

# Jury Proceeding Addendum to COVID-19 Operating Plan for the Potter 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 **Potter 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:  
The judges will give the proposed jury trial date to the local administrative judge who will maintain a jury trial rotation each month in order to minimize the amount of persons that will be required to be in the courthouse and give approval as appropriate. The local

administrative judge will discuss the cases requesting approval with the regional presiding judge.

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: The local administrative judge or designee will email the local health authority and inform him/her of the jury trial and that the jury trial will be conducted in accordance with the jury operating plan. If the local health authority notifies the administrative judge that the jury proceeding cannot safely proceed even with the safety procedures in place, the local health authority may add additional safety measures for the jury trial that must be complied with if the trial is to go forward, or may state that the trial cannot go forward even with additional safety measures in place if there is no reasonable probability of ensuring the safety of the jurors.

#### **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)<sup>1</sup> and COVID questionnaires (see Attachment 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: Central Jury room, the Embassy Suites Hotel ballroom adjacent to the Potter County District Courthouse, or other building as near as feasible to the Potter County District Courthouse that is adequate to house the number of potential jurors necessary for trial as contracted by the county and agreed by the Local Administrative Judge and trial court, together with adjacent rooms, and hallway for overflow
  - b. Voir Dire: Central Jury room, the Embassy Suites Hotel ballroom adjacent to the Potter County District Courthouse, or other building as near as feasible to the Potter County District Courthouse that is adequate to house the number of potential jurors necessary for trial as contracted by the county and agreed by the Local Administrative Judge and trial court, together with adjacent rooms, and hallway for overflow

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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.

- c. Trial: The trials will be conducted either in the 47<sup>th</sup>, 108<sup>th</sup>, 181<sup>st</sup>, 251<sup>st</sup>, 320<sup>th</sup>, CCL #1, or CCL#2 courtrooms. Each of the courtrooms are large enough to accommodate the jurors and the parties to safely conduct a jury trial. In addition, a jury trial may also be conducted in the central jury room. Gallery area will be marked and monitored to ensure 6 foot distance between spectators. All persons in the gallery will be required to wear masks.
  - d. Jury Deliberation: Another courtroom with sufficient space to ensure social distancing shall be used for deliberation after the cameras and windows have been covered.
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 description details how each of the courtrooms or facilities will be arranged during the jury proceeding:<sup>4</sup>

2.

Jury qualification in the Central Jury Room: The potential jurors will be seated six feet apart in the central jury room. The judge will stand at the podium or be seated in the corner as space permits. The judge will remain six feet away from the closest juror, and will qualify those jurors. If necessary, the judge will proceed to the hallway and will qualify the jurors in the hallway standing at least 6 feet away from each potential juror.

Jury qualification away from the Courthouse: The jurors will be seated in a room of sufficient size to house all potential jurors who will be seated 6 feet apart. All court personnel and jurors will wear face shields and masks. The judge will be seated at a table with the District Clerk representative, separated by a plexi-glass shield. Any matters potential jurors desire to discuss with the judge concerning qualification or availability to serve will be taken up by the judge individually in an adjacent room or hallway maintaining 6 feet boundaries.

Voir Dire in the central jury room: After qualifying the jurors, the central jury room will be arranged in order to add counsel tables. The tables will have shield dividers between persons sitting at the tables and plexi-glass dividers in front of the table. The attorneys will use the

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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.

podium and microphone to conduct voir dire. Questions that need to be answered outside the presence of the other jurors will occur in the courtrooms.

Voir Dire at a remote location: The jurors will be seated in a room of sufficient size to ensure an adequate number for jury selection. Jurors will be seated at least 6 feet apart. A court table, counsel tables, bailiff table, and an area for the court reporter will be established at a location in the room to provide 6 foot distancing. Each area will be fronted by plexi-glass shield and a plexi-glass shield separating persons sitting at the tables. Potential jurors will wear face shields and masks which will remain on except when responding to questions, at which time a potential juror may remove the mask but keep the face shield on. Attorneys will address the group by microphone. Responses will be by microphone supplied by court personnel directly or at a centrally located microphone. After each use the microphone will be sanitized and a disposable cover will be removed and replaced.

During trial: The judge will be sitting at his/her bench and will have a plexi-glass divider in front of the bench. The court reporter will be seated at least six feet apart from the judge and will also have a plexi-glass divider in front of her. Some of the jurors will be in the back row of the jury box with plexi-glass dividers between each of them. The other jurors will be seated in front of the jury box (no one will be seated in the front row of the jury box) with plexi-glass dividers between them. The lawyers will be located at counsel table which is at least six feet apart from the jurors and the witness table. Counsel table will have a plexi-glass divider in front of the table and a plexi-glass divider in the middle of the table to allow the client or co-counsel to consult together closer than six feet apart. The bailiff will be seated at least six feet apart from the witness stand and counsel table. The witness will have a table that is at least six feet away from the judge, court reporter, bailiff, jurors, and counsel table. The table will also have plexi-glass dividers in front and on the side.

Breaks: The jurors will take breaks in the central jury room. They will have designated seats to sit in during breaks.

Jury deliberations: The jury will have another courtroom to deliberate in. The courtroom will not be arranged in a particular way, but jurors will be instructed to sit at least six feet apart at all times.

### **County Courts at Law:**

1. Both CCL#1 and CCL#2 will use CCL#2 courtroom for jury trials. The gallery will accommodate 22 participants while maintaining proper social distancing.
2. Voir dire will be done in the courtroom or moved to the central jury room if additional overflow is necessary.
3. During trial, the jury will be seated in the gallery maintaining social distancing. Public seating available in the rear of the gallery.
4. Counsel will be at counsel table and properly distanced from each other, the court reporter, judge, bailiff, and witness. The witness will testify from the jury box.
5. Masks and/or face shields shall be provided and required at all times and plexiglass shields available for counsel table, witness seat, and the bench.
6. The fourth (4<sup>th</sup>) floor conference room will serve as the jury room for assembly, breaks, and deliberation. The room will be arranged to permit social distancing.

### **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

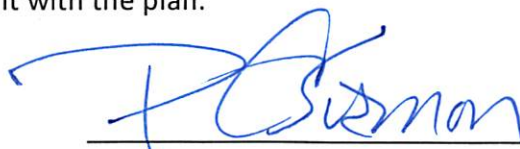
1. Courts that provide food to jurors or other participants during a jury proceeding will ensure individual food portions, such as individually boxed meals, are provided.

### 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: 10/1/2020



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Pamela Sirmon  
Judge, 320<sup>th</sup> District Court  
Local Administrative District Judge



Attachment A



## Potter County

**Carley Snider**  
District Clerk

806 / 379-2300  
FAX: 806 / 372-5061  
carleysnider@co.potter.tx.us

P.O. Box 9570  
Amarillo, Texas 79105-9570  
501 S. Fillmore-Suite 1B

### **Public health measures being implemented at Embassy Suites Amarillo Downtown to protect jurors during the Covid-19 pandemic.**

Beginning October 1, 2020, Potter County District Courts are resuming jury trials. It is important for jurors to know the precautions being taken to protect their safety during the COVID-19 pandemic.

Jury selection for Districts Courts will be taking place at the Embassy Suites Amarillo Downtown, where there is sufficient space to ensure social distancing recommendations. From temperature checks, to social distancing, along with numerous sanitizing stations and the use of face masks and face shields, the District Clerk's office along with other District offices are doing everything we can to create a safe and healthy environment for jurors. We urge those receiving a summons to respond by following the instructions to call or go online. We need you, the jurors, so our justice system can continue.

Once the jury is selected, the trial will take place in one of the courtrooms at the District Courts Building. Under the direction of the Courts, they have implemented the same public health measures in the courtrooms, including face covering and sanitation. In addition, the jurors are seated in compliance with the Potter County jury trial operating plan which will be found on the Office of Court Administration's website, [www.txcourts.gov](http://www.txcourts.gov), as soon as it is approved.

Sincerely,

A handwritten signature in cursive script that reads "Carley Snider".

Carley Snider  
Potter County District Clerk

COVID-19 PRE-SCREENING QUESTIONNAIRE

«jurnum»

«fulnam»

Dear Prospective Juror,

As part of the court’s ongoing measures to protect against the spread of COVID-19, we ask that you complete the following before reporting for Jury Service. Please bring this completed questionnaire with you when reporting for service

1. SYMPTOMS NOW OR WITHIN 14 DAYS PRIOR TO REPORTING FOR SERVICE - check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD:

- Fever (above 100.0) Change in taste, smell or appetite Cough
Headache Shortness of Breath Diarrhea Chills or repeated shaking with chills
Muscle pain or body aches Sore throat

I certify that NONE of the symptoms above have been experienced by me or a member of my household between NOW AND 14 DAYS PRIOR TO REPORTING FOR SERVICE.

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 YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS OR BELIEVE ANY OF THE ABOVE CONTACT HISTORY INFORMATION APPLIES TO YOU, PLEASE CALL THE DISTRICT CLERK’S OFFICE at (806) 379-2300 BEFORE REPORTING FOR SERVICE.

3. COVID-19 RELATED EXCUSE OR EXTENSION - 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 reschedule or be excused from grand jury service at this time. If you wish to be excused or request that your jury service date be rescheduled, 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 rescheduled because of those conditions.

IF YOU ARE REQUESTING TO BE EXCUSED OR YOUR SERVICE DATE BE RESCHEDULED DUE TO A COVID-19 RELATED REASON, CALL THE DISTRICT CLERK’S OFFICE at (806) 379-2300 BEFORE REPORTING.

4. FACE COVERINGS: prospective jurors are required to wear a face covering while they are in the courthouse and the Embassy Suites. Individuals are encouraged to bring a face covering with them. If an individual does not have a face covering, a disposable face mask will be provided.

Juror ID# «jurnum»

I certify the above is true and correct: «fulnam»

Signature: \_\_\_\_\_

Date: \_\_\_\_\_