

# 506<sup>th</sup> Judicial District Court

Albert M. McCaig, Jr., Judge



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Sheila Mundy

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Grimes County  
Waller County

December 28, 2020

836 Austin Street, Suite 307  
Hempstead, Texas 77445  
Fax: 979.826.9149  
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Honorable Olen Underwood  
Regional Administrative Judge  
Second Administrative Judicial Region  
301 North Thompson, Suite 102  
Conroe, Texas 77301

Re: Submission of Grimes County COVID-19 Operating Plan for Conducting  
Jury Trials


Judge Underwood:

Attached for your review and ultimately for submission to the Texas Office of Court Administration is the Grimes County COVID-19 Operating Plan for Conducting Jury Trials. This plan has been developed in accordance with the guidance from the Office of Court Administration.

As noted, this plan has been staffed through all the trial court judges in Grimes County, the County Judge, County Sheriff, Emergency Action Manager, and Director of Buildings and Maintenance. Further, the plan was submitted for review by the Local Health Authority for Grimes County, Dr. Sharon K. Melville, who has approved the plan as well.

Should you have any questions or concerns, please let me know and I will respond as quickly as possible. Pending approval this plan will be placed into operation in Grimes County, Texas.

Respectfully,

  
ALBERT M. McCAIG, JR.  
Judge, Presiding

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enc

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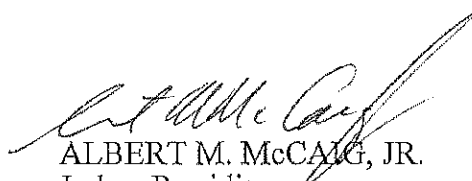
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## MEMO FOR THE RECORD

SUBJECT: Grimes County COVID-19 Operating Plan for Conducting Jury Trials

Re: Consultation with all trial judges in Grimes County, Texas for discussion and implementation of Grimes County COVID-19 Operating Plan for Conducting Jury Trials

1. On December 9, 2020, a meeting was held with all trial judges in Grimes County regarding discussion of the Grimes County COVID-19 Operating Plan for Conducting Jury Trials. The meeting was conducted via Zoom.
2. The County Judge, County Office of Emergency Management, County Sheriff, and Maintenance Supervisor for Grimes County were included in the meeting. Each attendee had previously been provided a template of the Plan from the Office of Court Administration.
3. As a judges' meeting, it was not recorded and was not subject to open meetings provisions. The proposed Plan was discussed with many suggestions and concerns.
4. Following review by affected parties, the proposed Grimes County COVID-19 Operating Plan for Conducting Jury Trials was forwarded to Dr. Sharon Melville, DSHS Local Health Authority for Region 7, for review, comment, and request for approval. Dr. Melville provided guidance and recommended changes to the proposed plan, which were implemented.
5. On December 22, 2020, Dr. Sharon Melville, Local Health Authority, approved the proposed Grimes County COVID-19 Operating Plan for Conducting Jury Trials.. A copy of her approval email is attached to the Plan.

  
ALBERT M. McCAIG, JR.  
Judge, Presiding

**COVID-19 OPERATING PLAN FOR CONDUCTING JURY TRIALS  
FOR GRIMES COUNTY, TEXAS**

In order to balance the need to protect the health and safety of prospective and selected jurors, litigants, attorneys, visitors, court staff, judges, and other individuals that may participate in jury proceedings with the necessity that parties and members of the public are able to exercise their fundamental right to a jury trial, the following measures are hereby implemented for the courts of Grimes County and shall supplement the measures previously implemented in the COVID-19 Operating Plan for Grimes County, which remains in full force and effect:

**General**

1. In addition to the measures previously implemented in the COVID-19 Operating Plan for Grimes County, which remains in full force and effect, District Judges and the County Court at Law Judge may conduct in-person jury proceedings as may be permitted by the Supreme Court of Texas and/or the Texas Court of Criminal Appeals, pursuant to this COVID-19 Operating Plan for Conducting Jury Trials for Grimes County ("Operating Plan for Conducting Jury Trials").
2. All judges (including District Judges, County Court at Law Judge and Justices of the Peace) are permitted to conduct virtual jury proceedings as long as permitted by order of the Supreme Court of Texas and/or the Texas Court of Criminal Appeals, as applicable. However, in criminal trials involving potential incarceration, virtual jury proceedings shall only occur with appropriate waivers and consent from the Defendant and Prosecutor made on the record. In any other virtual jury proceeding, consent is not required.
3. Any judge wishing to conduct a jury proceeding is required to obtain advance approval for each such trial from the Local Administrative District Judge and the Presiding Judge for the Second Administrative Judicial Region. A request to conduct a jury proceeding for a given week must be submitted no later than 5:00pm on the 34<sup>th</sup> day prior to the Monday of the week requested.
4. A judge who obtains approval for an in-person jury proceeding should schedule no more than ten (10) cases for that jury trial setting unless pre-approval for larger dockets is obtained from the Presiding Judge for the Second Administrative Judicial Region.
5. Judges should attempt to alert attorneys and/or parties who will not be proceeding prior to the day of trial to reduce attendance at the court facility.
6. The Local Administrative District Judge is required to consult with the local health authority not more than five (5) days prior to each such approved jury proceeding to verify that local health conditions and plan precautions are appropriate for such trial to proceed.
7. Each judge shall consider any motion or objection related to proceeding with a jury trial on the record at least seven (7) days prior to the trial. If any such motion or objection is made less than seven (7) days prior to the trial, the judge shall consider same on the record as soon as practicable.

8. Each judge shall establish communication protocols with the applicable attorneys, parties, sheriff, and person serving as bailiff, prior to a jury proceeding to ensure that no participants (attorneys, parties, witnesses, etc.) have tested positive for COVID-19 within the last thirty (30) days, have symptoms of COVID-19, or have been recently exposed to COVID-19.

9. Any judge wishing to conduct a virtual jury trial is required to ensure that all prospective jurors have access to technology with which to participate.

**Procedures for the Summoning of Jurors**

1. The clerk must include with each in-person juror summons information regarding precautions that have been taken to protect the health and safety of prospective jurors (see Attachment A) and a COVID questionnaire (see Attachment B), that elicits 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 venire persons.

3. In addition to the information contained in 1., above, all prospective jurors will receive a letter with their summons that provides information about this Operating Plan for Conducting Jury Trials, and advises prospective jurors that they may claim exemptions or disqualification prior to their report for jury service.

4. Excuses from in-person prospective jurors who have been potentially exposed, who are symptomatic or who are vulnerable or live with someone vulnerable to COVID-19 should be liberally granted.

**Guidance on Appropriate Locations for Jury Proceedings**

1. Each jury selection shall take place in a location large enough to allow for appropriate social distancing between each prospective juror. The Local Administrative Judge will assign such location for each trial.

2. The following locations have been determined to have sufficient space to be used for in-person jury proceedings:

District Court and County Court at Law:

- a. Jury Qualification and Voir Dire: Grimes County Fair Grounds Expo Center
- b. Trial: District Courtroom, Third Floor, Grimes County Courthouse
- c. Jury Deliberation: Commissioners Courtroom, Grimes County Courthouse Annex

3. Only one jury trial will be permitted in the Grimes County Courthouse on any given day in order to reduce the number of people in the building. Another room in the immediate vicinity

of the location of any jury proceeding that shall be available for the socially distanced assembly of jurors may be used.

### **Screening**

1. When a prospective juror, as well as all court participants and observers, attempts to enter a court building or the location where jury selection will take place, he/she will be instructed to disclose to county personnel if he/she is feeling feverish; has a cough, shortness of breath, or difficulty breathing; or has been in close contact with a person who is confirmed to have COVID-19. Individuals making such a disclosure will be refused admittance to the court building or the location where jury selection will take place, and will be directed to contact the applicable court regarding his/her situation.
2. When a prospective juror attempts to enter the court building or the location where jury selection will take place, county personnel will determine the temperature of the individual. Individuals whose temperature equals or exceeds 99.6 will be refused admittance to the court building or the location where jury selection will take place, and will be directed to contact the applicable court regarding his/her situation.
3. Staff who are screening prospective jurors attempting to enter a court building or the location where jury selection will take place will be provided personal protective equipment, including facemasks, face-shields, gloves, tissue and hand sanitizer.
4. 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 a COVID-19 positive test results within the past 30 days will be reported to the trial judge prior to transport.

### **Requirements for Face Coverings**

1. All prospective jurors entering a court building or the location where jury selection will take place will be offered a free, disposable face mask if they do not already have their own face coverage. In addition, each prospective juror will be issued a clear face-shield and required to wear it at all times associated with the proceeding, including during short breaks. Exceptions will be made for eating, drinking, and smoking, so long as social distancing is used.
2. Until such time as Executive Order No. GA-29 (as extended from time to time) is modified, amended, rescinded or superseded, all participants (attorneys, parties, witnesses, prospective jurors, jurors, alternate jurors, etc.)(Unless excepted by Executive Order No. GA-29) will be required to wear a face covering when inside a court building or the location where jury selection and/or the jury trial will take place.
3. Court participants who may need to lower their facemask to speak will be required to wear a face-shield. When speaking, the judge of each court will permit a court

participant to lower his/her mask so long as a face shield is worn and the person speaking is immobile.

### **Social Distancing Protocols**

1. Upon entry of a court building or the location where jury selection will take place, all prospective jurors will be required to maintain adequate social distancing of at least 6 feet.
2. The judge of each court will situate counsel tables in such a way to maintain adequate social distancing and will limit counsel and parties to certain areas of the courtroom to maintain adequate social distancing.
3. Special attention will be paid by courts to ensure adequate social distancing and managed exits of individuals during breaks, especially large groups of people for a break.
4. Opening statements, presentation of evidence and closing arguments will be held in the courtroom regardless of the location where jury selection took place. By specific order pertaining to each jury trial, the location of opening statements, presentation of evidence, and closing arguments, may be changed to the same location at which jury selection is conducted. Jury deliberations will be held in an area sufficient to provide for appropriate social distancing which will be secured during such deliberations with no other individuals present in the deliberation area or room other than the jurors.
5. The judge of each court will ensure that appropriate social distancing for the seating area within the gallery of the courtroom or place of trial is monitored and enforced by court staff. Public access will be available in the courtroom or place of trial only in compliance with social distancing and COVID-19 sanitation protocols.
6. The judge of each court will ensure that appropriate social distancing for the counsel tables, witness stand, judge's bench, clerk, court reporter, bailiff and jury is monitored and enforced by court staff.

### **Alternate Jurors**

1. All of the measures within this Operating Plan for Conducting Jury Trials shall apply equally to alternate jurors, with the exception that such alternate juror(s) may not participate in jury deliberations unless called upon to serve as a replacement juror.
2. Judges will be encouraged to consider selecting alternate jurors to permit the trial to continue in the event of a juror becoming ineligible to serve.

### **Arrangement of Courtroom**

1. Each judge shall arrange and mark his/her courtroom or place of trial in a manner to ensure proper social distancing.

### **Microphone Protection Protocols**

1. The judge of each court will ensure that microphones within the courtroom are regularly disinfected during working hours of each business day. This will specifically include the disinfecting of the microphone at the witness stand following each witness' testimony.
2. The judge of each court will limit, to the degree possible, the shared use of microphones during the jury proceeding.
3. If a microphone must be shared, the judge of each court will limit the passing of the microphone unless the microphone is cleaned between each user.
4. Disposable microphone covers will be made available as needed.

### **Exhibit/Evidence Management**

1. Counsel and parties shall use the court's camera projection system, as applicable, to present admitted exhibits.
2. All counsel and parties will have provided opposing counsel/parties proposed exhibits electronically when possible, and each counsel/party shall utilize electronic exhibits during the course of the trial so that exhibits will not be handled between counsel during trial.
3. When necessary, single-use gloves will be utilized by counsel, parties the bailiff, and jurors to handle exhibits, and will be discarded in an appropriate fashion immediately after handling the exhibit or evidence.
4. Gloves will be provided to all personnel, including jurors, to handle any exhibits and papers during trial and/or deliberations.

### **Vulnerable Witnesses**

1. To the degree constitutionally permissible or with the consent of the parties, any witness who is a member of the vulnerable population as defined in the COVID-19 Operating Plan for the Grimes County Judiciary shall be permitted to testify remotely, i.e. video conference and/or telephone.

### **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 Requirements**

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 and voir dire will be sanitized during transitions of those spaces.

3. Seats for members of the jury panel and selected jurors will be assigned to reduce potential transmission and reduce the need for more frequent cleaning.


**Other**

This Operating Plan for Conducting Jury Trials has been created based upon the facts, circumstances and current guidance related to COVID-19. I have conferred with all judges of courts with courtrooms in the court buildings regarding this Operating Plan for Conducting Jury Trials. In developing this plan, I have consulted with, and received the approval of the local health authority, documentation of which is attached to this plan. I will ensure that the judges of courts with courtrooms in the court buildings covered by this Operating Plan for Conducting Jury Trials conduct jury proceedings consistent with this plan.

SIGNED ON: December 28, 2020

  
ALBERT M. McCAIG, JR.  
Local Administrative District Judge  
Grimes County

SUBMISSION ACKNOWLEDGED ON THE DAY OF Dec 28, 2020

  
Glen Underwood  
PRESIDING JUDGE FOR THE SECOND ADMINISTRATIVE JUDICIAL  
ADMINISTRATIVE JUDICIAL REGION OF TEXAS



Remote Jury Proceeding Questionnaire Addendum

The Court is currently permitting jurors to appear for jury service remotely using videoconferencing technologies. Individuals who do not have the ability to appear remotely will be provided alternative methods to serve, including spaces equipped with technology or the opportunity to appear in person. Please indicate whether you have internet access and technology capability to serve remotely.

- I have highspeed or broadband internet access at home. Y/N
- My computer, tablet, or cellphone has a webcam or camera. Y/N
- I have internet access ONLY through a smartphone, or other mobile device. Y/N
  - (Answer if you would need to use your smartphone to connect remotely) My internet data plan on the device I would use to appear remotely provides unlimited data. Y/N
- I have used videoconferencing technologies (i.e. Skype, Teams, Webex, Zoom) at home or work. Y/N
- I have access to a private place in my home or office where I can arrange to use the internet without interruption from others. Y/N
- I have the ability to listen to the audio from my device through headphones or earbuds. Y/N
- I would not be able to appear remotely for jury service due to a lack of equipment to connect or comfort with using the technology. Y/N

Please provide contact information and indicate your preference concerning notifications about jury service.

Email address: \_\_\_\_\_

Mobile phone number (if applicable): \_\_\_\_\_

I prefer to receive notifications about jury service by (check all that apply):

Phone call

Email message

Text message (Data charges may apply depending on your plan)

*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 99.6) \_\_\_\_\_ 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

12/28/2020

Grimes County Jury Trial Operating Plan

From: "Melville, Sharon (DSHS)" <Sharon.Melville@dshs.texas.gov>  
Subject: Grimes County Jury Trial Operating Plan  
Date: Tue, December 22, 2020 4:13 pm  
To: "judge@court506.com" <judge@court506.com>  
Cc: "Melville, Sharon (DSHS)" <Sharon.Melville@dshs.texas.gov>, "Holmes, Yolanda (DSHS)" <Yolanda.Holmes@dshs.texas.gov>, "DSHS HSR7, Liaison" <HSR7.Liaison@dshs.texas.gov>, "Davis, Carol (DSHS)" <Carol.Davis@dshs.texas.gov>, "Morehead, Bonnie (DSHS)" <Bonnie.Morehead@dshs.texas.gov>

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Judge McCalg,

I have consulted with you and reviewed the Grimes County Jury Trial Operating Plan in my role as Health Authority for Grimes County. I am in agreement with the plan and have no concerns or additional comments.

Thank you for the opportunity to review the plan.

Best Regards,

Sharon K. Melville, MD, MPH  
Texas Department of State Health Services  
Regional Medical Director, PHR 7  
Temple Main Phone: (254)778-6744  
Temple Office Phone: (254)771-6717  
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Sharon.Melville@dshs.state.tx.us

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