

**TETON COUNTY, WYOMING DISTRICT COURT  
NINTH JUDICIAL DISTRICT**

**COVID-19 Operating Plan for Jury Trials**

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## Guiding Principles and Scope

**Introduction:** The District Court in Teton County anticipates requiring some jury trials in criminal and civil matters during the COVID-19 pandemic. Jury trials were deferred by order of the Wyoming Supreme Court from mid-March until early October 2020. Criminal defendants have a constitutional right to a speedy trial, which has been delayed during the jury trial suspension period, and civil cases require resolution, both of which may warrant setting jury trials during the pandemic. Due to the Confrontation Clause of the U.S. Constitution, criminal trials may not be amenable to entirely remote, online trials although this Court continues to evaluate remote and hybrid (part remote, part in-person) options for all trials. For any jury trials that are set, the Court may vacate those at any time if a safe operating plan has not been approved, in response to community conditions regarding the COVID-19 virus (such as upticks in positive COVID-19 cases, a shift in Teton County’s Phased Response Plan to a more restrictive phase, or other events); due to conditions in the courthouse, staffing shortages, or supply shortages; national, State, local, or judicial branch mandates; or other reasons.<sup>1</sup>

This jury trial operating plan provides the anticipated protocols and guidelines. Variations may be appropriate on a case-by-case basis. This plan may be updated from time to time to incorporate best practices as jury trials occur.

While the creation of this operating plan was in response to the COVID-19 pandemic, parts of it may also be used as a general guide that assists with managing court operations outside of COVID-19 (in the event of another pandemic or emergency situation).

Inherent in all court operating plans responsive to a crisis is the obligation to maintain continued, fair, and equal access to the courts, including the protection of constitutional and civil rights. While continuity of court operations may require modern methods such as remote (or hybrid) proceedings, the methods must incorporate individual and procedural, constitutional, and civil rights protections. A continuity of operations plan, including this jury operations plan, should look toward protection of those rights through avenues that afford the most access to the courts but in a manner that balances the need to maintain the health and safety of all court users, court staff, and the public.

Courts also have a responsibility to endeavor to provide safe facilities to those required to attend. To demonstrate commitment to the wellbeing of the community that the court serves—and to court staff, judges, and justice partners—decisions on court operations should have health and safety as a central guide. How the goal will be met by different courts will be influenced by local health orders, the impact of the virus locally, and the resources and needs of the court.<sup>2</sup> Therefore, this

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<sup>1</sup> Wyo. Supreme Court, Sixth Order Amending March 18, 2020 Temporary Plan to Address Health Risks Posed by the COVID-19 Pandemic, at ¶ 1.b (permitting jury trials if “the conditions of the courthouse and the current health of that community permit the safe conduct of the jury trial.”).

<sup>2</sup> California Pandemic Continuity of Operations Working Group, *Pandemic Continuity of Operations Resource Guide 1.0* (June 2020) at v, 2.

plan may differ from the plans at other courts around the state. As this Court evaluates remote and hybrid jury trial options, this plan may be amended or updated.

**Guiding Principles:** At this time, the scientific consensus is that COVID-19 mainly spreads through close contact from person to person, even from people without symptoms (asymptomatic and pre-symptomatic). The virus that causes COVID-19 is spreading easily and sustainably between people.

While science regarding the virus is updated as the novel virus is present for longer and more cases are studied and treated, the current scientific consensus recognizes three methods of transmission:

- (1) Respiratory—COVID-19 is considered a respiratory virus and, as such, it is transmitted through “respiratory droplets” when symptomatic people sneeze, cough, or talk.
- (2) Aerosol—People emit virus particles in a range of sizes when breathing and some are small enough to be considered aerosols (fine particles that can remain suspended in the air for hours and travel with air currents across larger distances).
- (3) Surfaces—Viral particles emitted from the respiratory tract of an infected individual land on a surface. If a second person touches that surface, then touches their nose, mouth, or eyes, the virus can then enter the body via mucous membranes and infect the second person. This is called fomite transmission.

This plan addresses transmission opportunities through all three methods, using three types of controls: engineering controls (reducing the risk of transmission within the building), elimination controls (reducing the volume of the virus that enters the building), and procedural controls (managing activities within the building). Procedural controls may include engineering and elimination controls, in addition to procedural controls.

**Scope:**

This plan addresses jury trials in the District Court in the Teton County Courthouse. This plan does not apply to the Circuit Court or to any court proceedings that take place in the Hansen Courthouse.

A separate multi-stakeholder courthouse re-opening plan is also in effect. This Operating Plan aims to align with that plan.

**Translations.** Security screening, face coverings requirements and some of the components of this Plan have been translated into Spanish in the Courthouse reopening plan. Questions from Spanish speakers regarding other sections may be directed to the Clerk of District Court’s office.

## Pre-Selection Screening and Communications

Courts around the country are using special questionnaires to excuse certain jurors in advance of jury selection. This Plan adopts a similar practice.

1. Affidavits for Excusal. The Court's standard affidavit for excusal is being used, in addition to a supplemental questionnaire. The affidavit may be obtained from and submitted at the Clerk of District Court's office, subject to that office's COVID-19 protocols.
2. Supplemental Juror Questionnaire
  - a. A supplemental juror questionnaire shall be sent to each prospective juror in advance of trial, with sufficient time for it to be returned and reviewed prior to jury selection. The supplemental questionnaires are mailed to the jurors. They may be returned by email (which is preferred), by using a drop box in the courthouse lobby, or by U.S. Mail.
  - b. This questionnaire has three components: an optional health screening questionnaire; a case specific questionnaire; and a remote availability questionnaire.
  - c. The health screening component is designed to screen, and potentially exclude, those individuals in higher-risk categories related to COVID-19 before they arrive in person for jury duty. The questions in this section are voluntary; jurors are not required to share health information they consider to be sensitive.
  - d. The case-specific questionnaire includes case-specific questions in order to limit the number of questions to be asked during jury selection and excuse any jurors for cause.
  - e. In some instances, the information in the questionnaire may be sufficient to defer a potential juror to a different jury. This means the juror is excused from this trial but remains in the jury pool for a future trial. In some instances, the information may lead the Court to excuse a potential juror for the rest of their term. In other instances, the questionnaire will be shared by the Court with counsel to review whether the juror should be excused for cause prior to the date of jury selection. It is possible that the Court and counsel may want to speak with certain jurors prior to jury selection day, by videoconference, in order to ask questions about the answers on questionnaire and potentially excluding the juror without that juror needing to appear at the courthouse on jury selection day. In this event, the Clerk of District Court will contact the potential juror with a date and time and instructions for the video conference.
  - f. If the juror is deferred or excused for cause, the Clerk of District Court shall notify the potential juror.
  - g. The third section of the questionnaire asks questions that relate to remote availability, such as internet access and the ability to participate in a trial or jury selection remotely. This information will be used to evaluate the feasibility of

remote options for a potential pilot project. This information can also be used in the event any remote components of the trial become appropriate.

3. Cover Letter.

- a. A letter from the Court shall accompany the special questionnaire that outlines the COVID-19 precautions in the Court and the courthouse. The same letter shall also be posted on the Clerk of District Court website and the Wyoming Supreme Court website in the menu of Teton County COVID-19 materials.
  - b. A second letter or notification may be sent by the Clerk of District Court's office prior to jury selection to notify the potential jurors of their staggered arrival time, to bring a water container, to bring a face covering of their choice (face coverings are also provided by the court if needed), and whether to bring any extra seat cushions or snacks they may need.
4. Media and Public Outreach. The Court anticipates outreach with the media regarding the jury trial operating plan with the hope that safety protocols are also included in any media coverage.

**Engineering Controls**

Engineering controls are designed to reduce the risk of transmission of the COVID-19 virus to the extent any exists within the courthouse. Engineering controls include physical modifications or changes to the way the building or components of it operate. The other sections of this plan also include engineering controls incidental to procedural controls, such as designating bathrooms and facilitating one-way traffic. This section sets forth the major engineering controls that are not necessarily specific to jury trials. These controls also apply to the Court's other in-person operations.

5. Air Flow and Ventilation. Research indicates that proper air flow can help limit the spread of COVID-19. The District Court has worked with the Teton County Facilities Department to modify the ventilation systems in the courthouse.
- a. Ventilation rates are currently operating with a 100% input of outside air.
  - b. The exchange rate in the District Courtroom is an 85% exchange with outside air per hour.
  - c. The filtration system uses filters that capture 95% of particles small enough to carry the COVID-19 virus. The filters were changed every four months but are now expected to be changed every two to three months.
  - d. A grant was received to purchase an ultraviolet light system to treat all air in the system. This is expected to be installed in the Fall of 2020.
  - e. One or more air purifiers with HyperHEPA filtration will be placed in the courtroom depending upon availability. One purifier will be placed in the witness box. This is a space where a person may speak without a face covering. It is separated from the jury and court staff by a glass enclosure and is physically distanced from other courtroom users. The addition of the purifier is designed to treat the air in that space.

- f. All eight exhaust fans in the building have been inspected and are operating on a 24 hour a day, seven day a week basis. Bathroom exhaust is not recirculated but is instead vented directly to the outside.
6. Sneeze guards. The witness box in the District Courtroom has been modified with the installation of glass partitions on three sides (the fourth side is an existing wall). Glass was chosen instead of plexiglass because it is easier to sanitize. The enclosure includes two pass-through spaces for documents, which can be blocked when not in use. The glass is tempered glass for shatter protection. The glass height extends approximately 24 inches above nose level of a seated witness, and approximately 2 (two) inches above nose level of a standing witness who is six (6) feet tall.
7. Bathrooms and Water Fountains. Public bathrooms will be stocked with soap and paper towels. Hand sanitizer stations are near the exterior of public bathrooms so users may sanitize hands after touching doors. The public water fountain is only be available for touchless water bottle filling. The touch portion of the water fountain, and the component for drinking with the mouth, shall be taped or otherwise not be available for use.
8. Members of the jury shall have their own bathrooms, separate from the public bathrooms, located in the Circuit Court jury assembly and deliberation area.
9. Doors. When practical and not contrary to court security requirements, doors to the courtroom shall be left open prior to and after hearings to reduce the touching of door handles. The Bailiff and the Clerk of District Court shall coordinate that task.
10. Elevator. Maximum occupancy shall be posted on the courthouse elevator. Occupancy is limited to one individual or one unit (i.e., a family unit or a person needing assistance with a caregiver(s)).
11. Coordination between Courts. The District Court and Circuit Court shall coordinate schedules to avoid having people congregating or queueing to enter the courthouse at the same time.
12. Only one jury trial shall occur in the courthouse at one time. The District Court shall use the Circuit Courtroom for juror assembly, juror breaks, and jury deliberations.
13. Adequate environmental sanitation shall take place.
  - a. Court Security Deputies have set a disinfecting schedule for the security equipment and frequently touched surfaces at courthouse screening. *See* Exhibit 2. That schedule includes disinfecting several times (not less than two times) per day.
  - b. Court staff shall sanitize frequently touched surfaces in the courtroom between in-person hearings. *See* Exhibit 3. For some surfaces, disinfecting will occur between each user such as witness box surfaces, with adequate time between users as needed for the sanitizing product. *Id.*
  - c. Disposable microphone covers will be used and replaced between each witness.

- d. Gloves shall be provided for employees who clean and disinfect. Employees shall wash hands after removing gloves. All stakeholders have been provided the link to the training video recommended by Public Health regarding the removal of gloves: <https://www.youtube.com/watch?v=IIAqV0rltXc>.
  - e. Sanitary hand wipes or sanitizer stations are available at the entrance to the Courthouse and for the public throughout the building at convenient locations. Exhibit 4.
  - f. *Daily cleaning and disinfecting of intra-office public spaces.* The public bathrooms, public spaces, courtrooms, and agency offices in the courthouse are cleaned and sanitized daily by a contractor managed by Teton County Facilities Department. See Exhibit 5.
  - g. *Daily Cleaning for Public Spaces and High-Touch Surfaces.* The high-touch surfaces in public spaces shall be cleaned in accordance with the County’s contract by the contractor. Sanitation stations are available throughout the courthouse for the public to use. *Id.*
14. If Someone Gets Symptomatic or Sick. If a person becomes sick or symptomatic during a trial, the person shall be isolated in the District Court jury room (which is not the Circuit Courtroom used for the jury during trial) and provided a surgical mask to place over their existing face covering, as recommended by Public Health. Emergency personnel, family, or other assistance shall be contacted as appropriate under the circumstances; Public Health shall be notified; and the courtroom shall be disinfected in accordance with CDC guidance on “Cleaning and Disinfecting Your Building or Facility If Someone Is Sick.” The Court will promptly notify all other courthouse tenants if someone is sick or becomes symptomatic within District Court facilities.
15. Jurors (and potential jurors) will be advised to contact the Clerk of District Court immediately if they become symptomatic outside trial hours, come into contact with a confirmed positive case of COVID-19, or if the juror or any member of their household are placed under quarantine or isolation by Public Health. Such jurors (and potential jurors) should not come to the Courthouse unless otherwise directed to do so.

**Arrival at the Courthouse – Trial Days**

*\*\*Arrival for potential jurors on Jury Selection Day is addressed separately*

16. Counsel and Litigant Arrival. To prevent queuing and assembly for screening, (1) counsel and the litigants shall arrive at the courthouse between 8:10 and 8:20 and shall have completed screening before the first jurors arrive at 8:30, and (2) all courthouse staff shall be advised to use non-public entrances and exits during a jury trial.

17. Jurors: Staggered Arrival. Jurors shall be notified by the Clerk of District Court of their arrival time on trial days. For juries of twelve or more, it is anticipated that the first 6-7 jurors should arrive at 8:30 for security and other screening. The second jurors should arrive at 8:40. Physical distancing is visually marked in the screening area and courthouse entrance areas. Face coverings are required.
18. Assembly. After courthouse screening (discussed separately), the jurors will be greeted by a clerk of district court (“Attending Clerk”). The juror will be escorted to a pre-assigned seat (by number) in the Circuit Courtroom. Spaces to sit that maintain physical distancing will be pre-marked. These are assigned seats for the duration of trial. The Attending Clerk or Bailiff will inform the potential jurors where the jurors’ dedicated bathrooms are and where the water filling station is. The Circuit Courtroom will serve as the jury room for assembly, breaks, and deliberations. Jurors will be provided individual storage bins for personal belongings.
19. Rotation to District Courtroom. When trial is ready to proceed, jurors will be directed by the Attending Clerk or Bailiff to enter the stairwell (or elevator for those needing assistance) to the District Court one at a time. The clerk’s office or court security shall ensure there is no two-way traffic in the stairwell while jurors shift between courtrooms. The same procedure will be used for jurors to exit the courtroom and the courthouse.
20. Counsel, Litigants, and Pretrial Matters. Counsel and the litigants may set up at their designated locations in the District Courtroom upon arrival. They will be directed to use what was previously used as the District Court Jury Room for bathrooms, access to water, and other services. Counsel shall be prepared to conference with the court in the District Courtroom before the jury arrives, as needed.
21. Pretrial initial instructions and other matters, which are generally conferenced with counsel in chambers prior to the start of trial, will be set for a videoconference prior to the date of trial.

### **Elimination Controls**

Elimination controls are designed prevent the COVID-19 virus from entering the courthouse. The other sections of this plan also include elimination controls incidental to procedural controls, such as using juror questionnaires to exclude jurors from jury service prior to jury selection day and allowing some witnesses to appear by video when appropriate. This section sets forth the major elimination controls that are not necessarily specific to jury trials. These controls also apply to the Court’s other in-person operations.

22. Screening. Consistent with the Teton County Courthouse Reopening Plan:
  - a. The Courthouse shall continue its security screenings. In addition, all individuals entering the Courthouse for general public use and for in-person proceedings shall: (1)



- wear a face covering upon entry in accordance with Teton County Resolution 20-039 and ¶ 26 of this Plan, and (2) be screened for COVID-19 symptoms. Face coverings in the form of surgical masks are available for individuals who do not have their own.
- b. There will be no queuing for security screening in the courthouse lobby. Individuals will be allowed to enter the courthouse lobby one at a time for screening. Families and people sharing a household will be allowed to be screened together.
  - c. Physical distancing of six feet shall be required while waiting to enter the courthouse. Visual reminders will be placed outside, by tape or other means, to remind people of physical distancing. Visual reminders will also be used on courthouse lobby benches and office entrances.
  - d. Posters provided by the Teton County Department of Health shall also be posted on or near the courthouse doors regarding not entering the building with COVID-19 symptoms and non-pharmaceutical interventions. Other signage may be used as needed. *See* [www.tetoncountywy.gov/2076/Businesses](http://www.tetoncountywy.gov/2076/Businesses).
  - e. *Screening questions.* Court security staff have developed a series of questions and any necessary follow up questions, including:
    - i. Today or in the past 24 hours, have you had any of the following symptoms: fever, new cough or shortness of breath (as opposed to a chronic cough or pre-existing shortness of breath) or new loss of taste or smell?
    - ii. Have you been in close contact with someone confirmed, presumed, quarantined, or who is being evaluated for COVID-19 in the last 14 days?
    - iii. Have you, in the last 14 days, visited an area that is subject to quarantine because of COVID-19 infection?
    - iv. Persons who answer “yes” to any of the above questions will be denied courthouse access.
  - f. *Temperature Screening:*
    - i. Court security will be equipped with infrared thermometers. The thermometers shall be cleaned by court security with appropriate disinfecting wipes.
    - ii. Court security shall take the temperature of all individuals entering the courthouse, excluding staff who work in the courthouse.
    - iii. Entry shall be denied to individuals, including inmates or detainees in custody, feeling feverish or with measured temperatures equal to or greater than 100.4° F.
    - iv. Persons who exhibit symptoms of illness potentially indicating COVID-19 infection will be denied courthouse access.
    - v. Court Security Deputies have the authority to deny access to persons who otherwise reasonably appear to present a health risk.
  - g. *Refused Screening.* Those persons who refuse to answer the screening questions, or submit to the temperature screening, or the face covering restriction shall be denied access to the courthouse. At the time of denial, they will be referred to alternative means to conduct their courthouse business.

23. *Alternative to In-person Court Appearance:* Those denied access who have a scheduled in-person court appearance will be provided the court tablet or phone to appear remotely from the front of courthouse using the free Wifi access. The tablet/phone shall be sanitized with disinfecting wipes before and after each use. Exchange of that device between court security and the person needing the device is contact-free.
- a. Court security will notify the appropriate court of any denied access to the courthouse and the need to setup remote access to the court hearing.
24. If a person called for jury duty, juror, party or counsel does not pass screening, the Bailiff shall promptly notify the Court for further direction depending upon the circumstances.
25. *Court Security Personal Protection:*
- a. Deputies will wear face coverings while screening individuals entering courthouse. Court security is familiar with CDC guidance on how to wear face coverings correctly, how to remove them safely, and how to clean or store after each day for future use.
  - b. Deputies will use gloves while screening an individual's items or for pat-downs.
  - c. Gloves will be discarded after each use to prevent spread between individuals. Court security is familiar with the CDC video and other training videos provided by Public Health at the start of the pandemic regarding how to remove gloves safely..
26. **Face Coverings. Face coverings help protect others and yourself.** Face coverings in the courthouse are required by the Teton County Board of County Commissioners Teton County Resolution 20-026, which was adopted and approved on May 26, 2020, and Teton County Resolution 20-030 which was adopted on June 29, 2020, Teton County Resolution 20-038 which was adopted on August 31, 2020, and Teton County Resolution 20-039 which was adopted on September 28, 2020. Those who are required to attend court in-person are ordered to be present by subpoena, by court order, or because they are in custody. Unlike private businesses where a person may choose to enter or not, persons in the courthouse are required by law to be present. Transmission of COVID-19 occurs by asymptomatic and pre-symptomatic individuals who may not be identified in courthouse screening. The use of face coverings is therefore appropriate to protect those persons using the building who are not, by law, able to choose to be absent. Conversely, individuals who are not ordered to be present in the courthouse, but who do not want to use a face covering, shall continue to have all public services provided remotely and without entering the building. This requirement for face coverings is consistent with the strong recommendation to require face coverings, recommended by the Wyoming Supreme Court in its reopening guidelines issued May 15, 2020. This requirement is also consistent with Teton County's recommendations in its *Phased Reopening Guidelines for Business and Organizations*, its *Safe Work Protocols* and the recommendations of the Center for Disease Control, the Town of Jackson's Mask Ordinance, Ordinance 1255 passed on July 3, 2020, and the Teton County Public Health Order #20-6, passed on July 21, 2020.

- a. *Type of Face coverings.* A fabric face covering is appropriate. “Face covering” means a covering made of cloth, fabric, or other soft and permeable material, without holes, that covers the nose and mouth and surrounding areas of the lower face. A bandana or buff is permissible. A surgical mask or N95 mask is not required.
- b. If individuals entering the courthouse do not have a face covering, a face covering in the form of a surgical mask shall be provided for them.
- c. *Exceptions.*
  - i. Children under 2 years old must not wear a face covering due to suffocation risk, pursuant to Teton County Resolution 20-039 regarding face coverings in the courthouse and certain other county buildings.
  - ii. Pursuant to Teton County Resolution 20-039, the requirement does not apply to individuals that have a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance. Persons who are hearing impaired, or need to communicate with a person who is hearing impaired, where the ability to see the mouth is essential for communication, are also exempt from this requirement.
  - iii. Persons called for jury duty who meet these exceptions will be excused or deferred from jury service until the face covering requirement is no longer in effect. .
- d. Children 2 to 12 years old wearing a face covering should be supervised by an adult. Individuals subject to the Americans with Disabilities Act, whose medical or physical disability would prevent them from wearing a mask, will be accommodated. When communicating with individuals who are hearing impaired and use facial and mouth movements as part of communication, face coverings can be temporarily removed for communications, i.e., lip reading. Face shields or clear masks may also be used in these circumstances.
- e. *Staff.* Courthouse staff shall wear face coverings when entering through the public entrance and when in common or public spaces, such as service counters and courtrooms; when physical distancing is not possible; and in accordance with their office’s respective policies.
- f. Courthouse staff who enter the building other than through the public entrance do not have to wear a face covering upon entry but would need to wear the face covering in the public spaces.
- g. *Agency and Courtrooms.* Each agency and court may implement its own policies regarding face coverings once a person enters their space, i.e., an agency might not require a face covering once a person enters their office.

27. Signage. Information about physical distancing, screening, the use of face coverings, and what to do if entry is denied shall be posted on the courthouse door. Information about conducting business without entering the building shall also remain posted. Posters provided by the Teton

County Department of Health, or other posters as needed, shall also be posted on or near the courthouse doors regarding not entering the building with COVID-19 symptoms. See [www.tetoncountywy.gov/2076/Businesses](http://www.tetoncountywy.gov/2076/Businesses).

28. Continued Remote Proceedings. Many District Court proceedings are expected to continue to be conducted by videoconference and telephone conference. While this may not apply to a particular jury trial, regular use of remote proceedings reduces the number of daily and weekly individuals who enter District Court facilities.
29. Hybrid Proceedings. Hybrid proceedings (part in-person and part-remote) may be used on a case-by-case basis to reduce the number of hearing participants, to accommodate individuals who are denied entry after screening, to accommodate high-risk individuals, or for other reasons.
30. Witnesses and Limitations on Persons in the Courtroom. As discussed elsewhere in this plan, trial protocols limit the number of people permitted in the building. Witnesses may enter the building when they are called to testify, but not generally before, unless a safe, physically distanced space is available to accommodate them. The public and the media shall attend by livestream or other remote means, since physical distancing cannot be achieved for them due to space limitations in the courtroom Support staff, co-counsel, and family members shall also attend by remote means.
31. In-Custody Screening. In-custody individuals will be health screened by the Bailiff just as required for the public entering the courthouse. They shall be required to wear an appropriate face covering, unless testifying. They shall be required to maintain physical distancing, unless the Judge otherwise approves a waiver of that requirement between the individual and his/her attorney.
32. Court proceedings will be scheduled to limit in-custody transportation, to allow one defendant to be transported at a time.

## Jury Selection

The Court has developed two options for in-person jury selection. The first option, using the Center for the Arts auditorium, is not necessarily available for every trial. It may be donated on a case-by-case basis by the Center for the Arts. The Court continues to evaluate other large spaces for jury selection in the event the Center for the Arts is not available. The Court also continues to evaluate the opportunity for remote jury selection, discussed as option C in this plan.

### **A. Center for the Arts (CFA)**

33. Counsel Arrival Time. To prevent queuing and assembly for screening, (1) counsel and the litigants shall arrive at the CFA (Cache Street entrance) at 8:10 and shall have completed screening before the first jurors arrive at 8:30. Counsel shall proceed to the auditorium and their designated table on the stage. Counsel will have access to a shared dressing room that has been set aside for counsel and Court use for conferences with the Court prior to the start of, and during, jury selection. That designated dressing room also includes a bathroom for counsel's use. The Court and CFA staff will have previewed the space prior to the trial date and be familiar with their designated locations.
34. Jurors: Staggered Arrival at the CFA. Jurors shall be notified by the Clerk of District Court of their arrival time and to use the Cache Street entrance. This entrance includes a large overhang in the event of inclement weather. The first 20 jurors should arrive at 8:20 a.m.; the second 20 jurors should arrive at 8:40 a.m.; and all remaining jurors should arrive at 9:00 a.m. for security and health screening. Face coverings are required. Physical distancing should be maintained.
35. Screening. Screening shall occur as if it were conducted at the courthouse, subject to all provisions identified in the "Elimination Controls" section of this plan.
36. Seating Arrangement. Upon arrival, each juror will be given a number by an Attending Clerk. That number designates their assigned seat in the CFA auditorium. All seats will be pre-marked. It is contemplated that seats 1 to 32 will be on the first floor of the auditorium. Seats will be 4 to 5 seats apart in each row, for side-to-side distancing, and using every-other row for front-to-back distancing. All other seats will be in the balcony subject to the same distancing.
37. Jurors shall be informed of the designated juror bathrooms and any instructions for which doors and hallways to use to maintain physical distancing.
38. Face Coverings. Face coverings are required by all jurors and other participants at all times, including when speaking. Counsel and their team at counsel table may briefly pull down their face covering when introducing themselves, so jurors can see the full face of counsel and their client, but the face covering shall promptly be in place for all speaking. Physical distancing at counsel table is either six feet apart or subject to the same waiver requirement discussed elsewhere in this jury plan.
39. Microphones. Each counsel table and the Court's table on the stage will be equipped with one microphone, equipped with a disposable microphone cover. If necessary to hear jurors in the audience, an Attending Clerk will be available to circulate with a wireless microphone attached to an extendable boom. The clerk will be able to move freely in the bottom section of the auditorium through completely vacant seating rows that are in between rows of seated jurors.

40. Time for Voir Dire. It is estimated that jury selection will begin at 9:30 a.m. It is anticipated that the Court will use approximately 30 minutes to orient and qualify potential jurors and for introductory remarks. It is anticipated that counsel shall have 30 to 45 minutes per side for voir dire per panel.
41. First Panel. Jurors 1 to 32 (for a 12-person jury with two alternates), all of whom are located on the first floor of the auditorium, constitute the first panel of jurors.<sup>3</sup> Questions will be directed to the first panel. As jurors are excused for cause, they may leave..<sup>4</sup>
42. Individual Voir Dire. If prospective jurors need to be questioned individually, individual questioning shall be deferred until the lunch break. When the lunch break occurs, that break is for the jurors, not for counsel. Counsel, the Court, and the juror(s) to be questioned shall go to the designated dressing room to conduct the individual questioning outside the presence of other jurors. This room is sufficient to accommodate physical distancing. Jurors would be questioned one at a time.
43. If an individual juror is excused after individual questioning, then the juror may leave.
44. Second Panel. After the lunch break, additional jurors may be questioned until the required number of panelists are qualified. For example, if five jurors of the first panel of 32 were excused, then jurors 33 to 37, all located on the balcony of the auditorium, become the second panel. As jurors in that second panel are excused, they may leave and another juror becomes part of that panel. For example, if Juror 34 is excused, then Juror 38 becomes part of the panel. Unlike traditional jury selection, all jurors in the second panel remain in their designated seats in the balcony. They will not relocate to the first floor where the first panel sat. The Clerk using the extendable boom microphone will be available as needed in the balcony.
45. Sidebars during Voir Dire. Sidebars that need to occur outside the presence of the jury during jury selection shall occur in the designated dressing room, with physical distancing and face coverings. Sidebars will be allowed only when deemed absolutely necessary by the Court. The time necessary to get to and from the dressing room, setting up in physically distanced fashion, and requiring the court reporter to move and re-set his stenography machine each time make sidebars problematic.
46. Exercise of Peremptory Strikes. After the final number of jurors is qualified, all jurors shall be excused. Counsel must keep track of the name and the number of the jurors in the pool from which the peremptories will be exercised. Counsel will not have the benefit of viewing the jurors during the peremptory process. Because all jurors have been excused, the peremptory strikes shall be announced either orally or by a chat or electronic messaging protocol by

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<sup>3</sup> In traditional voir dire that occurs in the district courtroom, the first panel is only 21 jurors.

<sup>4</sup> In traditional voir dire that occurs in the district courtroom, the next juror would move from the gallery to the now-empty seat in the jury box or well.

counsel and recorded by the Court in lieu of passing around paper between counsel, the Court, and the Clerk of District Court.

47. Notice to Jurors. After the peremptory strike process is complete, the Clerk of District Court's office shall contact all members of the jury and all potential jurors who were not selected. Jurors who were selected shall be provided with their arrival time for courthouse screening, parking instructions, reminders to bring their own drinking water container and extra seating cushions if desired.
48. Follow up survey to venire members. For all potential jurors who were not selected for the jury trial, they will be sent a short Survey Monkey to collect feedback and suggestions regarding the jury selection process. This is an online survey to reduce contact with paper and mailing services.
49. Public and Media Access. For jury selection at the CFA, members of the press and the public may sit in the back of the balcony as physical distancing allows. All are subject to the security and health screenings and the face covering requirements.

#### **B. Panels at the Courthouse**

50. Jury selection will occur in panels of between 14 and 18 in the district courtroom. The first panel shall begin at 9:00 a.m., the second panel at 11:30 a.m., the third panel at 2:00 p.m., and another panel, if necessary, at 4:30 p.m. with an expected end time at 6 :00 p.m. Each panel shall be present in the District Courtroom for approximately ninety (90) minutes, with sixty minutes between panels for cleaning and sanitizing and allowing exiting panels to avoid entering panels. The total time for each panel of prospective jurors to be in the Courthouse is expected to be approximately two hours.
51. Counsel Arrival Time. To prevent queuing and assembly for screening, (1) counsel and the litigants shall arrive at 8:10 and shall have completed screening before the first jurors arrive at 8:30. Counsel and the litigants may set up in the District Courtroom upon arrival. They will be directed to use the what was previously used as the District Court jury room for bathrooms, access to water, and other services. Counsel shall be prepared to conference with the court in the District Court Jury Room 30 minutes before jury selection begins.
52. Staggered Arrival for Jurors. Jurors shall be notified by the Clerk of District Court of their arrival time. The first 5-6 jurors should arrive at 8:30 a.m.; the second 5-6 jurors should arrive at 8:40 a.m., and all remaining jurors should arrive at 8:50 a.m. for security and health screening. Face coverings are required. Physical distancing should be maintained.
53. For the second panel, arrival times would be at 11:00, 11:10 and 11:20. A similar time frame would be set for subsequent panels.

54. Screening. Screening is subject to all provisions identified in the “Elimination Controls” section of this plan.
55. Seating Arrangement. After courthouse screening, the jurors shall be greeted by a clerk of district court (“Attending Clerk”). Each juror will be given a number by an Attending Clerk. The juror shall be escorted to the Circuit Courtroom and directed to their designated, pre-marked seat. Jurors shall be informed of the designated juror bathrooms (which are in the Circuit Courtroom) and to maintain physical distancing.
56. Rotation to District Courtroom. Once all jurors are assembled and the Court is ready for the panel, jurors shall be directed to enter the stairwell one at a time to go to the District Courtroom. The clerk’s office or court security shall ensure there is no two-way traffic in the stairwell while jurors shift between courtrooms. The same procedure shall be used for jurors to exit the courtroom and the courthouse. All seats in the district courtroom are marked by the jurors’ numbers.
57. Face Coverings. Face coverings are required by all jurors and other participants at all times, including when speaking, except as specifically allowed by the Court. Counsel and their team at counsel table may briefly pull down their face covering when intruding themselves, so jurors can see the full face of counsel, but the face covering shall promptly be in place for all speaking. Physical distancing at counsel table is either six feet apart or subject to the same waiver requirement discussed elsewhere in this jury plan.
58. Time for Voir Dire. It is anticipated that the Court will use approximately 30 minutes to orient and qualify potential jurors and for introductory remarks. It is anticipated that counsel shall have 20 to 30 minutes per side for voir dire of each panel.
59. Individual Voir Dire. If prospective jurors need to be questioned individually, such questioning will occur in the District Court Jury Room in a physically distanced manner. The court may choose to defer individual questioning until all such members of the panel are identified after group questioning by both counsel.
60. If an individual juror is excused after individual questioning, then the juror may leave.
61. Sanitation Between Panels. There will be a thirty-minute to sixty-minute break between panels. Part of this time is for sanitizing the juror seating area. Sanitizing personnel shall be provided gloves, shall wear face coverings, and are familiar with the instructions regarding gloves provided by Public Health earlier in the pandemic.
62. Sidebars during Voir Dire. Sidebar conferences with the Court will be limited due to time constraints and whether safe and effective and efficient alternatives to traditional face-to-face sidebars are available. Sidebars may occur out of the presence of the jury in the District Court Jury Room, or by two-way radio communications with the Court that the jury would not be



able to overhear, or by separate communication channels between the Court and counsel that is expected to be installed at a future date.

63. Exercise of Peremptory Strikes. After the panel is qualified, all jurors shall be excused. Counsel must keep track of the name and the number of the jurors in the pool from which the peremptories will be exercised because potential jurors will be excused from the jury selection location before the peremptories are exercised. Counsel will therefore not have the benefit of viewing the jurors during the peremptory process. Because all jurors have been excused, the peremptory strikes shall be announced either orally or by a chat or electronic messaging protocol and recorded by the Court.<sup>5</sup>
64. Notice to Jurors. After the peremptory strike process is complete, the Clerk of District Court's office shall contact all members of the jury and all potential jurors who were not selected. Jurors who are selected shall be provided with their arrival time for courthouse screening, parking instructions, reminders to bring their own drinking water container, extra seating cushions for bench seats in the Circuit Courtroom if desired, and snack foods.
65. Follow up survey to venire members. For all potential jurors who were not selected for the jury trial, they will be sent a short Survey Monkey to collect feedback and suggestions regarding the jury selection process. This is an online survey to reduce contact with paper and mailing services.
66. Public and Media Access. There will be free access to all public proceedings by video or by phone using the Court's current public access protocols. Closed captioning may be available on the video conference platform. The Court continues to evaluate livestreaming opportunities for trial.

### **C. Remote Jury Selection**

67. Remote jury trials are being considered in various courts around the country in civil matters. Courts in Texas, Florida, Michigan, and Arizona have already conducted civil jury trials remotely. At least one court has conducted a remote criminal trial. Preliminary studies and juror feedback is remarkably positive for civil jury trials conducted remotely. While some attorneys and courts have expressed reticence to expand the use of technology in court proceedings, jurors have reported better abilities to see and hear testimony and exhibits than during in person trials. Jurors have also reported less down time or wasted time, particularly during jury selection. As remote trials occur in both a real-time and pilot basis in various courts, juror feedback is more available to the bench and bar. Wyoming's District Court jury trial recommendations preserved the ability for Wyoming trial courts to use remote proceedings depending on local conditions and capabilities.

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<sup>5</sup> In traditional voir dire, the peremptory strike process is done in writing by passing paper between counsel, the court, and the Clerk of District Court, while the jury is present.

68. Courts around the country are also considering conducting hybrid proceedings such as conducting voir dire remotely for jury selection, while conducting the rest of trial in person. Courts in King County, Washington have been conducting jury selection remotely since August 2020. Courts are considering other hybrid options with remote jury selection, along with some witnesses testifying by video in order to accommodate high-risk individuals who are needed for trial or to otherwise limit the number of participants in a courtroom.
69. This Court is amenable to a fully remote civil jury trial for the right case and is amenable to providing training for counsel prior to trial. This Court is also amenable to conducting only jury selection remotely for both civil and criminal trials.
70. The Court has done preliminary tests of a remote pilot program and continues to evaluate this option. The juror questionnaire also includes a section designed to gather data about the feasibility of a remote trial in this community, such as whether potential jurors have sufficient internet connectivity and hardware to participate in a remote proceeding.
71. If jury selection will be conducted remotely, counsel will be contacted directly with the remote operations plan.

### **Conducting the Trial**

72. First Day Juror Meeting with Bailiff. On the first day of trial, after the jurors assemble in the juror assembly room (the Circuit Courtroom), the Bailiff assigned to the jury shall meet with the jury and provide some instructions. Juror iPads will also be issued at this time and a short tutorial may be provided by court staff or the Attending Clerk. As indicated elsewhere in the plan, the Bailiff and the Attending Clerk shall direct jurors when to move to the district courtroom.
73. The Circuit Courtroom shall be the jury's room. Jurors may leave their personal effects in that room during trial if they choose to do so. Each juror will be provided their own bin to avoid cross contamination between items or surfaces. The room shall be secure during trial. They shall also leave their iPads and any notebooks in that room during recesses. A charging station for all juror iPads will be available for overnight charging. Jurors will be permitted to eat snack foods in the Circuit Court room but not in the courtroom used for trial. Designated physically distanced seating locations will be marked in the Circuit Courtroom and visual reminders will be posted to maintain physical distancing.
74. First Day Swearing In. After the meeting and tutorial on the first day of trial, the jury will be brought to the District Courtroom while maintaining physical distancing, using one-way stairwell traffic. This process using one-way traffic on the stairwell for the jurors shall be used throughout trial. After convening in the District Courtroom, the jury shall be sworn in and the

Bailiff shall be sworn in, followed by remarks by the presiding judge and opening instructions. No item is touched for the swearing in. Swearing in is done by raising a hand and repeating an oath.

75. Physical distancing: Jurors. Jurors will be seated in the gallery at pre-marked locations. The same seats will be used every day and a seating chart will be kept by the court for contact tracing purposes. The courtroom pews have been removed. Fourteen cushioned jury chairs have been relocated from the Hansen Courthouse to the courtroom for jurors. A physical barrier has been removed towards the west wall of the courthouse to facilitate visibility in that area of the gallery for jurors.
76. Physical distancing: Counsel and Litigants. Counsel table and seating arrangements have also been modified so they can see witnesses in the witness box and jurors.
77. Clients and counsel will be physically distanced at counsel table, unless otherwise approved by the Court. Alternate means of communicating with each other will need to be developed (e.g., via notepad, text message, or email. Phones and devices may be used by counsel and litigants for this purpose). It is possible that only one lawyer and one client will be present at counsel table, unless the Court approves additional counsel, accompanied by a written waiver. Second-chair attorneys, support staff, family members, witnesses, and experts, would then need to attend by video conference or telephone, due to lack of space in the courtroom because of physical distancing.
  - a. With Court approval, clients, counsel, and co-counsel (up to three total people) may choose, on a case-by-case basis, to sit next to each other at counsel table. This should be consensual and be based on past practices unique to those individuals, such as if counsel and the litigant typically sit next to each other in office meetings without physical distancing. This exception should not be used simply because counsel and the litigant have not pre-arranged how to communicate with each other during the hearing via notepad, text message, email, or other means. Because litigants are ordered to be present in court, and are unable to choose not to attend, the Court discourages circumstances where a litigant may feel coerced or pressured to sit next to counsel without physical distancing due to the pressures and solemnity of a court proceeding, particularly if that litigant or counsel would ordinarily maintain strict physical distancing outside the courtroom.
78. Water pitchers and cups will not be available. Counsel and litigants should bring their own water containers and use the free water station on the first floor of the courthouse.
79. Face coverings. Face coverings are required by all people in the courtroom throughout voir dire and all other stages of trial. Limited exceptions to that rule may be allowed in the discretion of the Judge, such as for a testifying witness, a brief introduction of an attorney and his/her client at the beginning of voir dire, and the like. Broad exceptions to the rule are contrary to the health and safety of all those in attendance at trial and will not be allowed.

80. Individuals who refuse to physical distance and wear face coverings during court proceedings may be removed from the courthouse.
81. Limited exceptions may be granted in the Judge’s discretion as set forth below and in paragraph 26, 38, 57, and 79.
- a. Face shields or other alternative face covering protocol may be considered on a limited and case by case basis where facial expressions must be observed (such as for witnesses) or where audio quality is hampered and impairs the creation of an accurate court record. Physical distancing shall be required with the use of alternative face coverings.
82. Exiting the Courtroom. When a recess is taken, the jury shall be excused first. Jurors will be advised to exit the courtroom one at a time (vs. en masse) and to maintain physical distancing. As during jury selection, the Attending Clerk and court security shall coordinate opening the courtroom doors and prohibit two-way traffic in the stair-well while the jury exits. Signage shall be posted at courtroom exits stating the same.
83. Witnesses. Only one witness shall be permitted in the courtroom at one time. Counsel shall be prepared to call or text their next witness from the courtroom. Witnesses shall wait outside the courthouse or in their cars, unless the bailiff at the entrance to the courthouse can accommodate them in the lobby or one of the Circuit Court anterooms. Once called, they can proceed through court security. They will then be greeted by a clerk or court security officer to be escorted to the witness box. During this screening and transportation period, the witness box shall be sanitized. The District Court Clerk has agreed to this duty for the time being.
84. Witnesses will be escorted to and from the courtroom via the hallway adjacent to the Clerk of Court’s office. They will enter and exit the courtroom through the northeast door of the courtroom nearest the witness stand.
85. The witness box has been fitted with a tempered glass screen. An air purifier will operate in that space. In this area, the witness may speak without a face covering. In all other spaces of the courthouse and courtroom, a face covering shall be worn.
86. Witnesses will testify from the witness box. The microphone cover will be changed between witnesses. The witness chair and counter will be sanitized between witnesses.
87. To limit in-person attendance, the Court will consider video testimony, whether pre-recorded or live, in some instances. Objections to video appearances and video testimony, particularly in criminal cases, will be addressed prior to any trial.
88. Non-sequestered witnesses, counsel’s support staff, and second-chair attorneys, if they do not have permission for in person appearance during the trial, may use the free remote public access to attend trial. Counsel will be permitted to use their phones or other devices to communicate with their staff, co-counsel, and witnesses for trial purposes.

89. Public and Media Access. There will be free access to all public proceedings by video or by phone using the Court's current public access protocols or through live-streaming as may be available and in the discretion of the Court. Closed captioning may be available on the video conference platform.
90. Jury Instructions, Notetaking, and iPads. To limit contact with paper and to facilitate better viewing of exhibits while jurors are spaced throughout the courtroom, at the start of trial jurors will be issued an iPad. The iPad will be preset with a document sharing application for jurors to use to view jury instructions as they are issued and any other materials that would ordinarily be provided in a juror notebook. During deliberations, the same iPad will be used to share documentary exhibits with the jurors.
91. The iPads are sanitized prior to distribution. They are labeled by number or otherwise and issued to each juror. The same iPad is to be used by the same juror each day of trial. The iPads are not to leave the courthouse and can remain in the jury's room (the Circuit Courtroom) at night and during recesses. The iPads are Court property and shall be returned to the Bailiff at the end of trial.
92. Jurors will be provided a new notebook and pen at the start of trial if they choose to take notes. All notebooks shall remain in the juror's room during recesses, in the juror's designated storage bin, and will be secured overnight. All notebooks are shredded at the end of trial.
93. Juror Questions. In criminal trials, no questions from jurors to witnesses are permitted. For civil trials, questions are permitted after each witness.
94. For juror questions to witnesses in a civil trial, and to the judge during recesses and deliberations in any trial, questions shall be written on paper and submitted to the judge through the Bailiff. The Bailiff and the judge shall wash or sanitize their hands after handling the paper notes.
95. Presentation of Argument. The podium will not be used absent permission from the Judge. If allowed by the Judge, counsel may present opening and closing arguments from the podium and the podium will be sanitized between uses. In such a case, counsel shall not move around the courtroom and must stay at the podium. Counsel must otherwise present all argument and witness examination from counsel table.
96. Presentation of Exhibits. All exhibits shall be presented electronically, using the Microsoft HUB available at counsel table, which projects to a monitor on the north wall of the courtroom and in some cases to a drop-down screen on the west wall of the courtroom. The Elmo will not be used. Paper is not likely to be shared or passed around. Counsel in need of technical assistance are directed to work with the Court Reporter several days before trial.
97. Documentary exhibits will be pre-filed with the Court by email in advance of any hearing, consistent with protocols set forth in the Trial Management Order. Exceptions may be made on a case-by-case basis where original or certified documents are material and for non-paper

exhibits.

98. Tracing. The Court will keep a simple daily log of who was present at a trial (jurors, counsel, parties, witnesses, and any others) and where they are seated. Jurors will be assigned seats in the courtroom for the trial and in the Circuit Courtroom for breaks and deliberations. Jurors must use their assigned seating location throughout the trial. If after a hearing the Court is notified of a positive COVID-19 case in the building, the Court may provide the tracing list to Public Health, with the parties, witnesses, or other individuals to be contacted by Public Health through the counsel that they appeared with. Seating charts for jurors and everyone in the courtroom shall be kept.
99. Recesses. The Court traditionally takes a morning and afternoon break, with other breaks as needed for the jury during trial. The jury recess area is the Circuit Courtroom and includes the jury bathrooms.
100. Mid-day and overnight sanitation. Counsel table, the witness box, and the juror seating areas shall be sanitized mid-day during the lunch recess and overnight. Public bathrooms and the juror's bathrooms shall also be sanitized mid-day and overnight.
101. Jury Deliberations. The jury deliberation room shall be the Circuit Courtroom.
102. Documentary exhibits, jury instructions, and sample verdict forms shall be provided to the jurors via the i-pads discussed above.
103. Non-documentary exhibits shall be transported to that deliberation room and placed on a designated table. A box of gloves will be available for jurors who wish to handle those exhibits.
104. The final verdict form shall be in paper and shall be provided to the jury foreperson, with a pen, by the Bailiff.
105. Post-trial meet with Judge and Clerk of District Court. The Judge and Clerk of District Court may briefly meet with jurors after the verdict, in the Circuit Courtroom, to thank them and receive any feedback about trial procedures and answer general procedural questions about the trial.
106. Post-trial survey. All jurors will be sent a short Survey Monkey to collect feedback and suggestions regarding the jury process. This was formerly done by mail. It is now an online survey to reduce contact with paper and mailing services.

Last updated: October 13, 2020

## Resources

Teton County Resolution 20-026 (May 26, 2020).

Teton County Resolution 20-030 (June 29, 2020).

Teton County Resolution 20-038 (August 31, 2020).

Teton County Resolution 20-039 (September 29, 2020).

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Teton County's COVID-19 Safe Work Protocols.

Town of Jackson Order 1255 (July 3, 2020).

Administrative Office of the United States Courts, Memorandum and Federal Judiciary COVID-19 Recovery Guidelines (April 24, 2020), available at [https://drive.google.com/file/d/1grRbykWGerscEaYu3D2xKFARWoV\\_rWIX/view](https://drive.google.com/file/d/1grRbykWGerscEaYu3D2xKFARWoV_rWIX/view)

National Conference of State Courts, *Considerations in Resuming Court Operations* (May 1, 2020), available at <https://www.ncsc.org/~media/Files/PDF/Newsroom/Coronavirus%20Webinars/Considerations-in-Resuming-Court-Operations.ashx>

Wyoming Supreme Court, *Court COVID-19 Reopening Guidelines*, May 15, 2020.

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CDC, Effectiveness of Cloth Masks for Protection Against Severe Acute Respiratory Syndrome Coronavirus 2, *available at* [https://wwwnc.cdc.gov/eid/article/26/10/20-0948\\_article](https://wwwnc.cdc.gov/eid/article/26/10/20-0948_article)

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City of San Francisco, *Face coverings and Face Coverings for the Coronavirus Outbreak*, <https://sf.gov/information/face-coverings-and-face-coverings-coronavirus-outbreak>

Florida COVID-19 Workgroup: Court Operations Subgroup, *Requirements, Benchmarks, and Guidelines Governing the Transition to Limited In-Person Contact* (May 14, 2020), *available at* <https://www.flcourts.org/content/download/636186/7227849/covid-wg-phase2-requirements.pdf>.

Arizona Supreme Court, Administrative Order 2020-75, *available at* <http://www.azcourts.gov/Portals/22/admorder/Orders20/2020-75.pdf>.

Wyoming District Courts Jury Trial Subcommittee, *District Court COVID-19 Reopening Committee's Report and Guidance for Trial Courts* (July 24, 2020).

This document has been reviewed by the Teton County Health Department and by me personally. I hereby approve of the plan herein.



\_\_\_\_\_  
Travis Riddell, MD, MPH  
Teton District Health Officer  
Teton County, Wyoming

October 15, 2020

Date