

# **Jury Proceeding Addendum to COVID-19 Operating Plan for the Anderson County Judiciary**

*Effective on and after October 1, 2020*

Recognizing the need to ensure the health and safety of jurors, litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of Anderson County will implement, in addition to the procedures and protocols in the previously submitted COVID-19 Operating Plan, the following protective measures for jury proceedings:

## **General**

1. All judges will comply with the Emergency Orders issued by the Supreme Court of Texas and Court of Criminal Appeals, including conducting in-person jury proceedings according to the guidance issued by the Office of Court Administration.
2. The justice courts will not conduct an in-person jury proceeding until the Supreme Court permits such proceedings.
3. Judges of the district courts, constitutional and statutory county courts, and statutory probate courts will conduct in-person jury proceedings in accordance with the previously approved Operating Plan and this addendum only after this jury proceeding addendum is submitted and accepted by the Regional Presiding Judge.
4. Not more than five days before an approved in-person jury proceeding is scheduled to occur, the local administrative district judge or designee will consult with the local public health authority to verify that local health conditions and plan precautions are appropriate for the jury proceeding to proceed.
5. Except for criminal cases where confinement in jail or prison is a potential punishment, judges may conduct remote jury proceedings if the court follows the requirements of the hearings on objections or motions section below and ensures that all potential and selected petit jurors have access to technology to participate remotely. Judges may conduct remote jury proceedings in a criminal case where confinement in jail or prison is a potential punishment only with appropriate waivers and consent obtained on the record from the defendant and the prosecutor.

## **Jury Proceeding Approval Process**

1. Judges wishing to conduct a jury proceeding will follow the procedure detailed below to obtain approval to proceed with the jury proceeding from the local administrative district judge and Regional Presiding Judge:  
The Local Administrative Judge will confer with the Judges in the county and the local health authority. The Local Administrative Judge will submit an Operating Plan consistent with OCA's updated guidance. Thereafter, the Local Administrative Judge will submit to the Regional Presiding Judge for approval.

2. The local administrative district judge will, not more than five days before the jury proceeding, consult with the local public health authority to verify that the local health conditions and plan precautions are appropriate for the jury proceeding to proceed with the following procedure: Following all precautions as set forth in the Covid-19 Operating Plan for Anderson County, and pursuant to this Addendum.

### **Hearings on Objections or Motions Related to Proceeding**

1. Parties who are scheduled for a jury proceeding are encouraged to make any objections or motions related to proceedings at least 10 days prior to the trial setting.
2. Any objections or motions related to proceeding with a jury proceeding will be heard by the judge presiding over the case at least seven days prior to the jury proceeding or as soon as practicable if the objection or motion is made or filed within seven days of the jury proceeding.

### **Communication Protocols**

1. Each judge with an approved in-person jury proceeding will require the parties to communicate with the court if any participant in the jury proceeding, including attorneys, parties, attorney support staff, or witnesses, has tested positive for COVID-19 within the previous 30 days prior to any portion of the jury proceeding, currently has symptoms of COVID-19, or has had recent known exposure to COVID-19.
2. If the approved in-person jury proceeding involves an incarcerated participant, the judge will require the sheriff to report any positive COVID-19 test of the incarcerated participant within the previous 30 days prior to any portion of the jury proceeding, any current symptoms of COVID-19, or any recent known exposure to COVID-19.

### **Scheduling**

1. A judge who obtains approval for an in-person jury proceeding will schedule no more than ten cases for that jury trial setting, unless pre-approval for larger dockets is obtained from the Regional Presiding Judge.
2. Judges should attempt to alert parties who will not be proceeding prior to the day of trial to reduce attendance at the court facility.

### **Summoning Jurors**

1. The jury clerk must include with in-person juror summonses information regarding precautions that have been taken to protect the health and safety of prospective jurors (see)<sup>1</sup> and COVID questionnaires<sup>2</sup> that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.

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<sup>1</sup> Include as Attachment A the information that the court will include with summonses.

<sup>2</sup> Include as Attachment B the COVID questionnaire that the court will include with summonses. A sample COVID questionnaire is available at <https://txcourts.gov/media/1449739/petit-juror-questionnaire-addendum-covid-19-pre-screening.pdf>.

2. Judges will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of persons.
3. Excuses or requests to reschedule from in-person prospective jurors who have been potentially exposed, who are symptomatic, and who are vulnerable or live with someone vulnerable to COVID-19 will be liberally granted.

### **Location for Jury Selection, Trial, and Deliberation**

1. The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:<sup>3</sup>

#### District Court proceedings:

- a. Jury Qualification: Palestine Civic Center or Anderson County Courthouse Annex Multipurpose Room
- b. Voir Dire: Palestine Civic Center or Anderson County Courthouse Annex Multipurpose Room
- c. Trial: District Courtroom 1, Anderson County Courthouse
- d. Jury Deliberation: District Courtroom 2, Anderson County Courthouse

#### Constitutional County Court proceedings:

- a. Jury Qualification: District Courtroom 1, Anderson County Courthouse
  - b. Voir Dire: District Courtroom 1, Anderson County Courthouse
  - c. Trial: District Courtroom 1, Anderson County Courthouse
  - d. Jury Deliberation: District Courtroom 2, Anderson County Courthouse
2. Security protocols at the locations for jury proceedings have been reviewed with the appropriate courthouse security personnel and are adequate for the proceeding.

### **Screening**

1. In addition to the requirements of the previously submitted in-person Operating Plan, all court participants and observers attending an in-person jury proceeding will be screened for elevated temperatures and will be questioned to determine if the individual has recently had symptoms of COVID-19 or been exposed to COVID-19.
2. All participants in a trial who are incarcerated will be screened by the jail/prison prior to transport to the courtroom and any known exposure, symptoms, or COVID-19 positive test results within the past 30 days will be reported to the judge presiding over the jury trial prior to the transport of the participant to the courtroom.

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<sup>3</sup> Court who may need to hold a proceeding outside of the courthouse should review Chapter 292 of the Local Government Code (related to having an auxiliary facility designated as a courthouse) and Government Code Sections 24.033(b) (district courts), 25.0019(b) (statutory county courts), 25.0032(b) (statutory probate courts), 26.009(b) (constitutional county courts), 27.0515 (justice courts), 29.015 (municipal courts), and 30.000123 (municipal courts of record)—relating to designating alternative locations for proceedings.

### **Face Coverings**

1. In addition to the requirements of the previously submitted in-person Operating Plan, all persons entering the common areas of a courthouse, including a courtroom or any other location being used to conduct a jury trial, will be required to wear a face covering at all times unless the person is an individual that is not recommended to wear a mask by the Centers for Disease Control or the Texas Department of State Health Services.
2. All court participants will be required to wear face coverings from jury qualification through the end of trial.
3. Court participants who may need to lower their face mask to speak or for a short period of time will be required to wear a face shield. When speaking, judges will permit a court participant to lower his or her mask so long as a face shield is worn, and the person speaking is immobile.

### **Social Distancing**

1. Social distancing of all court participants and observers will be maintained at all times during the jury proceeding, including during the trial and deliberation.
2. Special attention will be paid by courts to ensure adequate social distancing and managed exits of individuals during breaks, especially when dismissing large groups of people for a break.

### **Alternate Jurors**

1. Each judge with an approved in-person jury proceeding will be encouraged to consider selecting alternate jurors to permit the trial to continue in the event of a juror becoming ineligible to serve for a reason unrelated to that person's exposure to or contraction of COVID-19.

### **Arrangement of Courtroom**

1. The following description (or attached drawing) details how each of the courtrooms or facilities will be arranged during the jury proceeding:<sup>4</sup>  
See attached diagrams of Palestine Civic Center and District Courtroom 1.

### **Microphone Protection Protocols**

1. Judges will limit, to the degree possible, the shared use of microphones during the jury proceeding.
2. If a microphone must be shared, judges will limit the passing of the microphone unless the microphone is cleaned between each user.
3. Disposable microphone covers will be placed on shared microphones and changed between each user.

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<sup>4</sup> Include where the judge, parties/counsel, jurors, witnesses, court reporter, and bailiff will be arranged in each courtroom or facility during each phase of the trial.

### **Exhibit/Evidence Management**

1. Judges will limit, to the degree possible, the use of physical or paper exhibits/evidence where feasible or appropriate by converting the exhibit/evidence to a digital form.
2. When physical or paper exhibits/evidence is required, judges will reduce the exchange of that exhibit/evidence to the number of persons necessary and will limit passing the exhibit/evidence to the individual members of the jury.
3. If an exhibit/evidence is required to be transferred from person-to-person, single use gloves will be provided, worn, and discarded immediately after handling the exhibit/evidence.
4. During jury deliberations, judges will make efforts to provide the jury with access to digital exhibits/evidence that would normally be shared with the jury during deliberation. Where digital exhibits/evidence is not feasible, judges will consider limiting the transfer of the exhibits/evidence from juror-to-juror by spreading the exhibits/evidence on a table for inspection from the table in the jury deliberation room.

### **Witnesses**

1. Judges will inquire whether witnesses to the proceedings have COVID-related issues.
2. To the degree constitutionally permissible or with the consent of the parties, judges will permit witnesses to testify remotely via videoconference, especially if that witness has symptoms of or a recent positive test for COVID-19, has been recently exposed, or is vulnerable to contracting COVID-19.

### **Food Precautions**

1. Courts that provide food to jurors or other participants during a jury proceeding will ensure individual food portions, such as individually boxed meals, are provided.

### **Cleaning**

1. In addition to the requirements of the previously submitted in-person Operating Plan, frequent cleaning protocols in the courtrooms and facilities will be maintained throughout the jury proceeding as appropriate.
2. Shared spaces such as witness stands, seating in the gallery, and seating during qualification/voir dire will be cleaned during transitions of those spaces.
3. Seats for members of the jury panel and selected jurors will be assigned to reduce potential transmission and the need for more frequent cleaning.

I have attempted to confer with all judges of courts with courtrooms in the court building regarding the Jury Proceeding Addendum to the Operating Plan. In developing the plan, I consulted with the local health authority and county judge, documentation of which is attached to this plan. I will ensure that the judges of courts with courtrooms in the court building covered by this Operating Plan conduct proceedings consistent with the plan.

Date: 9/23/2020

A handwritten signature in black ink, appearing to be 'Robert A. E.', written in a cursive style.

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Local Administrative District Judge