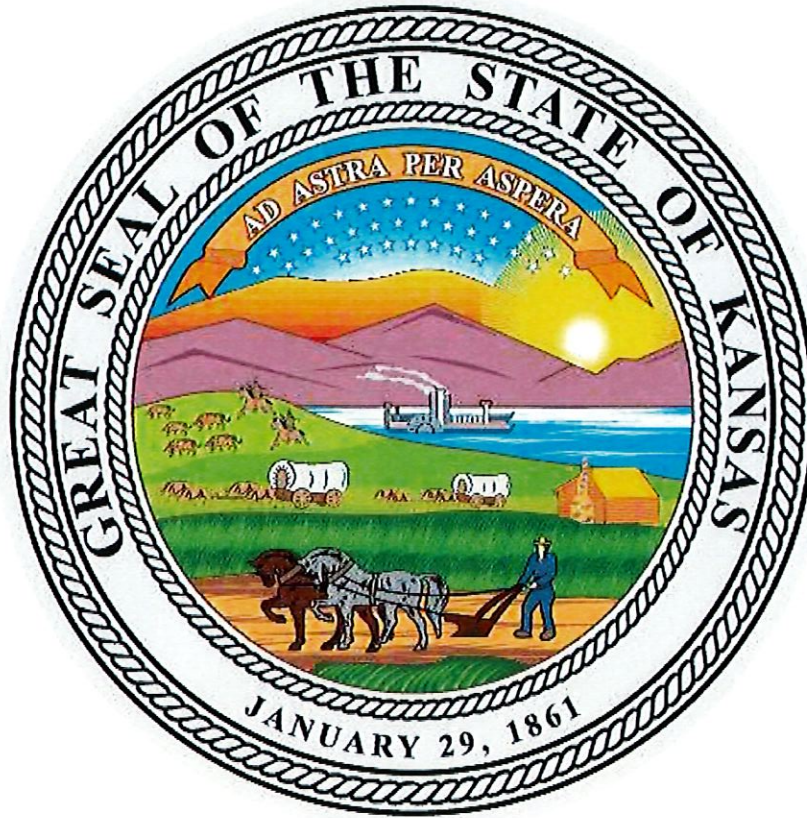




Seventh Judicial District

Jury Plan Protocols

During COVID-19 Pandemic

October 30, 2020

Introduction

The Seventh Judicial District (the 7th JD) consists of Douglas County, Kansas. We have six District Court judges and two Pro Tem District Court judges who are full-time judges funded by the county commission.

The 7th JD is committed to implementing safe and secure methods that will protect court staff, parties, counsel and the community as an integral part of any jury trials scheduled while the COVID-19 pandemic continues to present a viable threat.

We recognize that doing so requires a balance of safety with protection of the important rights and values which jury trials provide to those with matters pending in this district. The following plan endeavors to strike that balance.

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I. Initial Considerations

Because the nature of the pandemic is fluid, this plan shall be interpreted first as emphasizing important concepts and issues over particular practices. Each judge conducting a jury trial must follow the protocols set forth herein, except that, for good cause found to affect the health and safety of judicial staff, litigants or other participants in the proceedings, each judge may deviate from these practices to meet the needs of any particular case.

Unless circumstances indicate a contrary or different approach, our courts have implemented the following:

- Orders of the Kansas Supreme Court and Chief Justice;
- All COVID-19 Safety Directives of the Office of Judicial Administration;
- Any applicable order or guidance from local public health officials;
- Any orders issued by the Kansas Governor;
- All guidelines from <https://covid.ks.gov/ad-astra-a-pla-to-reopen-kansas>;
- Any applicable guidelines of the Occupational Safety and Health Administration;
- Guidelines from the Kansas Department of Health and Environment; and
- Kansas Supreme Court Ad Hoc Jury Task Force Report of Recommendations for Best Practices promulgated July 31, 2020.

Consistent with the directive to provide a Jury Trial plan to the Office of Judicial Administration (OJA) for approval, this plan addresses the following matters:

- Identifying locations that allow for social distancing where people can remain at least six feet apart;
- How and where sidebars will occur with social distancing;
- How exhibits will be handled between attorneys and court staff, and by jurors;
- A video stream of the proceedings for viewing by the public and others not physically present, if necessary;
- The handling of venire and jury from entry into the facility through discharge, including items such as:
 - Special social distancing requirements-both for the room in which the proceeding is being conducted and during recesses;
 - Assuring jurors' ability to hear and see witnesses and exhibits;
 - How food will be handled and delivered to jurors;
 - Where the jury will deliberate and how the jury will leave for and return from deliberations;
 - Procedures for potential jurors and jurors to report any of the situations that would require the individual to be denied access to the courthouse and actions for response by the court and parties;
- Conduct jury trials and grand jury proceedings while protecting the safety of participants;
- Summons juries while following safety directives;
- Explain the process to the public; and
- Execute other actions to help resume jury operations.

The Ad Hoc Jury Trial Task Force Report includes a checklist of steps each district court should take in order to resume jury trials. This plan has considered each of the factors in that checklist.

The judges of the 7th JD will give priority to setting cases for trial with primary consideration for the constitutional speedy trial rights of defendants in custody in criminal cases.

II. Available Locations and Support for Jury Trials

Courtrooms at the Judicial Center remain an available option to hold a jury trial with the adjustments indicated in this plan. We have also arranged for an alternative jury trial venue at the Douglas County Fairground's Building 21 and the Flory Building. We have performed several site tours to evaluate and identify adaptations to make the fairground buildings COVID rule compliant.

Both buildings are large enough to conduct all jury trial proceedings, to include jury selection, jury deliberation, and presentation of evidence, bench and chamber conferences. Each building provides sufficient space to permit confidential conversations between attorneys and their clients.

The Douglas County Sheriff's Office has toured the alternative venue space (fairground buildings) and will be able to provide security at the location. County I.T. staff have also toured the space and will be able to provide the necessary internet and audio/visual technology to allow the effective presentation of the proceedings and evidence.

Our local health official has provided feedback and guidelines to the court throughout the time of this pandemic. We have implemented those recommendations and will continue to both consult and modify as circumstances and/or recommendations may change.

III. Public Information/Pre-Service Communication with Jurors

We will contact and utilize media releases as we near resumption of jury trials. These will also direct the reader / listener to our website.

The court will provide information to the public on the court's website about steps being taken to create a safer environment in the courthouse. The court will also provide a link to the Kansas Courts video <https://www.kscourts.org/About-the-Courts/Court-Administration/Court-Initiatives/Ad-Hoc-Jury-Task-Force>.

The court provides a designated phone number and e-mail in our communication and on our website. Prospective jurors can use this contact information to ask specific questions related to the pandemic.

Because of time lag between when the supplemental questionnaires are received and the start of jury service, we will provide a means for potential jurors to immediately contact the jury coordinator should the information provided on the supplemental questionnaire change prior to the assigned summons date. The current plan is for the clerk's website to contain a link where such supplemental information can be provided at any time.

Additionally, on the day service begins, the court will ask prospective jurors whether any of the information provided in the questionnaire or supplemental questionnaire has changed.

IV. Obtaining Sufficient Venire Panels – Additional Summons

- a. The Chief Judge reviews all requests for deferral or excuse from jury service. Each such request is determined on an individualized basis. The 7th JD does not have blanket policies with regard to such matters. Any assertion of COVID concerns will be weighed on the merits as presented.
- b. The standard juror summons will be supplemented with additional questions regarding COVID-19 (Attachment 1) and an explanatory letter to inform potential jurors of the additional steps they can take and that the court will take to address health and safety concerns (Attachment 2).
- c. Based on our best available information, and consistent with the Task Force recommendations, we will send out additional summons for each scheduled trial period to assure sufficient numbers of persons to qualify for jury service.
- d. Each division will consider the loss of a greater number of seated jurors during the pandemic due to illness or the need to care for sick family members. As such, judges shall keep this in mind when considering the number of alternate jurors to seat.

V. Physical Distancing/Signage/Physical Structure

- a. Since the early stages of the pandemic, we have implemented changes to our manner of operations to maximize health and safety considerations.
- b. The entry way and common areas of the Judicial Center have all been marked and signed for social distancing. Benches in those areas are signed to limit to one per person. Drinking fountains are closed with signs indicating that bottled water is available from division administrative assistants. The hallways have informational postings to inform the public about necessary COVID warnings and protocols. Elevators are signed to limit occupancy to no more than two people.
- c. All courtrooms have been measured and marked to achieve social distancing. Plexi-glass panels have been placed on each bench, at all counsel tables and at witness stands. In some divisions the gallery will be used as a jury box and for jury selection

- d. Hand sanitizers, cleaning protocols and advisory “best practices” signs have been placed throughout the building. Face coverings are required for entry to any trial venue in accordance with orders from the Kansas Supreme Court.
- e. Disposable face coverings shall be available for the use of jurors. Court participants including jurors will be encouraged to bring their own face coverings.
- f. To prepare for jury trials, each division will attempt to assure a sufficient supply of disposable face coverings are available. The extended use of face coverings may result in the need to replace the covering throughout the day.

VI. Cleaning Protocols/Use of Courtroom

- a. The County Commission provided funding through the end of the present calendar year to support a full-time individual who is tasked solely with cleaning/sanitation duties for any court proceeding. This includes cleaning all common surfaces between hearings and, as needed, between witnesses.
- b. Except in the circumstance where we would have sufficient space and need to run more than one jury trial at a time, that person will be present during the entirety of the proceedings to clean and sanitize as needed.
- c. In the event there is more than one trial proceeding at a time, or the dedicated cleaning person is otherwise unavailable, court staff and/or the bailiff will assure appropriate cleaning protocols in line with those recommended by the Task Force.
- d. The courtrooms have been signed and/or modified to eliminate access to, or use of, any non-essential furniture, fixtures or conveniences to minimize the need for sanitation.
- e. As part of orientation, an initial jury instruction, and admonishments at breaks, jurors will be reminded to physical distance, sanitize and wash hands regularly for 20 seconds. Court personnel will monitor lines and staging areas for physical distancing.
- f. Persons reporting for duty will be instructed how to self-report any symptoms they may have that morning before entering the courthouse. Staff will be trained to limit contact with jurors and documents that jurors have handled should they arise while at the venue.

VII. Location of Trial – Alternative Location Option

Anticipating the need to run concurrent trials due to the backlog of cases and the space limitations at the Judicial Center, the County has granted the district court priority access to two buildings at the local fairgrounds. Both buildings have more space for social distancing than any of the spaces available at the Judicial Center. We have consulted with the Sheriff’s Department to address security and safety concerns for such locations. Security adequate to the nature of the proceedings will be provided.

Depending on the size, type and nature of the matter going to trial (to include risk assessment of the defendant in a criminal case and the additional time that jury selection will require both as to the staggered nature of the panels and screening procedures), each judge will decide whether their courtroom at the Judicial Center will permit compliance with all health directives, whether to conduct the jury selection process at the Judicial Center or the fairgrounds or whether the entirety of the proceedings is best suited for the larger venues of the fairgrounds.

- a. The judge will consult with counsel about the decision as to location and inform all participants of the location of the trial in a timely manner.
- b. At the final pretrial hearing, counsel will be offered the opportunity to make objections as to the setup for the courtroom and identify any witnesses that shall testify remotely with consent of the parties or by ruling of the court. Prior to the commencement of the trial, the judge shall address, on the record, any such objections.

Counsel will instruct witnesses to remain outside the trial venue until contacted to enter to be placed “on deck” to testify.

VIII. Jury Selection/Voir Dire Considerations

- a. All persons entering the location where the proceedings occur will be subject to screening – to include temperature check and inquiry regarding contact and travel. The 7th JD will supply face coverings and require their use by venire/jury panelists. We will also be supplying hand sanitizer in individual sized containers to each panelist.
- b. Seats will be assigned for voir dire with court staff directing prospective jurors to the appropriate location. For individual voir dire, prospective jurors will remain in the courtroom in assigned seats, and individual interviews will occur in a separate location outside the courtroom such as chambers or the jury room.
- c. During orientation, the assigned judge will explain the safety protocols of the district, to include sanitation, physical distancing, hygiene and how to request assistance or report concerns so that the court may take proper action, if necessary.
- d. Regarding concerns of disclosure of health information in juror questionnaires, the practice in this district for the past several years has been to use a “juror profile” form. The juror profile form contains basic information about the juror – including but not limited to name, age, employment status, prior jury service – but does not include health information. Only the juror profile form is provided to counsel. The questionnaire itself is not disseminated.
- e. For jury selection, persons will report in panels of a size appropriate to the venue (taking into consideration social distancing availability). For many cases, it is expected this will require reporting of small panels at staggered intervals to minimize interaction. Instructions will be provided so that persons know the time and place to report for this process to occur with minimal inconvenience to the panel.

- f. Wireless microphones will be utilized during jury selection. Counsel will have fixed microphones. A wireless microphone on a stand, or transported by the bailiff, will be used to amplify responses from venire members to avoid passing microphones amongst panel members.
- g. During jury selection, persons with any sensitive health information will be granted the opportunity to address discussion of that information outside the presence of the venire panel – either in a jury deliberation room or a separate room at the fairgrounds building.
- h. For both the selection process and after being selected as a juror, persons will be spaced six feet apart at all times.
- i. Jurors will each receive a pen, note pad, individual hand sanitizer, juror badge, and badge lanyard packaged in an individual plastic bag. They will use this bag throughout the trial. Information on what to do in the event they experience COVID symptoms or exposure will be included, including contact information for the trial judge's administrative assistant (email and phone number) to report any health concerns that arise when court is not in session. When not in use, individual locations will be assigned where these items can be safely maintained
- j. Panel members/jurors will enter and exit the front door of the venue at a specific time each day, monitored by a bailiff who will ensure appropriate physical distancing and contact with those outside the jury. Individual bottles of water will be provided to each juror, but no additional food or drink will be permitted, with the exception of deliberations.
- k. If, while not in actual attendance for the proceedings, any juror, attorney, staff or party, experiences potential COVID symptoms or exposure, that person will be instructed to report these symptoms only by phone or email to the trial judge's administrative assistant at the earliest possible opportunity. A subsequent conversation with that person and all parties will take place on the record, and may occur via Zoom or telephone to limit additional exposure until a determination is made.
- l. If, while in attendance for any proceedings, any participant experiences COVID symptoms or exposure, that person shall report the same to the bailiff who will be given authority to automatically excuse said juror if circumstances so require. A subsequent conversation with the jurors and all parties will take place on the record.

These procedures will be conveyed to court staff by the Chief Judge, but further reinforced by the trial judge to all litigants and parties before the trial begins. The trial judge will remind and/or admonish about face coverings and other safety protocols during the proceedings as appropriate.

IX. Special Considerations During Trial

- a. Jurors will be instructed to avoid bringing items to court that will not fit within the bag provided to them at check-in. If anyone becomes aware of health concerns such as symptomatic jurors (or court participants) or safety non-compliance issues, it will be reported to the presiding judge (if during the actual proceedings) or bailiff for a timely response and action. Thereafter, others will be informed as needed.
- b. Microphones already exist in each courtroom in the Judicial Center. The fairground facilities have built in speaker systems that are accessible with wireless microphones that the court has ordered so that microphones will not need to be shared. Microphones and video systems will be used to project sound and visuals sufficient for all individuals inside the room to hear and see.
- c. Sidebars will occur in the judge's chambers or a separate room at the fairground building to allow physical distancing of at least 6 feet. Attorneys will be encouraged to raise substantial issues prior to trial to lessen the need for sidebars.
- d. Exhibits shall be pre-marked with an exhibit sticker. Unless absolutely necessary, exhibits will not be passed amongst jurors during trial, but provided to the jury during deliberations or published via electronic means during trial. If an exhibit can be placed and viewed inside a plastic bag or container, counsel should package the exhibit accordingly and it will be admitted with such packaging in place.
- e. Documentary exhibits shall have sufficient copies so that passing the exhibit among court or counsel or jurors is minimized. The court will supply gloves to jurors if exhibits must be passed and during deliberations.
- f. Whenever possible, counsel should present evidence electronically, using a computer or document camera in order to avoid handing items to the witness. Counsel should instruct witnesses such as an officer or expert to bring their own report or notes.
- g. All admitted exhibits will be stored in plastic bins throughout the proceedings.
- h. If non-admitted documents are needed, for example to refresh the memory of a witness, an extra copy should be made to avoid passing it back and forth. If it becomes necessary to exchange a document, sanitizer or gloves shall be contemporaneously used.
- i. In the event interpreters are necessary, the Plexi-glass barriers at the witness stand, in conjunction with sufficient space for social distancing in the courtroom, will comply with all health department recommendations.
- j. For all criminal trials, or any proceeding which involves a right to confrontation, all witnesses, counsel and the defendant will be asked to wear or provided clear face covering throughout the proceedings.

- k. To provide confidential communication between counsel and client during the proceedings, counsel may make special request of the court. Upon such a request being approved, counsel and client will be permitted to retire to the jury deliberation room (if at the Judicial Center) or to a separate room designated for such purposes (if at the fairgrounds). Appropriate cleaning and safety protocols will be observed for such rooms.
- l. Recesses will be taken outside whenever possible to allow jurors to remove their masks and get fresh air.
- m. The court shall be mindful of mask fatigue and the effect that the additional safety protocols have on the participants. Judges will monitor the need for additional breaks for case participants and jurors.

X. Deliberations

- a. The courtroom (whether at the judicial center of fairgrounds) will be used for deliberations instead of the smaller jury deliberation room. In other words, counsel, parties and all court personnel will remove themselves from the courtroom and deliberations will occur in that space so that social distancing is amply provided.
- b. The bailiff will monitor for sound/privacy and address individual juror needs. If deliberations occur over lunch, individually boxed lunches will be provided.

XI. Public Access

The 7th JD has established a YouTube channel to accommodate public access to all court proceedings. All of the judges have been using both Zoom and YouTube in combination to livestream proceedings on the YouTube channel. Both venues (Judicial Center and fairgrounds) have the capacity to livestream the proceedings for jury trials to accommodate public access.

For all criminal jury trials, the court will safely provide in-person attendance for limited media access and as space and safety constraints permit, individual requests to attend in-person will be considered accordingly.

Juror Name: _____

ADDITIONAL JUROR QUESTIONNAIRE REGARDING COVID-19

The following questions will assist the court to determine your eligibility as a prospective juror within the next four to six weeks. Kansas Supreme Court Rule 167 provides that juror questionnaires are not public records and are not subject to disclosure under the Kansas Open Records Act.

Please answer the following questions and return to the court within one week. You may remit your answers via encrypted e-mail at (example@yourcourt.com) or via postal mail.

Please contact the jury coordinator immediately where any answers to the following questions change at [jury email] or [jury phone]

1. Have you been exposed to COVID-19?

YES ☐ NO ☐

If yes, approximate date of exposure:

2. Have you tested positive for COVID-19?

YES ☐ NO ☐

If yes, approximate date of exposure:

3. Are you currently experiencing any symptoms of COVID-19 (including fever, cough, sore throat, respiratory illness, or difficulty breathing) and been told to quarantine?

YES ☐ NO ☐

If yes, what date were you instructed to quarantine?

4. Are you an employee who has been laid off due to COVID-19 and have recently returned to work?

YES ☐ NO ☐

If yes, where are you employed, how long were you laid off, and when did you return to work?

5. Are you over age 60, or a person of any age with an underlying medical condition that puts you at a higher risk of developing serious health complications from COVID-19?

YES ☐ NO ☐

If yes, please explain:

Attachment 1

Juror Name: _____

6. Do you live with or provide direct care for a vulnerable person?

YES ☐ NO ☐

If yes, please explain:

7. Do you have children at home who require your direct supervision due to school and/or daycare closings? Note: Only answer YES if there is NO ONE else in the household who can provide care during your jury service.

YES ☐ NO ☐

If yes, please explain:

8. Have you done any of the following in the last 14-days:

a. Traveled internationally: YES ☐ NO ☐

Location(s): _____

b. Traveled outside of Kansas: YES ☐ NO ☐

Location(s): _____

c. Traveled on a river boat or cruise ship: YES ☐ NO ☐

Location(s): _____

If you answer "yes" to any of the above questions, your jury service may be deferred. You will receive written confirmation of the court's determination by electronic or postal mail. Jurors who are deferred will receive a new summons later this year or in early 2021.

I SWEAR OR AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE ABOVE STATEMENTS, REPRESENTATIONS, AND ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE OF JUROR

DOUGLAS COUNTY DISTRICT COURT

Seventh Judicial District

Judicial Center, 111 E. 11th St. Unit 5

Lawrence, Kansas 66044-2966

James R. McCabria, Chief Judge

Amy J. Hanley, Judge

Sally D. Pokorny, Judge

B. Kay Huff, Judge

Mark Simpson, Judge

Stacey Donovan, Judge

Paul Klepper, Pro Tem Judge

James T. George, Pro Tem Judge

Linda Koester-Vogelsang
Court Administrator

Douglas A. Hamilton
Clerk of the District Court

Melinda Zilliox
Chief Court Services Officer

Deborah Wright
Community Corrections Director

Mary Beth Diaz
Court Trustee

Heather Krase-Minnick
Citizen Review Board Director



Dear Prospective Juror,

We find ourselves living in extraordinary times due to the COVID-19 virus. Each of us has been affected in some way by this pandemic. There are many efforts underway within our court system, both locally and statewide. We have purposely implemented these efforts in an attempt to slow the spread of the COVID-19 virus. When you report for jury duty, you will notice significant changes in the daily operation of court functions. Our juror portal website (insert address) contains a short video the Kansas Supreme Court has created to highlight making juror health and safety our priority.

What we're doing to protect you:

- **Cleaning and sanitizing**
- **Physical distancing**
- **Symptom screening**
- **Requiring masks and providing hand sanitizer**

What we need you to do:

- **Wash your hands**
- **Wear a mask**
- **Tell us if you are sick**
- **Tell us if you are at high risk**

Certain health conditions, as well as contact with or travel to certain geographical areas, may result in the need to excuse or defer your jury services. Questions about the process and requests for excusals and/or deferrals should be directed to the jury clerks. Given the constant changes in health guidelines, there is a possibility your date to report for jury duty may change. **The evening before the jury service begins, please call the jury recording phone line at (785) 832-5108 after 5:00 p.m.** The recorded message will inform you whether the trial is still proceeding, and indicate whether you need to appear. If there is no answer or message, or the message is out of date, you should appear for jury duty as ordered.

We appreciate your participation in this important process and commend you for upholding your civic duty of jury service in these challenging times.

Thank you and stay safe,

Douglas A. Hamilton