

Jury Proceeding Addendum to COVID-19 Operating Plan for the Mitchell 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 32nd District Court of Mitchell 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. Submit their proposal to the Local Administrative District Judge and the Regional Presiding judge consistent with the Mitchell County Covid-19 Operating Plan, State guidelines and the Texas Supreme Court's Twenty-sixth Emergency Order.

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.

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) and COVID questionnaires (see attachment B) 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:
 - a. Jury Qualification: Colorado City Civic Center
 - b. Voir Dire: Colorado City Civic Center
 - c. Trial: District Courtroom, Mitchell County Courthouse, with the courtroom “flipped” as described below.
 - d. Jury Deliberation: District Courtroom, Mitchell County Courthouse
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.
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 details how each of the courtrooms or facilities will be arranged during the jury proceeding:
 - a. In the District Courtroom, counsel tables, the witness stand, the judge's bench, the clerk, court reporter, and bailiff seating will be configured in such a way as to accomplish proper social distancing protocols of at least six feet between each space.
 - b. The gallery is taped off and marked to identify six feet between each seat.
 - c. The venue will be open to the public during the jury proceeding with a maximum of 35 individuals allowed in the courtroom.
 - d. A number of empty rooms on the second floor of the courthouse will be utilized for attorney-client conversations and private conversations with witnesses.
 - e. The jury will deliberate in the courtroom to maintain social distancing protocols.

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.



Local Administrative District Judge

Date: October 6, 2020

*BELINDA BLASSINGAME
MITCHELL COUNTY DISTRICT CLERK
349 OAK STREET
COLORADO CITY, TX 79512
325-728-5918*

Our Court would like to advise you as to how we are preparing and planning to ensure your safety concerning COVID-19 during the time you will be spending at jury service.

While you are at jury service you are required to wear a face cover. You may bring your own face cover and we will also be providing paper face covers in case you forget yours. Hand sanitizer will also be provided for your use and the court will insist upon strict social distancing of remaining six feet apart.

The Health Department will be present and will be taking temperatures of court staff and those called for jury service. They will also be asking the necessary questions concerning any symptoms of and exposure to COVID-19 of each individual.

We ask that you call us at the number listed above before the day of jury duty if you have any symptoms of COVID-19 such as a fever above 100.0, persistent cough, loss of sense of taste or appetite, ongoing headache, shortness of breath, diarrhea, chills or repeated shaking with chills, muscle pain or body aches or sore throat. We also ask that you call us before the day that jury service is scheduled if you or a member of your household has been in close contact with someone who is infected with the virus within the last fourteen days or has been diagnosed with COVID-19 within the past four months.

Individuals who are 65 years of age or older 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 individuals who are undergoing chemotherapy for cancer or other conditions requiring such therapy, are considered to be vulnerable populations and may request to reschedule their appearance for jury service. Please contact our office at the telephone number listed above before the day jury service is scheduled to make this request.

Please note to meet at the Colorado City Civic Center, 157 W 2nd, Colorado City and not the Mitchell County Courthouse.

All efforts to ensure a sanitary environment will be provided at all times to ensure your safety while you are performing jury service.

Thank you for your cooperation in this matter.



Belinda Blassingame
Mitchell County District Clerk

Please Print Name: _____

Screening Questions for COVID – 19

Circle all that apply:

Have you had any of the following signs or symptoms within the past 48 hours:

Fever or chills

Cough

Shortness of breath

Body or Muscle Aches

Fatigue

New loss of taste or sense of smell

Diarrhea

Vomiting

Runny Nose

Within 14 days, have you been in close physical contact (6 feet or closer for at least 15 minutes) with a person who is known to have laboratory-confirmed COVID 19 or with anyone who has any symptoms consistent with COVID – 19?

YES

NO

Are you isolating or quarantining because you may have been exposed to a person with COVID – 19 or are worried that you sick with COVID -19?

YES

NO

Are you currently waiting on the results of a COVID -19 test?

YES

NO

Signature: _____

Date: _____

court32@co.nolan.tx.us

From: Judge Mark Merrell <mmerrell@co.mitchell.tx.us>
Sent: Tuesday, October 6, 2020 3:08 PM
To: court32@co.nolan.tx.us
Subject: RE: Jury Proceeding Addendum to COVID-19 Operating Plan for the Mitchell County Judiciary

I, Judge Merrell, have reviewed the plan and I am in agreement.

Thank you,
Lovida Hamilton
Admin Asst. to the County Judge
Mitchell County

-----Original Message-----

From: court32@co.nolan.tx.us
Sent: Thursday, October 1, 2020 10:59am
To: mmerrell@co.mitchell.tx.us, deeroach57@gmail.com
Subject: Jury Proceeding Addendum to COVID-19 Operating Plan for the Mitchell County Judiciary

Good Morning, Judge Merrell and Dr. Roach -

I am attaching an Addendum to our Covid-19 Operating Plan, which Addendum is required under the latest Supreme Court Emergency Order. Pursuant to the requirements set out in the last paragraph, I will attach to the document your response to this email indicating that Judge Harrison has consulted with each of you concerning the Addendum.

If that is correct, would you please reply accordingly?

Thank you, both, for your help in this matter.

Becky Stewart

Court Administrator

32nd Judicial District Court

100 E. Third St., Suite 204

Sweetwater, Texas 79556

(325) 235-3133

court32@co.nolan.tx.us

From: Dee Roach <deeroach57@gmail.com>
Sent: Monday, October 5, 2020 2:02 PM
To: court32@co.nolan.tx.us
Subject: Re: Jury Proceeding Addendum to COVID-19 Operating Plan for the Mitchell County Judiciary

I have reviewed the proposed plans for proceeding with jury trials and have spoken with Judge Harrison as well. After review of these documents and discussing with Judge Harrison I am comfortable with the outlined plans and recommendations and recommend proceeding with plans as presented.

Thanks,
Dee Roach, M.D.

On Mon, Oct 5, 2020 at 7:34 AM Dee Roach <deeroach57@gmail.com> wrote:

I have reviewed the proposed plan for proceeding with jury trials.
Everything looks good and I have no other recommendations for now.
Please let me know if you have further questions and I will be happy to help in any way I can.
Dee Roach, M.D.

On Thu, Oct 1, 2020 at 10:59 AM <court32@co.nolan.tx.us> wrote:

Good Morning, Judge Merrell and Dr. Roach –

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