

Jury Proceeding Addendum to COVID-19 Operating Plan for the LAMAR 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 **Lamar 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 herein to obtain approval to proceed with the jury proceeding from the local administrative district judge and Regional Presiding Judge.
2. Before summoning potential jurors, each Judge should confer with the Local Administrative Judge or his designee to confirm that such a panel and trial will not negatively impact local resources or overcrowd the Courthouse. It is required that the Judge advise the LAJ of the date for jury selection and trial(s).
3. After having received the approval by the LAJ, the Judge can request the Clerk to issue not more than 125 summons from which one jury will be selected. If more than one case is to be picked on that day,

a second set of summons may be issued for the afternoon with the total of summons again not to exceed 125.

4. Summons will include the suggested language used during the Grand Jury process including, but not limited to, information on precautions that have been taken to protect the health and safety of prospective jurors and COVID questionnaires that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.
5. In all matters, Courts will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venirepersons. Courts will also strive to conduct voir dire itself on the general legal principles and adjust the permissible time for each party based on the nature of the case.
6. When reviewing COVID questionnaires or hearing claims for exemptions, Courts should liberally grant excuses or reschedule prospective jurors who have been potentially exposed, who are symptomatic, and who are vulnerable or live with someone vulnerable to COVID-19.

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

Attachment A)¹ and COVID questionnaires (see Attachment B)² 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.

Location for Jury Selection, Trial, and Deliberation

Common areas:

1. Lamar County utilizes one entrance into the Courthouse which is staffed by not less than two Courthouse Security Officers. At that entrance, each prospective and selected juror will be identified and given preference for using the elevator.
2. Not more than two persons will be allowed on the elevator at any time.
3. Once arriving on the Courtroom floor, the prospective juror will be verbally screened for symptoms and have their temperature checked. If not already tendered via email as instructed, the prospective juror's COVID questionnaire will be taken. If the juror has appeared without the questionnaire, the juror will be required to fill one out.
4. After having cleared screening, the prospective juror will then be admitted to the courtroom and will take a seat marked to ensure social distancing.
5. A selected juror will be directed to one of two Jury Rooms which are also arranged to ensure social distancing.

Courtroom:

1. All jury selections will take place in the District Courtroom. This Courtroom covers 3000 square feet and provides more than enough socially distanced room for up to 60 prospective jurors.
2. The Courtroom will be arranged as per the Diagram attached hereto (see Attachment C).
3. Two sneeze guards are in place in front of the Clerk's Station and the Witness box.
4. The Judge's Bench sits three feet above and 8 feet away from the Clerk and the Witness so social distances are maintained.

Jury Room:

1. Lamar County has two jury rooms which will both be utilized during trial.
2. Upon selection, each juror will be assigned to one of the two rooms which they will use during breaks.
3. Each jury room will be arranged to ensure social distancing.
4. Each jury room has its own bathroom along with an additional sink for their use.
5. During deliberations, the Courtroom itself will be cleared with the jurors having its use.

¹ Include as Attachment A the information that the court will include with summonses.

² 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>.

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. Attachment C details how each of the courtrooms or facilities will be arranged during the jury proceeding:³

³ 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 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


Local Administrative District Judge

ATTACHMENT A

INFORMATION FOR PROSPECTIVE JURORS:

Because you are a prospective juror in an upcoming trial, we are aware that some may have questions or concerns about their safety during this ongoing health crisis that was declared months ago. The purpose of this Notice is to alleviate those concerns. Before getting into the details, though, it is important that you understand some background.

In late March of this year, many businesses and government offices were asked to close their doors. The Judicial System, though, didn't have that option. We have therefore been operating under guidance handed down by various federal and state agencies including the Supreme Court of Texas and the Office of Court Administration. Within days, and after receiving such guidance, your Courts resumed operations. As of today, we are routinely hearing cases and holding non-jury trials but, if possible, schedule electronic hearings for suitable matters. On a daily basis and one that will continue for the foreseeable future, steps such as the following have been taken:

1. All persons entering the Courthouse must wear a mask or other proper face covering;
2. Entry into the Courthouse is managed through the North entrance where Courthouse Security Officers politely ensure that visitors are directed to the appropriate office and COVID screening is done as necessary;
3. Those using the elevators are staggered to avoid overcrowding;
4. From top to bottom, the building is constantly in a state of cleaning; and
5. Areas where people would gather are monitored for social distancing.

These steps, with the cooperation of many, have allowed your Courts to continue with their very important Constitutional duties. Despite our resolve, we have, though, been restricted from conducting jury trials. That restriction has been removed effective October 1st.

With the influx of jurors set to begin, we ask that you note the following:

1. Please read and follow the instructions on your summons and the attached COVID questionnaire. Return them in advance so we can determine in advance whether a person should even be coming to the Courthouse for jury selection.
2. Assuming you meet the qualifications, are not otherwise exempt, and are not medically unsuited for jury service, your attendance is required on the date and at the time indicated on your summons. Please understand, though, that the Judge who has summoned you to Court will make those decisions based on the information you return to us in advance.
3. As you arrive at the North Door to the Courthouse, please identify yourself as a juror to the Courthouse Staff. You will be directed to the second floor of the Courthouse. At that floor, your documents will be taken up if you have not previously submitted them. Please, though, submit them as instructed early so the Judge has time to review them and make the necessary determination if you even need to come to the Courthouse.
4. On the second floor, the Bailiff will assist seating you in a socially distanced manner. Note that our District Courtroom is very large and seating has been marked off in advance.
5. Court will begin promptly at the time shown on your summons so please be on time. The Judge who has summoned you wants to be respectful of everyone's time and not delay the proceedings.

6. If a break in the proceedings occurs, prospective jurors will be instructed to vacate to one of two floors in the Courthouse. Again, this is to ensure plenty of social distance for all in attendance. Restrooms are located throughout the building and each of those is available for your use.
7. Finally, any exit from the Courtroom by the prospective jurors will be staggered. In other words, people will leave in a calculated and orderly manner so stairwells and elevators are not overcrowded.
8. Finally, it should be noted that hand sanitizer is widely available and courthouse staff is routinely screened and follows all "best practices" for good hygiene.

Again, the Judges of Lamar County are serious about their duties and equally serious about your health. We recognize how important you are to the jury trial process and will take every available step ensure your health and safety while performing this important civic duty.

JURY SERVICE COVID-19 PRE-SCREENING QUESTIONNAIRE

Dear Prospective Juror:

As part of the court's ongoing measures to protect against the spread of the COVID-19 disease, we ask that you complete the following before reporting for Jury Service on _____, 2020. Bring this completed questionnaire with you or email it to _____@_____ BEFORE (insert date of jury service, 2020):

1. SYMPTOMS NOW OR BETWEEN (insert date that is 14 days before date of jury service), 2020 AND (insert date of jury selection proceeding), 2020: check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD

_____ Fever (above 100.0) _____ Change in taste or smell _____ Cough _____ Nausea or Vomiting

_____ Headache _____ Shortness of Breath/Difficulty Breathing _____ Diarrhea _____ Chills

_____ Muscle pain or body aches _____ Sore throat _____ Fatigue _____ Congestion or Runny Nose

_____ I certify that NONE of the symptoms above have been experienced by me or a member of my household between (insert date that is 14 days before date of jury service) and (insert date of jury selection, 2020).

IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT CLERK'S OFFICE at () - _____ BEFORE REPORTING ON _____, 2020.

2. CONTACT HISTORY - check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD:

_____ I or a member of my household has been diagnosed with COVID-19 within the past 4 months;

_____ I or a member of my household has been in close contact with someone exposed to or infected with COVID-19 in the last 14 days;

_____ I or a member of my household are currently on a watch list or self-quarantining because of possible COVID-19 exposure;

_____ NONE of the above apply.

IF ANY OF THE ABOVE APPLY, CALL THE DISTRICT CLERK'S OFFICE at () - _____ BEFORE REPORTING ON _____, 2020.

3. COVID-19 RELATED EXCUSE OR POSTPONEMENT - Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised, such as by chemotherapy for cancer or other conditions requiring such therapy, are considered to be vulnerable populations and may request to postpone or be excused from jury service at this time. If you wish to be excused or request that your jury service be postponed, check the box below.

I certify that I meet the above-described conditions and I am requesting to be excused from jury service or desire to have my service date postponed because of those conditions.

IF YOU ARE REQUESTING TO BE EXCUSED OR YOUR SERVICE DATE BE POSTPONED DUE TO A COVID-19 RELATED REASON, CALL THE DISTRICT CLERK'S OFFICE at () - _____ BEFORE REPORTING ON _____, 2020.

4. FACE COVERINGS:

Prospective jurors are required to wear a face covering while they are in the courthouse. Individuals are encouraged to bring a cloth face covering with them. If an individual does not have a cloth face covering, a disposable face mask will be provided.

I certify the above is true and correct:

Signature

Printed Name

ATTACHMENT C – COURT DIAGRAM

