members, clients, or witnesses with health vulnerability concerns.
- Ensure that staff members conducting fieldwork have an adequate amount of PPE on hand:
 - What specific PPE is required to address specific risks that are associated with specific fieldwork tasks and environments?
 - What amount of PPE will be required to last for the duration of fieldwork assignments?
 - What PPE supplies will be needed for witness usage during our assignments?

Team Case Contingency Plans

How can case teams be structured so casework will be uninterrupted should a member of the team fall ill or be required to quarantine for a period of day or weeks?

- All work product and scans of records should be saved in a folder to which all team members have access. Handwritten notes should be scanned or photographed and saved in the same folder. All team members should become familiar with the organization of the folder, so files can be saved uniformly and be easily located.



- Investigators, mitigation specialists and social workers should maintain updated master documents such as witness lists, records charts and investigation plans so another staff member could easily jump in and identify remaining investigation tasks. These documents should be updated regularly and saved in a folder to which all team members have access.
- Memos describing interviews, records review, or any other investigative work should be written immediately and saved in a folder to which all team members have access.
- Should secondary investigators, mitigation specialists, and/or social workers may be assigned to cases with particularly heavy investigation workloads for a quicker transition if the primary investigator, mitigation specialist or social worker cannot continue working on the case?
 - These secondary investigators, mitigation specialists and/or social workers will attend team meetings and be included in case-related correspondence, so they have a working knowledge of the case should their assistance be required, but they might not actively engage in fieldwork or other investigation tasks.

Travel Concerns

Vehicles

- How can we ensure safety of staff, witnesses, and clients when vehicles are needed to conduct fieldwork?
 - Follow cleaning protocols – See [CDC Guidance](#) and [GSA Recommendations](#) – before and after usage. Consider creating cleaning checklists for staff members to complete at the beginning and end of each ride.
 - Consider optional or required use of personal vehicles throughout the pandemic crisis, to prevent staff members from having to share vehicles. If staff members must share vehicles, consider requiring a specific period of time between uses.
 - Rentals: Ensure that the company is following the recommended cleaning protocols. Most rental companies have stated policies and procedures.
- Should we continue transporting witnesses and other non-staff members, or consider halting the practice during the pandemic?



- Familiarize yourself with the CDC's [Rideshare, Taxi, Limo and other Passenger Driver](#) guidance.
- Consider utilizing infrared thermometer guns and other checklist items to determine if a person is exhibiting possible [symptoms of COVID-19](#) before being transported.
- Is it possible to effectively engage in social distancing inside of a car?
 - If sharing a vehicle, space yourself out, taxi-style—driver up front, first passenger in the back -right seat.
 - All individuals riding in the car must wear a mask or other face covering.
- Pets in shared vehicles: Understand the [“potential but not yet confirmed” COVID-19 transmission risks associated with pets](#) in shared vehicles and spaces. Pets should not be allowed in shared vehicles.

Airline & Other Means of Travel (Resources and Guidance)

- CDC's [Traveler Guidance and Information](#)
- CDC: [Frequently asked questions](#)
- The TSA's [Response to COVID-19](#)
- [The Rule TSA Is Changing Because of COVID-19](#)

Hotel Stay Concerns

- Investigators, mitigation specialists and social workers should avoid field work that requires an overnight stay in a hotel.
- If an overnight stay is necessary to complete urgent field work, the investigator should identify a hotel in the desired region owned by a large hotel chain. [Most large hotel chains have developed enhanced cleaning procedures](#) to promote the safety of guests, and these policies and procedures are posted online.
- Common areas in the hotel such as the gym, pool and dining area should be avoided.
- Many hotel chains offer check-in, check-out, and room keys through a smartphone app, minimizing a guest's need to interact with hotel staff.
- Links:
 - [Marriott's New Plan for Safe Hotel Stays in the Age of Coronavirus](#) (AFAR)



- [How coronavirus will change hotel stays](#) (NBC)
- [Hilton's commitment as we navigate through Coronavirus](#)

Interviewing in the Age of COVID-19

Interviewing Clients and Witnesses in the Community

- What can we learn about the background of the COVID-19 status of the household and community prior to conducting a field interview?
 - Question clients, family members, and witnesses.
 - Use online resources to background a community's exposure status.
- Understand the risks associated with [Indoor vs. Outdoor](#) encounters
- Try to schedule meetings outside whenever possible - identify potential outdoor interview locations in the witness or client's community.
- Offer to speak through the front door or a first-floor window, if possible.

Residential Interviews

- If a witness can only meet with you inside of a residence or other enclosed structures, conduct a risk assessment of the key factors in home visits:
 - Will you and the witness(es) involved have access to face coverings?
 - Will you and the witness(es) involved be able to socially distance?
 - How long do you expect the encounter to last? ...the shorter the better.
 - Is the air within the space well ventilated (preferable) or stagnant (risky)? Are there windows in the room that can be opened?
 - How far do you have to travel through the home to reach the best location to speak? ...the closer to the entrance the better to limit the distance traveled through the home.

If favorable conditions for the above factors are not met, you may consider rescheduling the meeting at another location. You may also consider asking the witness's permission to conduct the interview over the phone or via video conference.

- Cold-Stops and Neighborhood Canvasses (unannounced home visits)
 - Are they worth potential health risks to investigators and witnesses?



- What is the potential impact of witness aversion on the encounter?
- Will a hostile witness be willing to wear a mask?
 - If not, what are the potential risks for investigators who have only cloth masks (which does not provide protection to the wearer of the mask)?
- Does the office have enough PPE supplies to support neighborhood canvases?

If favorable conditions for the above factors are not met, you may consider scheduling the interview in advance.

In-Office Interviews/Meetings

Before inviting outsiders into your office space, make sure your facility complies with the [CDC's COVID-19 Guidance for Office Buildings](#) and [OSHA's Guidance on Preparing Workplaces for OVID-19](#). A meeting space should be set up so it meets the [CDC's requirement for Social Distancing](#). Your facility's cleaning staff should be trained and well versed in the CDC's guidance on [Cleaning and Disinfecting Facilities Measures](#).

Before the meetings:

- Check and follow local guidance on face to face meetings.
- Do you have an appropriate location in your office for conducting witness and client interviews?
 - Close to the entryway for visitors, limiting any possible exposure to one room or area.
 - You will need a large room to allow for social distancing.
 - Does your office have adequate ventilation? Consider having more outside ventilation (open windows) or running ventilation systems 24/7 per CDC, WHO and Operational Safety and Health Act (OSHA) guidelines.
- Can you adequately prepare the room?
 - Sanitize all high touch surfaces per sanitation guidelines from CDC.
 - Install sneeze guards per OSHA recommendations.
 - Give employees, visitors, and customers what they need to cover coughs and sneezes per CDC recommendations



- Post cleaning protocols in interview rooms to guide staff members through each step of the cleaning process. Signage could also have the effect of reducing anxiety for both staff members and witnesses by building confidence that the meeting environment is as safe as possible.
- Install soap, hand sanitizer, and tissues in multiple locations at your office
- Provide no-touch waste baskets.
- Arrange seating so it meets social distancing guidelines or mark the floor to indicate social distancing per CDC recommendations - place seating one meter apart per WHO, consider one chair or more between attendees.

During meetings:

- Can everyone involved wear PPE, following the CDC, WHO and OSHA guidelines?

Consider these recommendations:

- Display available PPE, hand washing stations and sanitizer.
- Provide facial coverings to all attending interviews/meetings.
- Prohibit hand shaking as suggested by CDC.
- Consider ice breakers to say “hello” instead of touching.
- Following WHO recommendations, can you provide a briefing before meeting both verbally and in writing to describe measures being taken to protect all individuals in the meeting? Can you provide witnesses and clients with local resources for COVID-19 information?
- Develop a plan to follow if someone begins to feel ill during the meeting.
- If you offer a pen or pencil, have them keep it or sanitize before and after usage.

After meetings:

- What steps should you take after a meeting to promote the safety and health of all involved in the meeting?
 - Retain names and contact information for all individuals involved in the meeting for one month, in the event it is needed for contact tracing as recommended by the WHO.
 - Thank customers and visitors for following the procedures. Avoid handshaking.



- Dispose of PPE following CDC and OSHA guidelines.
- Wash any reusable facial coverings per CDC recommendations.
- Wash hands after use of PPE, per OSHA guidance.
- Sanitize room, high touch areas, following CDC, OSHA, and local sanitation guidance.
- Consider separating interviews/meetings three hours or more apart, as per The New England Journal of Medicine identifying COVID-19 in the air for up to three hours.

Interviews in Correctional Facilities

- How do we approach interviews that take place within correctional and detention facilities?
- Check online resources for the COVID-19 status of facilities before you plan visits
 - [PrisonPolicy.Org](https://www.prisonpolicy.org/)
 - [DOC COVID-19 Response Page](#)
 - The ACLU's [Death By Incarceration Spreadsheet](#)
 - The [Federal Bureau of Prisons COVID-19 Page](#)
 - JPP's [By-State and International COVID-19 Prison Information](#)
- In-person interviews will probably not be allowed at most institutions for the foreseeable future or at least until effective treatments and vaccines are found.
- Be familiar with the [CDC's Plan, Prepare and Respond guidance](#) for correctional and detention facilities, which all institutions should be following.
- Behind-glass interviews are probably the safest option for anyone allowed to enter facilities. If possible, meet with corrections or detention facility's administration (and involve the court administration, if necessary) to ensure that the proper sanitizing protocols are being conducted in visit rooms between interviews.
 - Rapport building issues can occur if staff members cannot have contact visits during the COVID-19 crisis, but these challenges can be successfully navigated with the right approach.
- There is no reason to interview corrections/detention facility staff members onsite, as they come home each night and have regular days off.



- Secure Video Conferencing (VTC) Technology - The biggest problem with video conferencing arrangements at most detention facilities is the lack of privacy.
 - The inability to engage in confidential communications with clients is a major hurdle to the Attorney-Client relationship. It also can be an impediment to the defense's ability to conduct confidential and independent investigations.
 - Secure lines of communication can also reduce the need for in-person facility visits through the remainder of COVID-19 crisis.
 - PD offices and panel practitioners should consider urging Wardens and local Jail Administrators to implement the use of secure VTC technology to facilitate confidential discussions between clients and defense team members.
 - ***Note:** If you need recommendations, feel free to reach out to the Taskforce for suggestions and assistance.*

Interviews in Hospitals and Residential Treatment Facilities

Should we consider suspending this practice during the COVID-19 crisis? The risks associated with such tasks may be too high. Also, most facilities are not currently allowing visitors.

Onsite Records Searches and Requests: Best Practices

- How can we request and obtain records without having to visit custodians in person?
 - Master online resources and other means to obtain records from a distance.
 - Inquire to see whether institutions are open to conducting searches and sending records to eliminate the need for travel to the facilities.
 - To limit out-of-district travel for records searches, partner with the local defender offices in those jurisdictions for assistance. Be ready to return favors.
 - If you must visit a records site in person, make sure the facility is following [CDC Guidance on cleaning and disinfecting protocols](#).



Subpoena Service: Best Practices

- How can we modify our subpoena service practices in a way that minimizes the risks of exposure or transmission?
 - Inquire to see whether institutions will accept subpoenas via email, fax, or letter carrier service. For the best information on finding where and how to serve subpoenas on a variety of business, begin with checking search.org's [ISP List](#).
 - Before traveling to physical locations, know exactly where you must go and who you must contact when traveling to physically serve subpoenas. Limit the number of people you must encounter and the number of spaces within a building you must travel.
 - Make sure the facility is following [CDC Guidance on cleaning and disinfecting protocols](#).
 - Familiarize yourself with the [CDC's Mail and Parcel Delivery guidance](#).
 - Do not travel to serve subpoenas outside of your jurisdiction. Partner with other defender offices in those jurisdictions to serve those subpoenas for you. Be ready to return favors.

Closing Words of Caution

As stay-at-home restrictions are lifted and investigators and mitigation specialists are asked to conduct in-person outreach to complete their investigations, defense teams will have to weigh the risks and benefits of conducting investigative tasks. Steps can be taken to reduce the risks of investigators and the witnesses, but those precautions come with considerable costs to the quality of the investigation.

For example, a mitigation specialist may damage important relationships if they seek to interview a witness with compounded health and environmental risk factors or who may place other vulnerable people at risk. An unannounced drop-in at a witness's home will only exacerbate those risks and may further erode a witness's trust.

If the legal team determines that the risk of an in-person interview is acceptable, the investigator or mitigation specialist can reduce the risk of transmission by bringing personal protective



equipment, such as masks and face shields, for themselves and the witness. However, PPE can interfere with rapport building and decrease the witness and investigator's ability to read each other's facial expressions. They can interfere with the mitigation specialist's ability to build rapport by mirroring the witness's emotion or expressing concern, sympathy, or other appropriate emotional responses. The visual barrier may also decrease the mitigation specialist's ability to detect subtle facial expressions that may indicate inattention, distress, or signs of mental illness. If the investigator wears a mask, the witness may take that as a sign that they were infected or that the mitigation specialist does not trust the witnesses. Wearing a mask may also convey particular political alliances that may interfere with the relationship. Any of these results can damage the relationship with witnesses and thereby the efficacy of the investigation.

A defense team's ability to conduct an investigation is likely to be impaired for some time. In every instance that the team considers deviating from best practices to reduce health risks, they must consider the need for and the cost of that deviation. The team should consider whether the pandemic conditions make it impossible to conduct an effective investigation.



On Behalf of
NAPD's Taskforce on the Return to Fieldwork in the Post-COVID-19 Era

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