COURT PRACTICES AND OPERATING PLAN WISE COUNTY, TEXAS

As mandated by the Office of Court Administration, the following Court Practices and operating procedures are adopted for the health and safety of litigants, attorneys, visitors, court staff, judges and other individuals entering court facilities within county buildings that house court facilities of the District, County Courts at Law and Justice Courts of Wise County, Texas:

1. Each Judge has the discretion to allow hearings to be fully "in person" as provided in the Court Practices and Operating Plan contained herein.

2. All Courts will use all reasonable efforts to continue to conduct proceedings remotely while these procedures remain in effect, and are encouraged to permit or allow persons to appear remotely during an otherwise "in-person" hearing.

3. Jury trials can be held if approved by the Administrative Judge of Wise County, Texas.

Judge and Court Staff Health

1. Judges and their court staff who can perform the essential functions of their job remotely are permitted to do so at the discretion of the Judge of that court.

2. The Judge of each court shall make a good faith effort to monitor the health conditions of their staff. As best as possible, a Judge will ensure that the Judge and court staff do not enter a building or court facility where court is held if they have any signs or symptoms of any illness including any of the symptoms of COVID-19. Each Judge of each court will therefore become familiar with the known signs and symptoms of COVID-19 and will monitor their own health as well as each member of its staff at all times.

3. The Judge of a court will make a good faith effort to protect their staff from exposure to the COVID-19 illness while they are in a court facility. To that end, social distancing, mask requirements, and barriers should be used to protect the Judge and staff members from exposure to airborne contamination from persons who may need to approach their work area. Each court will operate so that there is restricted access by the public to their inter-office work areas including barriers that limit the access of the public to court staff work areas. All work areas, including those inside the courtroom, must be arranged so that staff members are separated by protective barriers and minimum social distancing adequate to protect them from airborne or direct contamination.

4. All persons who are in a public location that is under the control of a Court Judge will be required to wear a face covering, and each Judge will implement a procedure that will ensure compliance with the same. The Judge of the court may limit the use of face masks during proceedings if it is necessary to do so in order for the parties to communicate and be heard by the Court or the Court Reporter. The Courts will follow all other guidelines that may be developed by the Judge and Commissioners Court of Wise County in conducting activities in any county building.

5. All persons who are permitted to enter court facilities will be required to observe and maintain adequate social distancing. Each court shall follow the current recommendations of the Office of Court Administration concerning social distancing, which is 6 feet. A distance of less than 6 feet may be used if there are protective barriers or other safety devices in place that will give adequate protection to personnel and court participants from contamination or disease. The Judge of a court may allow persons who reside in the same household to sit closer than the prescribed distance in the gallery area of a courtroom but is not required to do so.

6. Each Judge of each Court has the discretion to impose additional safety measures in their offices and courtrooms as they deem necessary in order to protect the health and safety of those who are within such spaces.

Scheduling

1. In general, in-person proceedings must be scheduled and timed by each Judge of a court so that the number of people entering a building to attend a court facility for any period of time will be reduced as much as possible and will promote social distancing by attempting to reduce the number of persons who would be in waiting areas, hallways, restrooms or other locations where the public might gather.

2. The attorneys attending a hearing will limit the number of persons that attend in person hearings as much as possible if requested to do so by the Court. Each Judge of a court will limit the number of persons set for dockets and hearings as necessary to reduce and limit the occupancy of county building where their courts and offices exist. In addition, the Court may consider providing public access to court hearings by remote telecast but is not obligated to do so if the public has direct access to the court proceeding.

Vulnerable Populations

1. Individuals who are over age 65 and individuals with serious underlying health conditions such as high blood pressure, chronic lung disease, diabetes, obesity and asthma and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are designated

to be part of the vulnerable population and therefore more susceptible to contracting the Covid-19 disease.

2. All attorneys scheduled to appear for a court proceeding shall be required to notify the Court if they believe that any person appearing in court is a vulnerable-population individual and make that information known to the Court prior to any hearing. Each Judge will include information on orders setting hearings, dockets notices and in other communications notifying individuals who are in vulnerable populations of the ability to contact the Court to identify themselves as a vulnerable individual and receive accommodations. A notice with this information will be posted on the courts' websites and in conspicuous locations around the court building.

3. Any person so identified should be brought to the attention of the Judge of that court prior to their appearance. The Judge will then take such steps as may be reasonable and necessary to assist such persons avoid appearing in person at the proceeding. The Judge shall have the authority to allow these persons to appear in a court proceeding by teleconferencing, video conferencing or any other reasonable means while these rules remain in effect.

4. The Court shall also have the authority to allow any person that is a witness or that is subpoenaed to testify in Court to testify by teleconferencing, video conferencing unless it is a criminal proceeding and there is an objection by the State or the Defense in that case.

Courtroom

1. Courts will develop a seating chart for their Courtroom that will provide social distancing and limit exposure to airborne contamination for all hearings in their courtrooms including the gallery and well. Each court shall follow the current recommendations of the Office of Court Administration concerning social distancing, which is 6 feet. A distance of less than 6 feet may be used if there are protective barriers or other safety devices in place that will give adequate protection to personnel and court participants from contamination or disease.

2. The Judge of a court may allow persons who reside in the same household to sit closer than the prescribed distance in the gallery area of a courtroom but is not required to do so.

3. Each court proceeding shall be attended by a bailiff, and the Judge shall direct the Bailiff to limit the number of persons allowed in the courtroom to the seating capacity designated for that courtroom. The Bailiff shall make sure that all persons are sitting in the seats designated for use in the courtroom to maintain social distancing.

Hygiene

1. Courts should have hand sanitizer dispensers available at various locations around the court facility, including at the entry and exits from the building and courtrooms. Courts should ensure that tissues are available for public use in courtrooms and other public areas.

Screening

1. The Courts shall make sure that procedures are in place to have all persons entering a court facility in Wise County screened prior to the time they enter into a building containing a court facility as determined by the Judges of that facility. The screening will include taking each person's temperature taken and the recommended standard questions relating to COVID-19. Individuals who have a body temperature equal to or greater than 100.0 F degrees or who answer yes to any of the screening questions will be refused admittance to the building or the court facility.

2. Each Judge of each court when scheduling hearings should provide advanced notice to the Wise County Sheriff's Office security team or Constable's Office that provides security for that court of the dates that security and screening will be needed so that preparations can be made by that agency to provide the same.

3. If a Judge is unable to have persons entering a court facility screened for COVID-19, then the Judge has the discretion to postpone the hearing until such screening is available.

4. Courts that obtain access to Covid 19 rapid tests should consider testing all persons before they enter any building or court facility.

Face Coverings

1. All individuals entering a court facility will be required to wear face coverings at all times. The Court shall have the discretion to allow a person to remove a face covering if during court proceedings its removal is necessary for the person to effectively communicate with the Court, a witness or other person involved in the matter before the Court. The Court shall not allow a person to remove their face covering if it appears that it will create a health hazard of any kind.

2. Face coverings shall be designed to contain airborne diseases from being spread during the period that persons are in the court facility. Persons who refuse to wear a face covering should be excluded from entering a court facility.

Sanitation, Cleaning and Ventilation

1. Courts should have hand sanitizer dispensers available at various locations around the court facility, including at the entry and exits from the building and courtrooms.

Courts should ensure that tissues are available for public use in courtrooms and other public areas.

2. Sanitizing should be routinely and regularly performed between hearings and after recesses, including when a transition of participants occurs within a courtroom.

3. Courts should require additional cleaning protocols during a jury proceeding. The cleaning should ensure that shared spaces such as witness stands, seating in the gallery, and seating during qualification/voir dire are cleaned during transitions of those spaces.

4. Courts should assign seats for members of the jury panel and selected jurors to reduce potential transmission and the need for more frequent cleaning.

5. If in the judgment of the Judge the courtroom facilities are not in a proper sanitary condition, then the Judge shall not hold court proceedings in the facility until it has been thoroughly cleaned and sanitized.

6. Courts should attempt to have increased ventilation in courtrooms including opening windows, using air cleaners and improving building wide air filtration.

Jury Trials

Communication

1. Any Court that intends to hold an in person jury trial must first obtain the approval of the local administrative judge as now required by the Office of Court Administration.

2. The jury trial request should be made in writing at least 60 days in advance of the date of the trial and provide the dates of the trial and the location that will be used for jury selection and the trial itself. Multiple cases may be set for the same jury week.

3. Courts that share a courtroom for hearings or trials should plan and coordinate their schedules so that court facilities do not become over crowed.

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.
2. Judges should attempt to alert parties who will not be going to trial prior to the day of trial to reduce attendance at the court facility.

Summoning Jurors

1. Each Court that has a separate Clerk's office that sends out jury notices should consult with that office to make sure that it has adequate time to prepare and send jury notices for the anticipated dates.

2. 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 and COVID questionnaires that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.
3. Judges will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venire persons.
4. 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 should be granted.

Security and 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.
3. Each Court should give advanced notice of any anticipated jury trial dates to the agency that normally provides security for that court.
4. Security protocols at the locations for jury proceedings should reviewed with the security personnel and make sure that there are sufficient officers available for security and adequate resources such as masks, microphone covers, hand sanitizer, temperature gauges and the like for the proceeding.

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.

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.

Trial Practice and Management

1. Judges are 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.

2. Courts should limit, to the degree possible, the shared use of microphones during the jury proceeding. If a microphone must be shared, courts should limit the passing of the microphone unless the microphone is cleaned between each user. In addition, disposable microphone covers should be placed on shared microphones and changed between each user.

3. Courts should identify an appropriate location for conducting the various phases of a jury proceeding that enable adequate social distancing at all phases.

4. Courts should 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. When physical or paper exhibits/evidence is required, courts should reduce the exchange of that exhibit/evidence to the number of persons necessary and should limit passing the exhibit/evidence to the individual members of the jury. If an exhibit/evidence is required to be transferred from person-to-person, single use gloves should be worn and discarded immediately after handling the exhibit/evidence

5. During jury deliberations, courts should make efforts to provide the jury with access to digital exhibits/evidence that would normally be shared with the jury during deliberation.

Prior to the final adoption of this plan I have conferred with all judges of the State and Justice Courts of Wise County, Texas and have received their input and support in adopting the same.

Date: April 8, 2021

Brock R. Smith - Local Administrative District Judge
271st District Court - Jack and Wise Counties