

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

*Effective on and after January 1, 2021*

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 **Orange County, Texas** 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:

As soon as possible, the Judge wishing to conduct a jury proceeding will request approval by emailing Judge Arkeen ([carkeen@co.orange.tx.us](mailto:carkeen@co.orange.tx.us)), her coordinator Latouia

DuBois ([ldubois@co.orange.tx.us](mailto:ldubois@co.orange.tx.us)), the court administrator Robbie Herford ([rherford@co.orange.tx.us](mailto:rherford@co.orange.tx.us)), and the District Clerk Vickie Edgerly ([districtclerk@co.orange.tx.us](mailto:districtclerk@co.orange.tx.us)). In the email, the Judge will include the trial date, cause #, style of the case, anticipated days of trial & number of jurors to be summoned. Once approved by Judge Arkeen, the request will then be forwarded to Judge Olen Underwood ([connie.teel@mctx.org](mailto:connie.teel@mctx.org)) for his approval. Once approved, Judge Underwood will copy the Office of Court Administration ([coronavirus@txcourts.org](mailto:coronavirus@txcourts.org)) on his approval email for posting purposes only.

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:

Judge Courtney Arkeen, not more than 5 days before the jury proceeding, will contact Dr. Calvin Parker ([calvinrparker@gmail.com](mailto:calvinrparker@gmail.com)) by email to verify that the local health conditions and plan precautions are appropriate for the jury proceeding. Once verified, Judge Arkeen will email Dr. Parker's verification to Judge Olen Underwood.

#### **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 Exhibit “A”)<sup>1</sup> and COVID questionnaires (see Exhibit “B”)<sup>2</sup> 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**

1. The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:<sup>3</sup>
  - a. Jury Qualification: 128<sup>th</sup> District Courtroom; Orange County Convention and Expo Center; or Lamar State College Orange Student Center
  - b. Voir Dire: 128<sup>th</sup> District Courtroom; Orange County Convention and Expo Center; or Lamar State College Orange Student Center
  - c. Trial: 128<sup>th</sup> District Courtroom; Orange County Convention and Expo Center; or Lamar State College Orange Student Center; or juries to be seated in gallery of courtrooms
  - d. Jury Deliberation: 128<sup>th</sup> District Courtroom; Orange County Convention and Expo Center; or Lamar State College Orange Student Center; or conducted in courtrooms

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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>.

<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.

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.

### **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. Any individual that meets that criteria (to not wear a face covering) shall bring with them documentation from a medical provider.
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 details how each of the courtrooms or facilities will be arranged during the jury proceeding:<sup>4</sup>

### **Gallery**

1. The maximum number of persons permitted in the gallery of each courtroom has been determined and posted. The maximum capacity of the courtroom will be monitored and enforced by court staff and bailiffs.
2. Seating is limited on each row to comply with social distancing in courtrooms with benches. In courtrooms that have been set up and are not usually courtrooms (at the Expo Center and Lamar State College Orange student center) the chairs have been spaced out 6 feet apart to comply with social distancing.

### **Well**

1. In each courtroom, the counsel tables, witness stand, judge's bench, clerk, court reporter and bailiff seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space.

## **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

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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.

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.

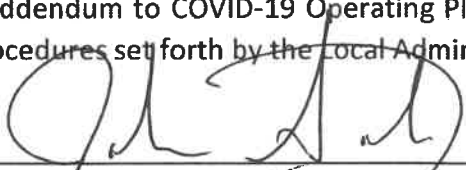
I have attempted to confer with all judges of courts with courtrooms in the court building regarding the Jury Proceeding Addendum to the Operating Plan. In developing the plan, I consulted with the local health authority and county judge, documentation of which is attached to this plan. I will ensure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

Date: 11/9/2020

  
\_\_\_\_\_  
COURTNEY ARKEEN,  
Local Administrative District Judge

I have reviewed the Jury Proceeding Addendum to COVID-19 Operating Plan for the Jefferson County Judiciary and agree with the procedures set forth by the Local Administrative Judge.

Date: 11/10/20

  
\_\_\_\_\_  
JOHN GOTHIA, County Judge  
Orange County, Texas



128<sup>th</sup> JUDICIAL DISTRICT COURT  
*Courtney Arkeen*

Judge

LATOUIA DUBOIS – Court Coordinator

[ldubois@co.orange.tx.us](mailto:ldubois@co.orange.tx.us)

HOLLI HARRISON- Court Reporter

Orange County Courthouse

801 W. Division

Orange, Texas 77630

PHONE: (409) 882-7085

FAX: (409) 670-4101

As a prospective juror, the Judiciary of Orange County and the District Clerk's office have taken the following precautions to protect your health and safety:

Each court will ensure that it minimizes person to person contact as much as possible to prevent the spread of the COVID-19 virus. Each court will comply with any and all State and County orders currently in place as well as future orders. The plan will assure for social distancing for any person having business which will include but not be limited to, court staff, attorneys, prosecutors, defendants, witnesses and jurors in each court. In order to ensure the safety of Courthouse staff, Orange County Expo Center staff, and the citizens of Orange County, the following guidelines have been established:

1. Screening stations have been set up upon entry into the Courthouse and Orange County Expo Center where all entering will be screened for elevated temperatures with an infrared thermometer.
2. Face coverings are required for entry into the Courthouse and Orange County Expo Center and must be worn at all times. For individuals who do not have cloth face coverings, a disposable mask will be provided. Court participants will be provided with face shields.
3. Hand Sanitizer Dispensers have been placed throughout the Courthouse and Orange County Expo Center for easy access by the public.
4. The Courts have agreed to alternate court times to minimize the congregation of people both in and outside each courtroom.
5. Court dockets will be reduced in size and scheduled appropriately to comply with social distancing and courtroom occupancy requirements.
6. Each courtroom has been provided cleaning products, wipes, spray, etc.
7. Courtrooms will be cleaned pursuant to the Operating Plan of the Judiciary.
8. Common areas throughout the Courthouse and the Orange County Expo Center will be sanitized throughout the day.
9. COVID questionnaires will be completed by all prospective jurors prior to jury service.

Sincerely,  
COURTNEY ARKEEN  
ADMINISTRATIVE JUDGE  
ORANGE COUNTY, TEXAS



**Vickie Edgerly**  
 Orange County District Clerk  
 801 W. Division Ave.  
 Orange, Texas 77630-6364  
 Phone: (409) 882-7825



**Anne Reed**  
 Chief Deputy - Civil

**Brandee Avery**  
 Chief Deputy - Criminal

**JURY SERVICE COVID-19 SCREENING QUESTIONNAIRE**

Dear Prospective Juror:

As part of the court's ongoing measures to protect against the spread of COVID-19 disease, we ask that you complete the following survey.

**1. SYMPTOMS:** Are you or any member of your household currently experiencing any symptoms of COVID-19? Check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD:

Fever (above 100.00)  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 in the last 14 days.

**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 30 days.

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 is currently self-quarantined because of possible COVID-19 exposure.

NONE of the above apply.

*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.*

**3. COVID-19 RELATED EXCUSE OR POSTPONEMENT** – Individuals who are over 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 considerate 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, please approach the Judge.

**4. FACE COVERINGS:**

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

I certify the above is true and correct:

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Printed Name

\_\_\_\_\_  
 Badge No. (Located at the Top of Your Summons)

Exhibit "B"