

Jury Proceeding Addendum to COVID-19 Operating Plan for the Midland 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 Midland 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:
 - a. The trial judge will submit a written request to the local administrative district judge in advance of the desired trial date detailing the type of case to be tried, the attorneys and litigants involved, the estimated length of trial time, and details of any defendants or witnesses who are in custody, along with any special needs.
 - b. The local administrative district judge should consult with the trial judge and then make a decision promptly on the request. If approved for trial, the local administrative district judge should promptly submit the request to the Regional Presiding Judge for his consideration.
 - c. The Regional Presiding Judge will act as soon as possible on the request and advise the local administrative district judge of his decision.

- d. The clerk of the court shall issue the summons for the jury panel for prospective jurors no less than 14 days prior to the beginning of trial.
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:
 - a. Any requests for jury trial approved by the local administrative district judge and the Regional Presiding Judge shall be forwarded by email to the Health Administrator of the Midland/Midland County Health Department by the local administrative district judge as soon as possible.
 - b. In the event the local health department has any objections to the proposed jury trial, the Health Administrator shall contact the local administrative district judge by email as soon as possible.
 - c. Upon receipt of any objections or concerns expressed by the local health authority, the local administrative district judge shall consult with the local health authority and the trial judge promptly. If the objections and concerns cannot be satisfactorily resolved, to the agreement of the local health authority, the local administrative district judge, and the trial judge, then the jury trial shall be postponed.
 - d. If no objections are received from the local health authority, then the local administrative district judge shall confirm with the local health authority by email no later than 5 days before the beginning of jury selection that no new concerns have arisen. If there are unresolved concerns or objections by the local health authority to proceeding with the jury trial within 5 days, then the local administrative district judge and the trial judge shall cancel the proceedings.

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

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: Midland County Horseshoe, 2514 Arena Trail, Midland, Midland County, Texas 79701.
 - b. Voir Dire: Midland County Horseshoe, 2514 Arena Trail, Midland, Midland County, Texas 79701.
 - c. Trial: District Courtrooms and County Court-at-Law Courtrooms, Midland County Courthouse, 500 North Loraine Street, Midland, Midland County, Texas 79701.
 - d. Jury Deliberation: Either in adjacent courtroom to the trial courtroom or in the jury room of the east courtroom located on the same floor as the trial court.
 - e. Public viewing of trial: Trial Courtroom.
2. Security protocols at the locations for jury proceedings have been reviewed with the appropriate courthouse security personnel and are adequate for the proceeding.

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>.

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 .

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 and photographs attached, details how each of the courtrooms or facilities will be arranged during the jury proceeding:⁴

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.

- a. Prospective jurors will be summoned to appear at the Midland County Horseshoe. There will be a map attached to the back of the jury summons showing location of the Midland County Horseshoe and the parking facilities. The Midland County Horseshoe has been designated by the Midland County Commissioners as an auxiliary court facility.
- b. Large sandwich board signage will be placed at various locations on the campus indicating the areas for juror parking and the entrance for prospective jurors.
- c. The signage directs prospective jurors that masks are required and that they can be furnished.
- d. As prospective jurors' approach, they will be met near the entrance by security and/or EMS personnel who will conduct the COVID screening as required by the Midland County Plan for the Judiciary. All the protocols will be taken that are required, including taking the temperature of the individuals and asking the questions required. Prospective jurors will be given face masks if they have not brought their own.
- e. Prospective jurors will then pass through the normal security checking for weapons and then they will be directed to the clerks' desks for the completion of any juror information cards or COVID questionnaire. Once completed, prospective jurors will be escorted to be met by deputy clerks who will direct them to pre-marked seating.
- f. Chairs have been placed on the chairs six feet apart throughout the Midland County Horseshoe. Prospective jurors will be seated and will be told to remain in their numbered seat unless otherwise given permission to move. Disposable numbers marking the individual spaces of the prospective jurors will be utilized to identify them during the qualification process.
- g. Once the panel is seated the proceedings with jury selection shall begin as required by law. Once the judge completes the qualification process and begins hearing excuses, exemptions, and questions regarding qualifications, those prospective jurors who do not believe they are qualified or who are requesting to be excused will remain and the rest of the panel will be excused until a designated time at which they will return to the Midland County Horseshoe for voir dire.
- h. Those who believe they are not qualified or who have a question about qualifications, exemptions or excuses will come up one at a time to the stage. They will be allowed to speak wearing a face mask during the discussion with the judge about their qualification.
- i. The voir dire will take place at Midland County Horseshoe after the clerk has prepared the list of qualified jurors and photocopied the juror information sheets. All prospective jurors will be required to wear face shields during voir dire.
- j. A cleaning crew will disinfect the seating areas where each prospective juror had previously been seated. The first set of disposable numbers marking the individual spaces will be thrown out and a new set will be set out by the clerks at the designated seats.
- k. As the prospective jurors arrive for voir dire at the entrance to Midland County Horseshoe, the COVID screening and security screening will take place again.
- l. The prospective jurors will be seated in accordance with their number as per the list and will remain at that designated seat with the disposable numbered card throughout the duration of the voir dire, unless approved to leave as may be appropriate.
- m. During the voir dire, any prospective juror that is responding to questions from the attorneys or the court will do so from their seat with a technical assistant

using a cordless microphone so they can be heard in the facility. If prospective jurors need to speak more privately to the judge during jury selection, they will be allowed to come to the stage, and standing six feet from the judge, speak to the judge in the presence of the court reporter and the attorneys, without the microphone being utilized.

- n. After voir dire is completed, the attorneys will be allowed to strike their lists in an adjoining separate area. They will then submit their strike list to the court on the stage and the jury then will be identified by the court after all challenges have been ruled upon.
- o. Those jurors and any alternates who have been selected will be told to arrive at the Midland County Courthouse on the designated day at a designated time where they will go through the appropriate screening and be directed to assemble in either the adjacent courtroom or east jury room.
- p. The jury will be brought into the District Courtroom for the actual trial. They will be seated six feet apart throughout the jury box and well of the courtroom.
- q. The bench, the witness stand, and court reporter area have all been fitted with plexiglass shields.
- r. The gallery seating and the jury box have been marked to identify the location for people to sit.
- s. Monitors throughout the courtroom will be utilized for presentation of exhibits in the trial.
- t. Exhibits 1 and 2 are attached showing designated areas of the Courthouse and Horseshoe respectively.

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.
4. 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.

September 30, 2020


David W. Lindemood
Local Administrative District Judge
318th District Court



EXHIBIT

6 photos



JURY SEATING



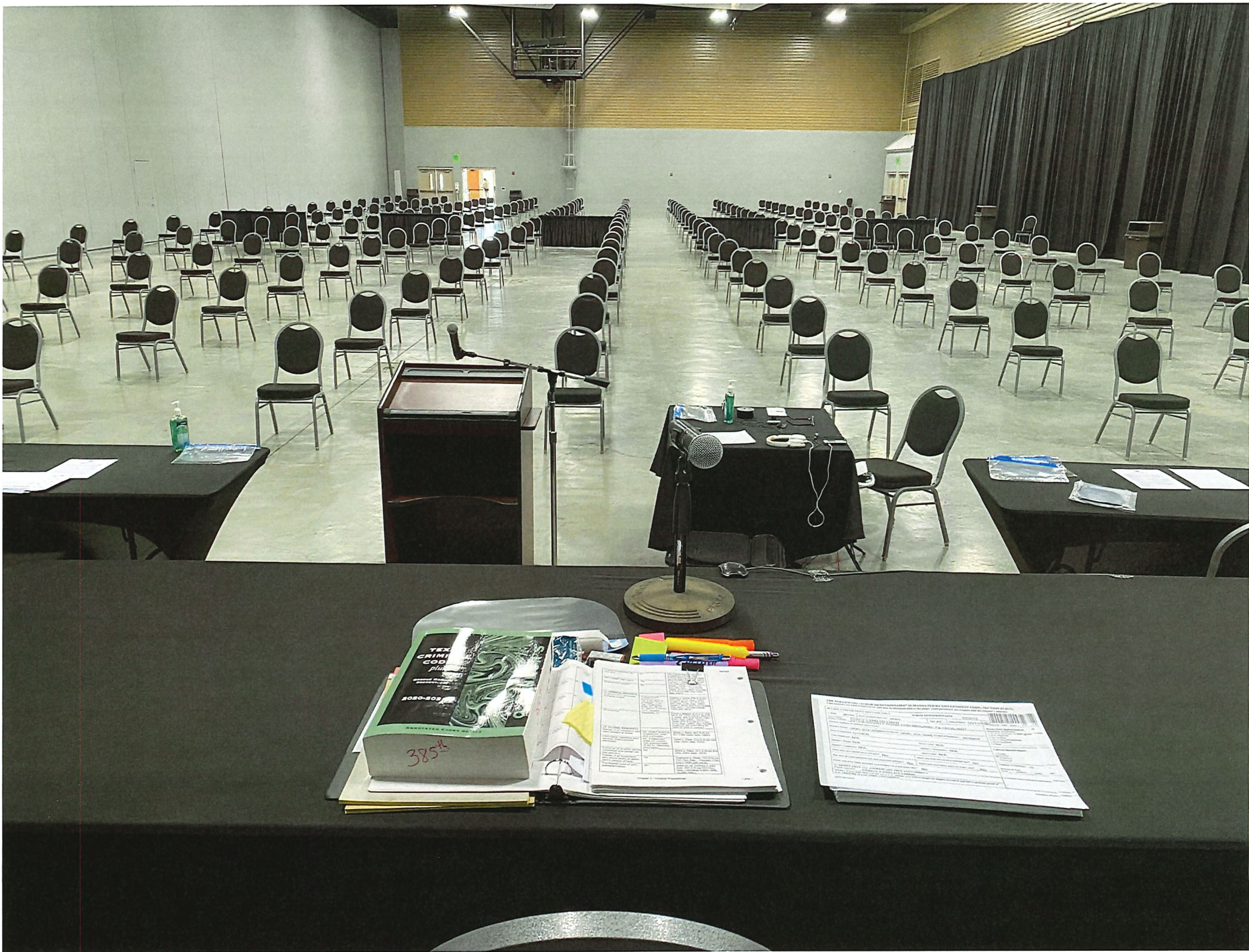








EXHIBIT
2
5 photos



385A

TEK CRIMINAL CODE plus

2020-2021

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Form with text and a barcode.

30701-ADMISSIV-ANMELDE

Form with various fields and a barcode.



Stop the Spread of Germs

Prevent the spread of respiratory diseases like COVID-19.

6 ft

Stay at least 6 feet (about 2 arms' length) from other people.

Cover your cough or sneeze with a tissue, then throw the tissue in the trash and wash your hands.

In public, wear a face covering over nose and mouth.

Do not touch your eyes, nose, and mouth.

Clean and disinfect frequently touched objects and surfaces.

Stay home when you are sick, except to get medical care.

Wash your hands often with soap and water for at least 20 seconds.

ARENA, PAVILION & AMPHITHEATER

HORSESHOE
Hospitality & Services

[cdc.gov/coronavirus](https://www.cdc.gov/coronavirus)









ALEX ARCHULETA
MIDLAND COUNTY COURTHOUSE
500 NORTH LORAIN STREET, SUITE 300
MIDLAND, TEXAS 79701



To Prospective Jurors:

The Texas Supreme Court and the Office of Court Administration require I inform you of the following safety measures Midland County has taken concerning your attendance at jury selection:

- (1.) The jury selection will commence at a location to be provided to you separately.
- (2.) The actual trial will be conducted at the Midland County Courthouse.
- (3.) All facilities have been laid out to ensure proper social distancing standards are adhered to.
- (4.) Shields will be provided to you and will be required at specific times when you are within one of the facilities.
- (5.) Masks will be required at other times and if you need one, one will be provided to you.
- (6.) Temperatures will be taken upon entry into a facility.
- (7.) COVID-19 symptom information and precautions will be provided to you for your informational purposes. If you are experiencing one or more symptoms listed, you will not be allowed to enter the facility.
- (8.) Hand sanitizer is provided for public use.
- (9.) Interim cleaning measures have been implemented to ensure facilities are continuously sanitized.
- (10.) No more than 2 persons allowed in an elevator at a time.

Attachment A

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 B