

**Jury Proceeding Addendum to COVID-19 Operating Plan for the
Bexar 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 **Bexar 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 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:

An email shall be sent to Judge Ron Rangel (ron.rangel@bexar.org) and copy to Judge Sid Harle (Sid.Harle@bexar.org). Include the date and time you wish to begin jury selection.
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:

The Local Administrative Judge will communicate with the local health authority at to verify the local health conditions and plan are appropriate for the jury proceeding.

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 and COVID questionnaires (Attachment Jury Summons Addendum) that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.
2. Judges will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venirepersons.
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.
4. Exemptions and Excuses will be conducted via Zoom in advance of the summons date. The Central Jury staff will assist all courts in setting up the Zoom hearings and ensure access to technology for those who may need assistance.

Location for Jury Selection, Trial, and Deliberation

In person trial proceedings should not occur prior to January 4, 2021, depending on health conditions in the County.

- 1) The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:³
 - a) **Jury Selection in the Criminal District Courts**
 - i) The Bexar County COVID-19 Operating Plan shall be adhered to at all times.
 - ii) Each Criminal District Court will have one “jury day” every 10 days. For example, on Monday, the 144th will have its jury panel, on Tuesday, the 175th will have its panel, and so on. (Permitting the local health authority is in agreement).
 - iii) To ensure appropriate social distancing, jury selection will take place in the Central Jury Room in the basement of the Justice Center.
 - iv) The criminal district court trials can occur in the courtroom.
 - v) Each Criminal District Court should develop a plan to arrange the courtroom in accordance with the Bexar County Operating Plan. (See Sample Courtroom Arrangement Attached).
 - vi) Each Criminal District Court shall empanel at least 2 alternate jurors for each trial.
 - vii) Each Criminal District Court is encouraged to set several potential trials to ensure that jury panels designated each day are utilized.
 - b) **Criminal Jury Selection in the County Courts at Law**
 - i) “Jury days” for the County Court at Law will also rotate. Two Courts will be accommodated each day, one in the morning and one in the afternoon. The County Courts at Law must develop its own schedule for this rotation. If possible, only one court per floor should have a jury trial each day. (permitting the local health authority is in agreement)
 - ii) Jury selection for the County Courts at Law will be conducted in either County Court at Law Number 11 or the 399th Judicial District Court (Bexar County Justice Center, 1st floor). Each summons will direct the potential jurors where to report.
 - iii) To ensure proper social distancing, and to allow for voir dire and trial within the courtroom, no more than 24 individuals will be included in each jury panel for the County Courts at Law.
 - iv) Each County Court at Law shall develop a plan to arrange the courtroom in accordance with the Bexar County Operating Plan. (See sample arrangement of jury room)
 - v) Each County Court at Law is encouraged to set several potential trials to ensure that jury panels designated each day are actually used.
 - vi) Jury deliberations will occur within the courtroom.
 - c) **Jury Selection in the Civil District Courts**

³ 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.

- i) The Bexar County COVID-19 Operational Plan shall be adhered to at all times.
 - ii) Civil District Court jury trials shall be assigned via the Civil District Monitoring Court. No more than two trials will be scheduled per floor of the courthouse at any given time permitted all social distancing guidelines can be adhered to and the local health authority is in agreement.
 - iii) To ensure appropriate social distancing, jury selection will take place in the Central Jury Room, Presiding Courtroom, Historic Courtroom (approval pending) or other approved location which can safely seat all jurors summoned.
 - iv) The Civil District Court trials can occur in courtrooms that can ensure appropriate social distancing.
 - v) Each Civil District Court should develop a plan to arrange the courtroom in accordance with the Bexar County Operating Plan.
 - vi) Each Civil District Court shall empanel at least 2 alternate jurors for each trial, but discretion is given to the trial judge.
 - vii) Each Civil District Court is encouraged to set several potential trials to ensure that the jury panels designated each day are utilized.
 - viii) To ensure proper social distancing, and to allow for trial within the courtroom, when possible, jury panels shall be limited to no more than 40 individuals.
- d) **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.

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 (also see attached drawing) details how each of the courtrooms or facilities will be arranged during the jury proceeding:⁴
 - Criminal District Court voir dire will be conducted in The Central Jury Room. The room has a capacity of over 500 individuals and is suited for social distancing of the 150 summoned jurors. (See Attachment, Central Jury Room-Voir Dire Criminal District Courts)
 - Criminal District Courts trials will be conducted in the district courtroom. Please note that all desk areas by the judge's bench (court reporter, witness, bailiff and clerk/coordinator) are surrounded by plexiglass to minimize exposure. (See Attachment, Courtroom Arrangement-Trial)
 - County Courts at Law will conduct voir dire in one of 2 courtrooms that are larger than other courtrooms which will allow social distancing of the jury panel and staff. Additionally, the panel for the County Courts at Law will be limited to 24 jurors.
 - Civil District Court voir dire will be conducted in the Central Jury Room, Presiding District Court or the Historic Courtroom (pending approval by the county commissioners).
 - Civil District Court trials will be conducted only in courtrooms large enough to ensure social distancing. The bench and all desks (including the court reporter, witness, deputy, court clerk, and counsel tables) will have plexiglass dividers to minimize exposure.
 - All jury deliberations will occur in the closed courtroom.

⁴ 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.

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.

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 the parties have questioned their witnesses to the proceedings regarding 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.

Virtual Jury Trials in Civil Courts

The Supreme Court's Twenty-Sixth Emergency Order has authorized compulsory virtual trial proceedings in civil cases effective October 1, 2020, with the consent and approval of the Local Administrative Judge and the Regional Presiding Judge. In Bexar County, virtual civil trials may begin on November 2, 2020.

1) Virtual Jury Proceedings in the Civil District Courts

- a) At least one virtual jury trial per week may be conducted.
- b) The Civil District Courts shall coordinate with the Civil County Courts at Law and Probate Courts to develop a method of apportioning jury panels between them. If a given court does not need jury panel in a given week, the Civil District Courts may reassign that panel to a different court that can use the panel.
- c) The Central Jury Bailiff, in concert with the Office of Court Administration, the Bexar County Sheriff's Office and BiblioTech, shall ensure access to technology for any potential jurors who need access.
- d) The Central Jury Bailiff will assist the Civil District Courts in any tasks needed prior to voir dire and during the virtual trial.
- e) Prior to jury selection, the Civil Courts will use a remote jury team to perform the tasks outlined in the Civil Courts' Remote Jury Trial Recommendations.

2) Virtual Jury Proceedings Civil County Courts at Law/Probate Courts

- a) Virtual trial proceedings may begin no earlier than Monday, November 2, 2020, to allow the Central Jury Room Bailiff to prepare and send out jury summons in accordance with OCA guidelines.
- b) A maximum of 1 virtual jury trial per week may be conducted. The Civil County Courts at Law and Probate Courts shall coordinate with the Civil District Courts and notify the Civil District Courts if they will not be utilizing a jury panel in a given week so that the Civil District Courts may utilize the panel.
- c) The Central Jury Bailiff in conjunction with BiblioTech shall ensure access to technology for any potential jurors in need of technology.

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: 1/11/2021

Ron Rangel

[Ron Rangel \(Jan 10, 2021 19:46 CST\)](#)

Ron Rangel

Local Administrative District Judge

Sid Harle

Regional Presiding Judge