

**CIRCUIT COURT OF THE NINTH JUDICIAL DISTRICT  
TETON COUNTY, STATE OF WYOMING**

COVID-19 JURY TRIAL OPERATING PLAN

TETON COUNTY COURTHOUSE, 180 S. KING STREET, JACKSON, WY 83001

JAMES L. RADDA, CIRCUIT COURT JUDGE

PROPOSED START DATE OF JURY TRIALS—MAY 2021

**1. PRE-COURTHOUSE SCREENING**

- A. The court will send each prospective juror (1) an Informational Letter and (2) an Optional Supplemental Juror Questionnaire.
- B. Both are attached.

**2. COURTHOUSE PROTECTIONS**

- A. HVAC. Teton County Facilities has modified the HVAC system. Fans are operating at their highest speed to maximize fresh air intake. Fresh air intake is set at 100% at temperatures 45 degrees F and above, however at lower temperatures the fresh air intake is less than 100% to prevent the system from freezing.
- B. UV Light Disinfection System. In December 2020 Teton County Facilities installed a UV Light Disinfection System for the main (Circuit Courtroom) and upper (District Courtroom) floor of the Courthouse.
- C. Staggered Jury Trials. The Circuit Court and District Court are staggering jury trials. The Circuit Court may use and each court is using the other court's courtroom for jury selection, jury breaks and jury deliberation. This guarantees that two jury trials will not occur at the same time. It also provides adequate space for the jury to deliberate and still maintain social distancing.
- D. Courthouse Screening. The current Courthouse screening procedures require members of the public—jurors, parties, attorneys, court security officers, witnesses and court

personnel—to follow the same procedures that have been used since the Courthouse was reopened to the public on May 26, 2020. Those procedures include:

- (1) Entry into the Courthouse. Queuing is prohibited. Individuals waiting to enter the Courthouse shall remain at least 6 feet away from others. Individuals shall enter the Courthouse one at a time. However, families and people sharing a household will be allowed to be enter together and be screened at the same time. Visual reminders have been placed outside the Courthouse and inside the Courthouse lobby to remind people to maintain six feet physical distancing from one another.
- (2) Face Coverings.
  - a. Definition. As used in this Covid-19 Jury Trial Operating Plan, “face covering” means a covering made of cloth, fabric or other soft or permeable material, without holes, that covers the nose and mouth and surrounding areas of the lower face.
  - b. Everyone entering the Courthouse through the main entrance during business hours must wear a face covering while they remain in the public portions of the Courthouse or in the Circuit Courtroom. The court will make face coverings available for individuals who do not have their own. There is a general exception for individuals who have a medical condition, mental health condition or disability that prevents wearing a face covering. The court may likely require witnesses not to wear masks while testifying at the trial in the Circuit Courtroom. To reduce the risk of infection, (1) the witness stand has been fitted with a glass screen and (2) an air purifier with HyperHEPA filtration will operate next to the entry to the witness stand for the purpose of treating the air nearby.
- (3) Screening for COVID-19 Symptoms. Court security officers will screen individuals, other than court staff, entering the Courthouse for symptoms of Covid-19.
- (4) Screening Questions. Upon entering the Courthouse, court security officers will ask individuals, other than court staff:
  - Today or in the past 24 hours, have you had any of the following symptoms: fever, cough, cold-like symptoms, shortness of breath, or loss of taste or smell?

- Have you been in close contact with someone confirmed, presumed, quarantined, or who is being evaluated for COVID-19 in the last 14 days?
- Have you, in the last 14 days, visited an area that is subject to quarantine because of COVID-19 infection?

Persons who answer “yes” to any of the above questions are denied courthouse access.

- a. If the person is a juror, the person is excused from jury service.
  - b. If the person is another participant, then Court Security will bring it to the attention of the court and parties.
- (5) Temperature Screening. Upon entering the Courthouse, a court security officer uses a sanitized infrared thermometer to take the temperatures of all individuals, other than court staff, entering the Courthouse. Persons who have a measured temperature equal to or greater than 100.4° F, or exhibit symptoms of illness potentially indicating COVID-19 infection are denied access.
  - (6) Denial of Access to the Courthouse. A person who refuses to answer the screening questions, or submit to the temperature screening, or the face covering restriction (unless the person has a medical condition, mental health condition or disability that prevents wearing a face covering), shall be denied access to the courthouse.
  - (7) Visual Reminders. Signs and displays outside and inside the Courthouse and inside the Courtroom remind individuals to maintain physical distancing.

### **3. VOIR DIRE (JURY SELECTION)**

- A. Face Coverings. Everyone present in the Circuit Courtroom must wear face coverings. There is a general exception for individuals who have a medical condition, mental health condition or disability that prevents wearing a face covering. The court reserves the right to order additional precautions if one or more persons in the courtroom is excused from wearing a face covering.
- B. Physical Distancing. Jury selection is the greatest challenge to keeping the participants in the jury trial safe because jury selection requires the greatest number of persons to be in the Circuit Courtroom at one time. The court will use the following procedures to help ensure physical distancing during jury selection.



- (1) In the Circuit Court, a jury of six persons is required. The court may seat one alternate juror.
- (2) Ordinarily, the court summons twenty jurors for trial. The court anticipates that Covid-19 will result in more excusals from jury service. The court therefore will summon twenty-five to thirty jurors.
- (3) The court cannot seat thirty prospective jurors in the Circuit Courtroom and maintain physical distancing of 6 feet. The most jurors the court can seat and still maintain 6-foot physical distancing is approximately twenty jurors. Therefore the court will summon twenty-five to thirty jurors to the Courthouse in two groups of twelve to fifteen jurors at two different times. The first group of jurors will be summoned to appear at a given time, and the second group will be summoned to appear at a later time.
- (4) Selecting the Jury.
  - a. Option 1. Group 1 will arrive at an appointed time and will be seated in the Circuit Courtroom in assigned seats that are at least 6 feet apart. The jury selection process will proceed with Group 1 in the Circuit Courtroom. After voir dire is concluded, Group 1 will be excused and will depart the Courthouse. The assigned jury seats will then be sanitized. Group 2 will arrive approximately 2 hours after Group 1 and be seated in the *District* Courtroom in seats that are at least 6 feet apart. Group 2 will move from the District Courtroom to the Circuit Courtroom and the jury selection process will proceed with Group 2. After voir dire is concluded, the persons in Group 2 will remain in the Circuit Courtroom while the parties exercise their peremptory challenges. The court will identify the persons in Group 2 who were selected for the jury and excuse the persons who were not selected. The court will notify the selected persons to report for the trial at a later time. The clerk will do the same with respect to the persons in Group 1 (by telephone, text or email).
  - b. Option 2. Group 1 will arrive at an appointed time and will be seated in the Circuit Courtroom in assigned seats that are at least 6 feet apart. The jury selection process will proceed with Group 1 in the Circuit Courtroom. After voir dire is concluded, Group 1 will be excused and will depart the Courthouse. The assigned jury seats will then be sanitized. Group 2 will arrive at a later time and be seated in the Circuit Courtroom in seats that are at least 6 feet apart. The

jury selection process will proceed with Group 2 in the Circuit Courtroom. After voir dire is concluded, the persons in Group 2 will remain in the Circuit Courtroom while the parties exercise their peremptory challenges. The court will identify the persons in Group 2 who were selected for the jury and excuse the persons who were not selected. The court will notify the selected persons to report for the trial at a given time. The clerk will do the same with respect to the persons in Group 1 (by telephone, text or email).

- (5) Traffic Flow. The court and court security officers will direct the movement of the jurors into and out of the Courtroom, and within the Courtroom, in such a way that no juror will pass within 6 feet of another juror or Courtroom participant.
  - (6) The court and counsel will hold pretrial conferences in an attempt to excuse jurors in each group before they arrive at the Courthouse, based on the jurors' responses to the questions in the Questionnaire. The goal is to have less than fifteen jurors in each group report for jury selection, to ensure further physical distancing.
  - (7) In the event that a prospective juror requests or needs to be examined privately, the interview will take place in the District Court Courtroom, or in the Circuit Court chambers.
- C. Sidebars. The court will conduct side bars either in the Circuit Court Jury Room or the District Courtroom.
- D. Ensuring Jury Comments are Recorded. The court is required to record the prospective jurors' answers during voir dire to ensure a complete appellate record. A court security officer will be required to hold a microphone in front of the jurors as they answer questions. The court security officer will be required to sanitize the microphone after one juror's response and prior to the next juror's response.
- E. PPE. The court will provide prospective jurors with personal protective equipment (masks and hand sanitizer).
- F. Cleaning & Disinfecting. The court will clean and disinfects the assigned jury seats (1) before Group 1 arrives, (2) after Group 1 departs and before Group 2 arrives, and (3) after Group 2 departs.
- G. Water. Prospective jurors may bring a water container and refill it at the Courthouse. The court will also provide prospective jurors with bottles of water upon request.

- H. Hand Sanitizing Dispensers. The Circuit Courtroom has several hand sanitizing stations that the jurors may use when leaving and entering the Courtroom.
- I. Attendance by Public. The court's *Order Permitting Access to Court Proceedings*, dated March 24, 2020,<sup>1</sup> sets forth the procedure for members of the press and public to ask permission to attend a hearing in-person. Generally, priorities are given to members of the press, friends and family members of the defendant in a criminal case and victim advocates. Others may attend remotely.
- J. Remote Voir Dire. The court has invited counsel to consider remote jury selection and the court is equipped to conduct jury selection remotely.

#### 4. SEATING THE JURY

- A. Face Coverings. Everyone present in the Circuit Courtroom must wear face coverings. There is a general exception for individuals who have a medical condition, mental health condition or disability that prevents wearing a face covering. The court reserves the right to order additional precautions if one or more persons in the courtroom is excused from wearing a face covering.
- B. Physical Distancing. Once the 7 jurors are selected, there is plenty of room to seat them in assigned seats that are 6 feet from one another and 6 feet from other participants in the jury trial. Some of them will be seated outside the jury box and therefore may be situated further from the witness and counsel, but the court's amplification system will enable all jurors to hear the course of the proceedings. During the course of the trial, the court security will escort the seven jurors to assigned seats in the District Courtroom for breaks and recesses. The court may ask court security to escort the jurors when the court is required to discuss legal issues outside the jury's presence. At the end of the trial, the alternate juror is excused and the remaining six jurors will deliberate in the District Courtroom in their assigned seats. Whenever a juror in the District Courtroom needs to use a restroom, court security will escort the juror to the adjacent District Court Jury Room, where a restroom is available.

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<sup>1</sup> <https://www.courts.state.wy.us/wp-content/uploads/2020/06/Teton-Co-CC-Order-re-Access-to-Hearings-3.24.20-1.pdf>



- C. Use of Podium Prohibited. The court will require counsel to remain at counsel table during jury examination.
- D. PPE. The court will provide jurors with personal protective equipment (masks, gloves, and hand sanitizer).
- E. Cleaning & Disinfecting. The court will clean and disinfect the assigned jury seats twice daily.
- F. Water. Jurors may bring a water container and refill it at the Courthouse. The court will also provide prospective jurors with bottles of water upon request.
- G. Hand Sanitizing Dispensers. The Circuit Courtroom has several hand sanitizing stations that the jurors will be asked to use when leaving and entering the Courtroom.

## **5. CONDUCTING THE TRIAL**

- A. Face Coverings. Everyone present in the Circuit Courtroom must wear face coverings, except for a witness while testifying. There is a general exception for individuals who have a medical condition, mental health condition or disability that prevents wearing a face covering. The court reserves the right to order additional precautions if one or more persons in the courtroom is excused from wearing a face covering.
- B. Physical Distancing.
  - (1) Jurors. See 4.B above.
  - (2) Participants other than Jurors. In the Courtroom all participants must maintain physical distancing of at least 6 feet.
    - a. Exceptions. Counsel when communicating confidentially with the defendant or co-counsel do not have to maintain physical distancing. Nor does the prosecuting attorney when communicating with co-counsel or its investigator. However, these exceptions apply when the persons involved are actually communicating. When not communicating, counsel and the defendant, and the prosecuting attorney and investigator should maintain physical distancing of at least 6 feet.
    - b. The court will engage the “white noise” feature in the Circuit Courtroom to provide for confidentiality during these communications, if requested to do so.

- C. Use of Electronic Devices by Counsel. To facilitate confidential communication, counsel may communicate with clients and co-counsel—and the prosecuting attorney may communicate with the investigator or co-counsel—via cell phone, tablets, or other electronic device at counsel’s table. Attorneys and their clients may only use electronic devices for communicating with one another about the current case.
- D. Glass Partition around Witness Stand. The court has installed a glass shield around the witness stand, separating the witness from the jurors and other participants in the jury trial. The witness seated at the witness stand is situated approximately 6 feet away from the judge. The glass shield separating the witness from the judge is 22” high. The witness seated at the witness stand is situated approximately 10 feet away from the nearest other participant, which is a juror in the jury box . The glass shield separating the witness from the jury box is 32” high.
- E. Air Purifier near Witness Stand. The court will place a stand-alone air purifier with HyperHEPA filtration in the vicinity of the witness stand to help compensate for the fact that witnesses, while testifying, likely will be required not to wear masks.
- F. Sequestration of Witnesses. Generally, witnesses shall be sequestered so that only one witness is in the Courtroom at one time. Upon request, an expert witness who has a legitimate reason for hearing the testimony of other witness(es) may be permitted to remain in the Courtroom while other witnesses testify.
- G. Cleaning & Disinfecting. Twice on trial days—between noon and 2:00 p.m. and again after hours—Teton County Facilities will “fog” the courtrooms used for the trial with “Shockwave,” a disinfectant manufactured by Fiberlock Technologies. Additionally, the court will clean and disinfect (1) assigned juror seats when two separate panels are seated for jury selection; and (2) the witness stand after each witness concludes testifying and prior to the next witness’s testimony.
- H. Water. Those attending the trial may bring a water container and refill it at the Courthouse. The court will also provide all participants with bottles of water upon request.
- I. Hand Sanitizing Dispensers. The Circuit Courtroom has several hand sanitizing stations that all participants may use when leaving and entering the Courtroom.



- J. Attendance by Public. The court's *Order Permitting Access to Court Proceedings*, dated March 24, 2020,<sup>2</sup> sets forth the procedure for members of the press and public to ask permission to attend a hearing in-person. Generally, priorities are given to members of the press, friends and family members of the defendant in a criminal case and victim advocates. Others may attend remotely.
- K. Use of Podium Prohibited. The court will require counsel to remain at counsel table during opening statements, examination of witnesses and closing arguments. The one exception relates to occasions when counsel is required to approach a witness for the purpose of showing the witness an exhibit or other document.<sup>3</sup>
- L. Exhibits and Documents.
- (1) Documents and Photographs. In December 2020, the Supreme Court installed enhancements to the audio and video systems in the Circuit Court. The video enhancements enable each party to first publish a documentary exhibit to the court and the other party on monitors installed at the bench and counsel tables. If the exhibit is admitted, the court will publish the exhibit to the jury on large video screens. This will lessen the physical handling of documentary exhibits during trial. The party offering an exhibit shall provide sufficient copies of the exhibit so that, if admitted, each juror receives a copy of the exhibit to avoid passing exhibits from juror to juror during deliberations. The court recommends that the parties use the following procedures
- (2) Tangible Exhibits. The court recommends that the parties use the following procedures for tangible and other non-documentary exhibits.

Pre-file in manilla or similar type envelopes or other containers to allow documents and tangible items to detoxify. To the extent necessary, the parties may file their exhibits in sealed containers to avoid disclosing trial strategy to their opponent. Court will maintain the exhibits in a sealed/unsealed form. Exhibits will be available for trial. Persons handling exhibits during trial must sanitize their hands before and after handling exhibits. When a party seeks to admit an exhibit, the party will retrieve the exhibit from the exhibit envelope or container. If a party seeks to publish an exhibit,

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<sup>2</sup> <https://www.courts.state.wy.us/wp-content/uploads/2020/06/Teton-Co-CC-Order-re-Access-to-Hearings-3.24.20-1.pdf>

<sup>3</sup> However, please see ¶ 5.L.

the party may use available technology or wait to deliver the exhibit to the jury during their deliberations. The court will instruct the jurors to sanitize their hands before and after touching any tangible exhibits.

(3) Digital Evidence. The court suggests that the parties send to the court digital copies of documentary exhibits so the court can print them if the need arises.

M. Sidebars. The court will conduct side bars either in the Circuit Court Chambers or the District Courtroom.

N. PPE. The court will provide jurors with personal protective equipment (masks and hand sanitizer).

## **6. INFECTION EVENT PROTOCOL**

A. Surgical Mask. If a juror or other participant develops symptoms on site, the person will be asked to place a surgical mask over his/her face covering.

B. Juror Becomes Ill after Jury is Selected.

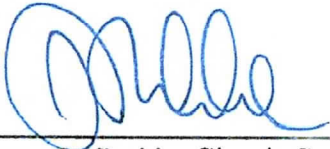
a. Juror. If a juror becomes ill after the jury has been selected, Court Security shall escort the juror outside the Courthouse and the court shall hold a hearing with the juror and the parties, with the juror appearing remotely. The court will follow the recommendations of the local public health department.

b. Other Participants. The court will contact local public health and follow recommendations on how to proceed.

C. Other Trial Participant Becomes Ill. The court will meet with the parties, contact public health department and follow recommendations on how to proceed.

D. Tracing. Court Security will maintain information on all members of the public entering courtroom for contact tracing purposes, including name, address, telephone number, and time of entry.

APPROVED:



James L. Radda, Circuit Court Judge

3/9/2021  
Date



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

03/15/2021  
Date