

Approved 10/7/20

Sh B. Ables
Presiding Judge 6th Region

COVID-19 PANDEMIC JURY TRIAL ADDENDUM

TO THE OPERATING PLAN FOR THE JUDICIARY

EDWARDS, KIMBLE, MASON, MCCULLOCH AND MENARD COUNTIES

Recognizing the need to ensure the health and safety of courthouse officials and staff, potential jurors, attorneys, litigants, clients, service providers, delivery staff, visitors, and other individuals entering buildings where administration and proceedings are conducted by the 452nd Judicial District and the County and Justice Courts of Edwards, Kimble, Mason, McCulloch and Menard Counties, the Local Administrative District Judge for said counties hereby implements the following protective measures as directed by, pursuant to and in satisfaction of the requirements of Texas Government Code Section 74.092, Covid-19 Emergency Orders issued by the Supreme Court of Texas and Texas Court of Criminal Appeals, and Texas Office of Court Administration Guidance.

General

1. All judges shall comply with and enforce the requirements of this plan, Emergency Orders issued by the Supreme Court of Texas and Texas Court of Criminal Appeals as well as the COVID-19 Pandemic Operating Plan for the Judiciary of Edwards, Kimble, Mason, McCulloch and Menard Counties (“the Operating Plan”).
2. Justice courts are prohibited from conducting in-person jury proceedings until the Emergency Orders permit such, and thereafter shall do so only in accordance with the Operating Plan and this Addendum.
3. Judges may conduct remote jury proceedings, so long as the court follows the requirements of the Hearings on Objections or Motions section below and ensures that all potential jurors have sufficient access to technology. 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.

Mandatory Jury Proceeding Approval Process

1. Judges wishing to conduct a jury proceeding must obtain approval to proceed from the local administrative district judge and regional presiding judge. Without such approval, all jury proceedings are prohibited.
2. Judges presiding over any scheduled in-person jury proceedings shall, 10 days prior to the start of any in-person proceeding, provide to the local administrative district judge, the county judge, and the local health authority, via e-mail, a proposal including the date, time, type of trial (civil or criminal), length, location, and number of anticipated participants. The local administrative district judge will consult with the local public health authority to determine whether it is safe and appropriate for the jury proceeding to take place.
3. If approved by the local administrative district judge, the proposal shall be referred to the regional presiding judge for consideration and approval.

Hearings on Objections or Motions Related to In-Person and Remote Jury Proceedings

1. Parties shall be permitted to file written objections or motions related to scheduled jury proceedings. Such objections or motions shall be filed at least 10 days prior to the start of the proceedings, to the extent possible. Courts shall liberally grant objections or motions requesting accommodations for vulnerable and highly vulnerable participants.
2. Objections and motions shall be considered by the judge as soon as practicable, and may take place remotely.

Communication Protocols

Each judge presiding over a scheduled in-person jury proceeding will require the parties to immediately inform 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, currently has symptoms of COVID-19, or has had recent known exposure to COVID-19.

Summoning Jurors

1. The court or clerk shall direct all summoned jurors to review the Operating Plan and this Addendum prior to appearing for any in-person proceeding.
2. To the extent possible, judges shall use juror questionnaires for qualification, exemptions, and voir dire in order to minimize the length of jury selection and size of the jury panel.
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:³
 - a. Jury Qualification: approved auxiliary facilities or district/county courtrooms.
 - b. Voir Dire: approved auxiliary facilities or district/county courtrooms.
 - c. Trial: approved auxiliary facilities or district/county courtrooms.
 - d. Jury Deliberation: approved auxiliary facilities or district/county courtrooms.
2. Courthouse security for each location shall ensure that all aspects of the Operating Plan are strictly followed at each location identified above.

Screening of Inmates

Incarcerated participants must be screened by jail/prison personnel prior to transport to the location of the court proceeding. Any known exposure, symptoms, or COVID-19 positive test results within the past 30

³ Courts who may need to hold proceedings 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), 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.

days will be reported to the judge presiding over the jury trial prior to the removal and transport of the participant from the jail/prison.

Social Distancing

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. Groups should be dismissed in small increments so as to avoid violation of the social distancing requirements of the Operating Plan near entrances and exits.

Alternate Jurors

Where possible, each judge with an approved in-person jury proceeding shall select at least two alternate jurors for jury trials anticipated to exceed five consecutive days.

Arrangement of Courtroom

The courtroom shall be arranged so as to minimize possible exposure to court participants and maintain the required social distancing.

Microphone Protection Protocols

1. Judges will limit the shared use of microphones during the jury proceeding.
2. Microphone shall not be passed between participants unless disinfected between users.
3. Disposable microphone covers may be placed on shared microphones and changed between each user.

Exhibit/Evidence Management

1. Judges shall require digital exhibits, rather than physical or paper exhibits, to the extent possible.
2. When physical or paper exhibits cannot be avoided, judges will project these exhibits where possible and otherwise limit passing the exhibit among court participants.
3. Gloves shall be made available to jurors for use in handling such exhibits.
4. Judges will make similar accommodations during jury deliberations.

Witnesses

1. Remote witnesses shall not be permitted to testify by audio unless the witness was administered the oath while on camera or by a notary public present with the witness.
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 COVID-19.

Food Precautions


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

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 the local health authority and all judges of courts with courtrooms in the court building regarding this Addendum to the Operating Plan, and considered their input. I will endeavor to ensure that the judges of courts with facilities covered by this Addendum conduct proceedings consistent herewith.

This order is signed and effective this the 6th day of October, 2020.



Robert R. Hofmann, Local Administrative Judge