

COVID-19 Operating Plan for an Upshur County Jury Trial

Recognizing the need to ensure the health and safety of jurors, litigants, attorneys, visitors, court staff, the judge, and other individuals entering the building where a jury trial is held, the 115th District Court and the Upshur County Constitutional Court will implement the following protective measures:

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 proceedings according to the guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.
2. The Administrative District Judge will maintain regular communication with the local health authority and the Upshur County Judge and adjust this operating plan as necessary.
3. All jury trials must be approved by the 115th District Court Judge and the Presiding Judge of the Tenth Administrative Judicial Region.
4. Any Judge presiding over a jury trial shall follow this operating plan for jury trials.

Summoning Jurors

1. The Judge presiding over a jury trial will ensure the District or County Clerk includes, with each jury summons, a letter similar to Exhibit A, attached hereto, with information on the precautions that have been taken to protect the health and safety of the prospective jurors.
2. The Judge presiding over a jury trial will ensure the District or County Clerk includes, with each jury summons, the questionnaire that is attached hereto as Exhibit B, eliciting from prospective jurors information about their exposure or vulnerability to COVID-19.
3. The Judge presiding over a jury trial may use juror questionnaires for voir dire to assist in shortening the length of voir dire.
4. The Judge presiding over jury selection shall liberally grant excuses or reschedule prospective jurors who have been potentially exposed to COVID-19, who are symptomatic, and who are vulnerable or live with someone vulnerable to COVID-19.

Jury Selection and Jury Trial Participants

1. Participants include the Judge and Court staff, all attorneys, District Clerk and staff, County Treasurer and staff, witnesses, and any other person participating in jury selection or trial.
2. All participants shall complete and submit the Jury Trial Participant COVID-19 Questionnaire, attached hereto as Exhibit C, to the Court Coordinator, prior to participating in jury selection or trial.
3. Monitoring Requirements: All participants shall take their temperature each day, prior to traveling to location where jury selection or trial is being held.
4. Any participant who feels feverish or has measured temperatures equal to or greater than 99.6°F, or with new or worsening signs or symptoms of COVID-19 such as cough,

shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or having known close contact with a person who is confirmed to have COVID-19 will not be permitted to enter the building where jury selection or trial is being held and should seek medical advice.

5. All participants shall wear a face covering and participants will be required to practice social distancing, and practice appropriate hygiene recommendations at all times.

Location for Jury Selection, Trial and Deliberations

1. To ensure proper social distancing, Jury selection and trial shall be held at the Gilmer Civic Center located at 1218 US HWY 271 N, Gilmer, TX 75645 in the banquet room, located in the north building of the Gilmer Civic Center.
2. Each Court shall follow the COVID-19 Operating Plan for the Upshur County Judiciary when presiding over jury selection or a jury trial in Upshur County.
3. To ensure proper social distancing, the auditorium stage in the north building of the Gilmer Civic Center is designated as the jury room for assembly of the jury during trial and for jury deliberations after the jury has been charged and final arguments have been made.

Screening

1. When individuals attempt to enter the north building of the Gilmer Civic Center, the security officer(s), will ask the individuals if they have tested positive for COVID-19 within the previous 30 days, if they are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be refused admittance to the building.
2. When prospective jurors attempt to enter the north building of the Gilmer Civic Center, they must provide a completed Jury Service COVID-19 Pre-Screening Questionnaire, attached hereto as Exhibit B, eliciting from prospective jurors information about their exposure or vulnerability to COVID-19.
3. When individuals attempt to enter the north building of the Gilmer Civic Center, the security officer(s), will use an infrared thermometer to determine the temperature of the individual. Individuals whose temperature equals or exceeds 99.6°F will be refused admittance to the building.
4. Inmates being transported from the jail to the court building will be screened for symptoms of COVID-19 and have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 99.6°F will not be transported to the court building.
5. The security officer(s) who are screening individuals entering the court building will be provided personal protective equipment, including face coverings, hand sanitizer, disposable gloves and tissues.

Face Coverings

1. In addition to participants, each prospective juror and selected juror shall be required to wear a face covering at all times they are in the north building of the Gilmer Civic Center. Prospective jurors and selected jurors will be encouraged to bring their own

cloth face covering. If a prospective juror or selected juror fails to provide their own face covering, a disposable face mask will be provided.

Scheduling

1. Only one Court will schedule a trial(s) during the week a jury is selected.

Social Distancing

1. All persons not from the same household who are permitted in the north building of the Gilmer Civic Center will be required to maintain adequate social distancing of at least 6 feet.
2. Each restroom in the north building of the Gilmer Civic Center has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.
3. Folding chairs will be used for potential jurors during qualification and voir dire. The chairs will be placed a minimum of six feet apart.
4. The counsel tables, witness stand, judge's bench, clerk, court reporter, and bailiff seating will be arranged in such a way so that there is social distancing of at least 6 feet between each space.
5. Special attention will be paid to placement of the witness and parties so that the jurors, judge, and attorneys will be able to see the witness and parties during testimony while maintaining social distancing of at least 6 feet.
6. Special attention will be paid to placement of evidence presentation displays so that jurors and witnesses can see the information being displayed while maintaining social distancing of at least 6 feet.
7. A space shall be provided for the Judge to have sidebar and private conversations with potential jurors and counsel.

Microphone Protection Protocols

1. Shared microphones will not be touched or passed by users. A bailiff shall wear disposable gloves and change disposable microphone covers between each user.

Exhibit Management

1. Where feasible, attorneys shall convert exhibits to digital form.
2. When digital exhibits are not feasible, exhibits shall be displayed in such a way that the jury has a clear view. Exhibits shall not be passed to the jury.
3. The passing of exhibits from person to person shall be limited and kept to a minimum.
4. Each person touching an exhibit shall wear disposable gloves and the gloves must be removed and thrown away after each exhibit is touched.
5. If the jury requests to see exhibits, that are not in a digital format, during deliberations, a bailiff shall wear disposable gloves and place the requested exhibits in plain view on the stainless table in the auditorium stage of the north building of the Gilmer Civic Center.

6. Disposable gloves shall be provided in the auditorium stage of the north building of the Gilmer Civic Center.

Witnesses

1. Witnesses are considered trial participants and shall be required to complete a Jury Trial Participant COVID-19 Questionnaire. The proffering party shall submit the questionnaire to the court coordinator prior to participating in the trial.
2. If any response on the questionnaire is in the affirmative, the proffering party may choose not to call that witness or may request a mistrial.

Hygiene

1. Hand sanitizer dispensers will be placed inside each entry, the auditorium stage, outside each restroom, and inside the Banquet room of the north building of the Gilmer Civic Center, on the witness stand, and at each counsel table.
2. Tissues will be placed inside each entry, the auditorium stage, outside each restroom, and inside the Banquet room of the north building of the Gilmer Civic Center, on the witness stand, on the Judge's bench and at each counsel table.

Cleaning

1. During jury selection and trial, staff will clean the common areas of the north building of the Gilmer Civic Center so that common spaces are cleaned at least every four hours.
2. During jury selection and trial, staff will clean the Banquet room of the Gilmer Civic Center between morning and afternoon proceedings, and at the end of each day the courtroom is used.
3. Prior to the assembly of the jury and each time the jury leaves the auditorium stage of the north building of the Gilmer Civic Center, staff will clean all surfaces and chairs.
4. Staff have been provided cleaning supplies shown to be effective with this coronavirus.
5. Staff have been trained on proper cleaning techniques and provided appropriate personal protective equipment.

Objections or Motions Related to Proceeding with Trial

1. Any objection or motion related to proceeding to trial that is filed seven days or more prior to jury selection shall be set for a hearing, on the record, within seventy-two hours. Any objection or motion related to proceeding to trial that is filed within seven days of trial will be heard outside the presence of the jury, on the record, on the day of jury selection.

Jury Trial Approval Process

1. A request for approval for a jury trial shall be submitted to the local administrative district judge in writing, via email at dean.fowler@countyofupshur.com at least ten days prior to jury selection. In turn, the local administrative judge shall seek approval from the Regional Presiding Judge.

Local Health Authority

1. Not more than five days before any jury proceeding, the local administrative judge will consult the local public health authority, via email and verify that local health conditions and plan precautions are appropriate for the jury proceedings to proceed.

Date: January 8, 2021

Judge Dean Fowler
Administrative District Judge for Upshur County

EXHIBIT "A"

September 28, 2020

Prospective Juror

Re: Jury Selection COVID-19 Precautions

Dear Prospective Juror:

You have been called for jury service at 9:00 a.m. on Monday, October 19, 2020. Jury selection will NOT be held at the Upshur County Justice Center. Instead, it will be held at the Gilmer Civic Center, located at 1218 US Hwy 271 N in Gilmer.

I wanted to take this opportunity to explain the steps the Court has taken to ensure jury selection is as safe as possible for all those involved. Social distancing will be strictly enforced. Face coverings will be required for all those entering the building. Hand sanitizing stations will be located throughout the building. Every potential juror will be required to fill out the questionnaire on the reverse side of this letter and bring it to jury selection. In addition, every participant at the trial will be required to fill out a similar questionnaire and provide it to the Court prior to appearing at jury selection or trial. Participants include all attorneys, staff, witnesses and any other person that may participate in trial. Every person entering the building will be screened by having their temperature taken at the door. And of course, there will be frequent cleaning of the facility during breaks and in between Court sessions.

You should feel at ease, knowing that every precaution has been taken to ensure everyone has a safe experience. Please take the opportunity to show up and perform your civic duty as a potential juror. I look forward to seeing you on October 19 at the Gilmer Civic Center.

Sincerely,

Judge Dean Fowler

EXHIBIT "B"

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 virus, we ask that you complete the following before reporting for Jury Service on October 19, 2020. Bring this completed questionnaire with you or email it to janice.goodson@countyofUpshur.com BEFORE October 19, 2020:

1. SYMPTOMS NOW OR BETWEEN OCTOBER 5, 2020 and OCTOBER 19, 2020: 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 or 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 October 5, 2020 and October 19, 2020.

IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT CLERK'S OFFICE AT (903) 843-5031 BEFORE REPORTING ON OCTOBER 19, 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 (903) 843-5031 BEFORE REPORTING ON OCTOBER 19, 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 ARE REQUESTING TO BE EXCUSED OR YOUR JURY SERVICE DATE BE POSTPONED BECAUSE YOU ARE A MEMBER OF THE VULNERABLE POPULATION OR SOME OTHER COVID-19 RELATED REASON, CALL THE DISTRICT CLERK'S OFFICE AT (903) 843-5031 BEFORE REPORTING ON OCTOBER 19, 2020.

4. FACE COVERINGS – Prospective jurors are required to wear a face covering during their jury service. 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

EXHIBIT "C"

JURY TRIAL PARTICIPANT COVID-19 QUESTIONNAIRE

If you will participate in the jury selection or trial, that is scheduled for the week of October 19, 2020, you must complete this COVID-19 questionnaire and bring it with you on the day you will appear and participate in the trial. Participants include, 115th District Court staff, Upshur County Criminal District Attorney staff, Upshur County District Clerk staff, Upshur County Treasurer staff and all other individuals entering the building where jury selection or the trial is being conducted.

1. SYMPTOMS NOW OR BETWEEN OCTOBER 5, 2020 and the DATES OF YOUR PARTICIPATION AT TRIAL: 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 or 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 October 5, 2020 and the date I am participating in the trial.

IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT COURT AT (903) 843-2836 BEFORE APPEARING AT THE TRIAL LOCATION.

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, CALL THE DISTRICT COURT AT (903) 843-2836 BEFORE APPEARING AT THE TRIAL LOCATION.

3. FACE COVERINGS – All trial participants and every individual entering the building, where jury selection or the trial is being held, are required to wear a face covering while they are in the building. 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