

29TH Judicial District :
Conducting Jury Trials
Under Pandemic Conditions
REVISED 6-16-21.

The 29th Judicial District is committed to resuming jury trials once proper planning and appropriate circumstances make it reasonable for jurors to be summoned. This proposal contains the court's plan to resume jury trials while prioritizing the safety of everyone participating in the judicial process. We have consulted with local health officials to devise protocols that will minimize the risks to all participants and spectators, including jurors, attorneys, witnesses, parties, members of the public, the press, and court employees.

Throughout the pandemic, the Kansas Supreme Court has issued multiple orders relating to the reopening of courts. Specifically, Administrative Order 2020-PR-76 provided the minimum requirements for district courts to consider and implement prior to resuming jury trials. The 29th Judicial District submitted a proposed jury trial plan which was approved by the Office of Judicial Administration and the Kansas Supreme Court on January 7, 2021. On May 24, 2021, the Kansas Supreme Court issued Administrative Order 2021-PR-48 which allowed the amendment of a jury trial plan in accordance with the latest guidance from the CDC and KDHE in consultation with the chief local health officer. The Kansas Supreme Court also issued a revised "Supreme Court Guidance Regarding Conducting Jury Proceedings" on May 24, 2021.

DISCUSSION

In accordance with the above and foregoing and in my role as the Chief Judge of the 29th Judicial District, the previously approved jury trial plan is hereby amended and the following constitutes the Revised Jury Trial Plan for the 29th Judicial District. The following considerations are based on the recommendations of Dr. Allen Greiner, Chief Medical Officer for Wyandotte County, Kansas, Administrative Order 2021-PR-48, and the "Supreme Court Guidance Regarding Conducting Jury Proceedings" issued on May 24, 2021. As such, all judges of the 29th Judicial District are expected to follow the revised plan contained herein. Over the remainder of the pandemic, the court will continue to review our new and existing practices and identify the best jury trial strategy for the 29th Judicial District.

A. MANDATORY REQUIREMENTS FOR RESUMING JURY TRIALS.

1. **Number of Jury Summons:** The 29th Judicial District has historically had a response rate to jury summons of 35%. Also, anecdotal evidence suggests that elderly residents report for jury duty at a much higher rate than younger citizens. The health concerns of elderly individuals, however, will dictate that a far larger number of summonses will need to be issued to meet the number necessary to have a viable jury pool. The response rate will be closely monitored once jury trials resume and adjusted accordingly.
2. **Initial Juror Summons:** The initial juror summons sent to jurors will be modified to include

information and to educate the prospective jurors about all the safety precautions we have implemented throughout the pandemic. The letter will detail where to report, how to maintain social distancing during the jury selection process, provide contact information for any questions concerning jury duty and/or how to request a deferral or excuse from reporting.

3. Jury Questionnaires: For several years, the 29th Judicial District has utilized a juror questionnaire which is filled out on the morning the prospective juror reports. The requested information includes address, employment status, personal life, spouse employment status, previous juror experience and military experience. The questionnaire will also be supplemented to ask questions regarding Covid-19, including any exposure, positive tests, existing symptoms, or orders to quarantine due to Covid-19. These questions will be on a separate page of the questionnaire and it will be explained that this information is not subject to a Kansas Open Records Request. The questionnaire will be a combination of what we have used for several years with supplemental questions regarding Covid-19 as set forth by the Jury Trial Task Force.
4. Sensitive Health Information: It is anticipated that most individuals with health concerns will be excused or deferred from reporting for jury duty. For individuals who do report and have health issues, it is expected that those concerns will be discussed at a sidebar and not in open court during voir dire. Those individuals will also be given an opportunity to discuss any health issues when they report for jury orientation and prior to being placed on a jury panel.
5. Deferral or Excuse from Jury Duty: All requests for deferral or excuse from jury duty will be handled on an individual basis. The requests will be reviewed by the jury clerk in consultation with the Chief Judge and/or the Clerk of the District Court. Any request for deferral due to concerns about Covid-19 will be liberally construed to favor deferral to a later date.
6. Physical Distancing Measures: Historically, the jurors have reported to our Court Services Building and then placed into one or two large courtrooms (Divisions 9 and 16) for orientation while the jury panels are selected. This is not feasible under the current social distancing requirements to safely conduct a jury trial.

Prospective jurors will now report to Memorial Hall which is a county-owned arena located directly across the street from the main courthouse. This is a large building which is typically used for sporting events, concerts, etc., and has 3,000 seats. Jurors will report to the lobby of Memorial Hall for check-in and then will be directed to socially distance in the bowl of the arena. The lobby of Memorial Hall is a large area and social distancing will not be an issue during the check-in process.

Once a jury panel has been drawn, the prospective jurors will be directed to their assigned courtroom by the assigned Administrative Assistant. Those jurors who are not participating in the first voir dire will be given a time to report back to the courthouse.

The maximum capacity for each courtroom is set forth in paragraph 7. Each available spot in a courtroom will be designated as a place to sit and jurors will be directed to sit in the specified spot by the bailiff according to their juror panel number.



Lobby - Memorial Hall



Lobby - Memorial Hall



Arena - Memorial Hall



Arena - Memorial Hall



Arena - Memorial Hall

7. Courtrooms: We are proposing that most judges will be able to use his/her courtroom for the jury trial. These courtrooms are designated as Divisions 1,2, 3, 4,5,6, 7, 8,9, 15 and 16. The Unified Government Building and Maintenance Department reviewed each of the courtrooms to determine the maximum number of individuals who can be in each courtroom and maintain social distancing. These numbers exclude the judge, staff, attorneys and parties. The maximum numbers have been established as follows:

- Division 1 39;
- Division 2 26;
- Division 3 16;
- Division 4 37;
- Division 5 32;
- Division 6 25;
- Division 7 13;
- Division 8 24;

Division 9 53;

Division 15 30;

Division 16 53.

It is anticipated that most jury selection processes requiring a larger jury pool will take place in Divisions 9 and 16 since those courtrooms can accommodate larger numbers in their space. Spectators will be permitted as allowed by maximum permitted space. Any overflow spectators will be placed in a separate courtroom and will be able to observe the trial proceedings by closed circuit television.



Division 1



Division 1



Division 2



Division 2



Division 4



Division 4



Division 5



Division 5



Division 6



Division 6



Division 8



Division 8



Division 9



Division 9



Division 9



Division 15



Division 15



Division 15



Division 16



Division 16



Division 16

8. Non-Court Space: The court did contemplate using a larger non-traditional area to conduct voir dire in certain trials but concluded that it is not necessary to do so at this time. The use of such an area may be reconsidered should unexpected changes in local health conditions so warrant.
9. Jury Panels: The jury panels would consist of the maximum number of jurors who can be safely placed in the courtroom where voir dire is to occur. It is possible several panels will be convened for each trial to eventually have enough qualified members to exercise peremptory strikes. The presiding judge will establish the time at which each jury panel will report based upon the relevant considerations for that particular trial.
10. Screening Process/Masks: All visitors to the 29th Judicial District buildings are asked Covid-related questions and are required to wear a mask to enter the buildings in addition to normal security screening procedures. This screening process, however, has not added any substantial time to complete so it is not expected any additional time will be necessary for jurors to enter. Arrangements will be made to have security at Memorial Hall to screen jurors when they report.

Once an individual enters a courtroom, it will be up to the discretion of the presiding trial judge as to whether an individual will be required to continue to wear a mask.

11. Alternate Jurors: Most presiding judges have kept 1 or 2 alternate jurors depending upon the length of the trial. It is possible some judges may increase the number of alternate jurors based upon unexpected Covid-related circumstances. Whether that is feasible, however, will be dependent upon the number of qualified jurors once voir dire is completed.
12. Signage: The Unified Government has posted numerous signs throughout the courthouse advising the public of the latest protocol and the safety measures which have been implemented and should be followed.
13. Cleaning: The U.G. Maintenance Department has committed to utilizing the following resources during a jury trial:
 - Each day, all courtrooms and break areas will be cleaned and sanitized. A maintenance worker will be “on call” so that the Administrative Assistant can contact them and have the cleaning done in a few minutes if necessary.
 - Memorial Hall will be cleaned and sanitized before and after each day of juror orientation.
 - Juror items are not typically stored by the court during a jury trial. If a juror brings their own water and/or food, it will be stored in a refrigerator by the Administrative Assistant for the assigned division. Jurors are not allowed to take notes so there will be no need to collect pens and paper.
 - Hand sanitizer and masks will be made available to all jurors, including during jury orientation.
 - All elevators in the court buildings have been restricted to four occupants at a time. Appropriate signage regarding cleaning procedures are posted throughout the court buildings in both English and Spanish.
14. PPE: The Unified Government has provided the 29th Judicial District with adequate personal protection equipment and additional PPE is being obtained through the Cares Act by the U.G.
15. Jury Orientation: Jurors will be advised at orientation about the sanitization procedures, physical distancing requirements, personal hygiene, and to report any symptoms of illness during their jury service. Jurors will be addressed by both a judge and the Clerk of the District Court.
16. Sidebars: Each presiding trial judge shall have the discretion to handle sidebars as most appropriate given the physical layout of the courtroom. It is anticipated most judges will handle sidebars at the bench like normal while making sure all parties are wearing masks and are three feet apart. Any variances to this protocol will be determined by the presiding judge as necessary during the course of a jury trial.
17. Speaking with defendant: Any issues necessary to facilitate communication between the

defendant and counsel shall be addressed by the presiding trial judge.

18. Exhibits: The judges have identified a number of steps which can be taken to handle exhibits in a safe manner and shall communicate their particular protocol to all parties prior to the commencement of the jury trial.

19. Interpreters: Interpreters will be adequately socially distanced from parties and litigants. Most interpreters will use equipment that allows separation from the parties and litigants. All such equipment will be sanitized and cleaned appropriately.

20. Public viewing: Once the jury trial commences, the judge will identify how many spectators can be safely seated in the courtroom while maintaining social distancing. Each party shall be allocated an equal number of the available seats. The 29th Judicial District has also ordered additional equipment so that a jury trial can be broadcast by closed circuit television to another courtroom. Any overflow of spectators will be appropriately seated in the separate courtroom to view the trial. Any spectators who wish to view the trial will be required to physically report to the courthouse.

21. Jury Handling:

- All prospective jurors will report to Memorial Hall for check-in and orientation. Jury panels will be selected and escorted to the assigned courtroom. Panels will be limited to the maximum number of individuals who can be safely seated in the courtroom at a given time. Jurors who are not on the first panel to be seated will be given a time and place to report back to by the Administrative Assistant. Judges and Administrative Assistants will constantly remind the jurors to maintain social distancing in and out of the courtroom and while on break.
- The presiding judge will ensure that all jurors are seated such that they can see the exhibits and witnesses in their courtroom and make accommodations for any juror who needs to be closer to the witness.
- The 29th Judicial District does not provide food for jurors. Any juror bringing their lunch can have it stored by the Administrative Assistant. There are several food options within walking distance of the courthouse.
- The place for jury deliberations will be determined by the presiding trial judge. Most judges will have jury deliberations occur in their respective courtrooms. A few jury rooms could accommodate jury deliberations, but the better practice will be to conduct the deliberations in the courtroom which has more space. The courtroom will be locked and secured during deliberations.
- All Jurors will be consistently reminded by the presiding trial judge to report any symptoms of illness and will be given both

email addresses and phone numbers to report any issues.

22. Reporting issues: All jurors will be given a number of email addresses and phone numbers to report any safety issues or other problems which arise during the course of the jury trial. Jurors will be advised all such information can remain confidential as warranted.

B. ADDITIONAL PHYSICAL DISTANCING, CLEANING AND SANITIZING CONSIDERATIONS

1. In consultation with Dr. Allen Greiner and the U.G. Health Department, the court is satisfied that the protocols listed above are more than adequate to ensure the safety of all jurors, staff, litigants and parties. Additional considerations or revisions will be implemented as necessary as we receive feedback from the initial jury trials which are held.
2. All recommendations for social distancing are contemplated by this plan as set forth above. Additional revisions shall be implemented as jury trials commence and resume.

C. IN PERSON VERSUS VIRTUAL PROCEEDINGS and

D. COLLECTING AND SHARING DATA ON VIRTUAL PROCEEDINGS

The 29th Judicial District does not intend to conduct any virtual trials. All Jury trials will be held in person absent any further exigent or unexpected circumstances. It is our conclusion that it is not feasible nor practical for the 29th Judicial District to conduct virtual jury trials.

IT IS SO ORDERED ON THIS 16TH DAY OF JUNE, 2021.

Robert P. Burns

ROBERT P. BURNS

CHIEF JUDGE, 29TH JUDICIAL DISTRICT