

THIRTY-FIRST JUDICIAL DISTRICT
ADMINISTRATIVE ORDER #287
POST-COVID-19 JURY TRIAL AND GRAND JURY PLAN

“The right of trial by jury shall be inviolate.” Kan. Const. Bill of Rights, § 5.

Now on this 9th day of October 2020, the 31st Judicial District issues this administrative order for its post-COVID-19 jury trial and grand jury plan.

A. BACKGROUND

1. KANSAS SUPREME COURT ADMINISTRATIVE ORDERS

- On March 18, 2020, to protect the health and safety of court users and court personnel against the highly infectious Coronavirus disease (COVID-19), the Kansas Supreme Court issued Administrative Order 2020-016 “directing courts to cease all but emergency operations, including jury trials.” The link is:
<https://www.kscourts.org/KSCourts/media/KsCourts/Orders/2020-PR-016.pdf>
- Thereafter the Supreme Court issued many other administrative orders, including on May 1, 2020, a series of orders for reopening the Kansas courts. The link for the press release containing these orders is: <https://www.kscourts.org/Newsroom/News-Releases/News/2020-News-Releases/April-2020/Chief-justice-issues-new-administrative-orders-for>
- On June 2, 2020, the Kansas Supreme Court “created the Ad Hoc Jury Task Force to support district courts in planning to resume the operation of jury trials.” The link is: <https://www.kscourts.org/KSCourts/media/KsCourts/Orders/2020-CM-050.pdf>
- On July 31, 2020, the Ad Hoc Jury Task Force issued its very detailed lengthy report for “resuming trials amid COVID-19 and recommending best practices. The link is: <https://www.kscourts.org/About-the-Courts/Court-Administration/Court-Initiatives/Ad-Hoc-Jury-Task-Force>
- On August 4, 2020, the Kansas Supreme Court issued Administrative Order 2020-093 for District and Appellate Court Operations. This administrative order mandates various “necessary adjustments” before the District Courts can resume jury trials, including the Chief Judge developing a plan: approved local public health officials; in compliance with orders of the Supreme Court and Chief Justice and directives of the Office of Judicial Administration; the Governor’s orders; and all applicable state and federal guidelines. In addition, the numerous mandates include the Chief Judge developing “written plans approved by the Office of Judicial Administration for implementing the Supreme Court mandates regarding resuming jury proceedings that

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will be posted on the Kansas judicial ranch website along with best practices.” The link is: <https://www.kscourts.org/KSCourts/media/KsCourts/Orders/2020-PR-093.pdf>

- Furthermore, on August 4, 2020, the “Supreme Court Mandates and Guidance Regarding Resuming Jury Proceedings” was filed. The Supreme Court issued twenty-two (22) Mandatory requirements for resuming jury trials.” Further, the Supreme Court issued: two (2) “Additional Physical Distancing, Cleaning, and Sanitation Considerations;” four (4) “In-person Versus Virtual Proceedings” guidelines; and, requirements for “Collecting and Sharing Data on Virtual Proceedings. The link is: <https://www.kscourts.org/KSCourts/media/KsCourts/court%20administration/Juries/Supreme-Court-Mandates-and-Guidance-Regarding-Resuming-Jury-Proceedings.pdf>
- Finally, on September 4, 2020, the Supreme Court issued 2020-PR-099, amending earlier administrative orders and the court’s “Mandates and Guidance Regarding Resuming Jury Proceedings.” The link is: <https://www.kscourts.org/KSCourts/media/KsCourts/Orders/2020-PR-099.pdf>
- In addition to other amendments, 2020-PR-099 allows district courts: to use engineering adjustments approved by the local health officer when configuring courtrooms for physical distancing; deletes the 12-person limit on venire panels while maintaining the requirements of district courts to comply with physical distancing and engineering mandates; and, to consider measures to reduce group interaction, including staggered venire panels.

2. Prior COVID-19 31st Judicial District Administrative Orders.

- For clarification, the 31st Judicial District includes the court facilities and adjacent hallways in the Allen, Neosho, Wilson and Woodson County Courthouses and the Chanute Judicial Annex. The Chief Judge has sought permission from the Supreme Court to conduct all Allen County jury trials in the Bowlus Fine Arts Center. (Bowlus). The Bowlus is located at 205 E. Madison, Iola, KS 66749 which is about two blocks east of the Allen County Courthouse. The Chief Judge has also sought permission to conduct all Wilson County jury trials at the Neodesha City Hall/Civic Center which is a modernly converted National Guard Armory, located at 1407 N. 8th, Neodesha, Wilson County, KS 66757 (Neodesha Civic Center). Neodesha is about 12 miles south of Fredonia and the Wilson County Courthouse. As used herein the 31st Judicial courtrooms, court facilities and courthouses, includes the Neodesha Civic Center and the Bowlus. The link for the Bowlus is: <https://www.bowluscenter.org/> There is no good link for the Neodesha Civic Center.
- The 31st Judicial District has previously issued several COVID-19 Administrative Orders, including: https://0201.nccdn.net/4_2/000/000/038/2d3/31st-judicial-district-amended-reopening-plan.pdf

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- All the administrative orders and links to the five (5) 31st Judicial District YouTube channels are found at: <http://www.31stjudicialdistrict.org/home>
- These administrative orders include the numerous health and safety protocols that the 31st Judicial District has been utilizing and will continue to utilize to keep all court users and jurors healthy and safe, including: cleaning and sanitizing; physical distancing; symptom screening; requiring masks and providing sanitizer throughout all five (5) court facilities. All the health and safety protocols are in compliance with the Supreme Court Administrative Orders and all four county health officers. The Chief Judge, other district judges, law enforcement and some court personnel have met at all courthouses and viewed the facilities, restrooms, eating areas, stairwells, hallways, entrances, exits, elevators, and all adjacent areas to insure compliance with all health and safety protocols of all four county health officials.

B. THE PLAN

1. Communicating with Jurors

- To share plans to ensure the safety of jurors and court participants the court will share this link with all potential jurors. The short video was prepared on behalf of the Ad Hoc Jury Task Force: <https://youtu.be/GysA1WVHHXo>

2. Securing Adequate Jury Pools

- If appropriate reasons are provided, the district’s judges will liberally grant requests to defer for later service. The district’s judges will continue to ensure categories of the population are not excluded from the jury pools in order to ensure a fair cross-section of the community by individually handling requests for excusal or deferral.

3. Initial Considerations

- As provided above, the Kansas Supreme Court has issued multiple orders relating to the reopening of courts. Specifically, Order PR 2020-76 as amended by PR 2020-99 provides the minimum requirements for district courts to consider and implement prior to resuming jury trials, <https://www.kscourts.org/KSCourts/media/KsCourts/Orders/2020-PR-076.pdf>.
- Our local health officers have provided guidance, approved health screening and the use of face coverings; the links to the county health offices are: <https://www.sekmchd.com/>; <http://neoshocountyks.org/index.php/health-department>; <http://www.wilsoncountykansas.org/main/county-offices/health-department>

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- The 31st Judicial District is required to comply with 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-plan-to-reopen-kansas>;
 - Any applicable guidelines of the Occupational Safety and Health Administration; and
 - Guidelines from the Kansas Department of Health and Environment.
- Additionally, under Supreme Court Administrative Order 2020-PR-093, district courts are ordered to present a plan to our departmental justice for approval that provides the following:
 - A location that allows 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;
 - To protect juror unanimity under Supreme Court Rule 1000 while also allowing public access, only an audio stream via Zoom and YouTube of the proceedings will be available to the public. If a video stream must be provided, then the court will position the video camera so that juror unanimity is maintained.
 - The handling of venire and jury from entry into the facility through discharge, including items such as:
 - Special social distancing requirement—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 deliberation;
 - 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; and
 - A review of the procedures from the front door to jury rooms with court staff, attorneys, and county and facility personnel.

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4. Communicating Safety to the Public

- The district’s media coordinator shall notify prospective jurors of existing safety protocols and what to expect upon arrival at the courthouses.
- To share plans to ensure the safety of jurors and court participants the court will share with potential juror the short video prepared on behalf of the Ad Hoc Jury Task Force:<https://youtu.be/GysA1WVHHXo>
- The court will coordinate with local terrestrial news media, and the court will share the district’s pandemic safety precautions. The Supreme Court video will also be posted on the district website and shared with local media.

5. Personal Protective Equipment

- Supreme Court Administrative Order 20-13 (AO-13) mandates and the 31st Judicial District requires the use of face coverings for all court participants while in any court space, including courtrooms, jury deliberation areas, and jury assembly areas.
- Court participants including jurors are encouraged to bring their own face coverings. This court recognizes the risks involved in outside face coverings, including:
 - Contaminated/un-sanitized face coverings brought into the courthouse. Jurors will be reminded each day of the importance of washing face coverings;
 - For jurors failing or refusing to bring their own face covering, those jurors will be offered disposable face coverings for this contingency. Each judge may determine appropriate steps for a refusal to comply which could lead to contempt; and
 - For political statements or otherwise controversial or inciteful personalized face coverings, each judge will make an ad hoc determination on the appropriateness of any message as would be determined for any other item of clothing worn in a courtroom.
- Disposable face coverings are available at the courthouses or courtrooms’ entrances utilized for screening. All the district’s court facilities have a supply of disposable face coverings for distribution.

6. First Communications with Prospective Jurors

- The court will customize and utilize the sample letter and a customized insert attached to the Ad Hoc Task Force Report. The link is: <https://www.sekmchd.com/https://www.kscourts.org/KSCourts/media/KsCourts/court%20administration/Juries/Letter-to-potential-jurors.pdf>
- Each letter has that county’s jury clerk’s contact information for jurors to contact for questions, and to seek deferral or excusal from jury service. Each letter also contains the reporting date, time, location and the information for reporting for jury service.

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When appearing for jury service each juror shall: wash your hands; wear a mask; if you are sick tell court staff; and, if you are at high risk tell court staff.

- The district’s judges will communicate any changes during jury orientation. To ease juror concerns and anxiety, the court will cover these topics. Safety is a priority for all participants. All the district’s courthouses already have adequate signage.
- In addition to the summons and letters, each juror will receive the **confidential** “Additional Juror Questionnaire Regarding Covid-19” prepared by the Ad Hoc Task Force that is **not a public record**. As instructed each juror questionnaire must be mailed or returned to the court. The link to the questionnaire is:
<https://www.kscourts.org/KSCourts/media/KsCourts/court%20administration/Juries/Jury-Task-Force-Questionnaire-Examples-Fillable.pdf>
- Because the supplemental questionnaires will be sent weeks prior to trial, the answers to the health questions may be outdated by the time the jurors report. Therefore, jurors will be asked to immediately contact assigned court personnel should the information provided on the supplemental questionnaire change prior to the assigned summons date.
- 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.

7. Prescreening of the Jury Questionnaires

- The presiding judge or a designee will prescreen juror responses to the supplemental questionnaires when jurors have expressed an inability to serve. The initial screening will be done based on open-ended questions. The judge will defer certain jurors prior to coming into the courthouse and require others to appear for selection. In the review, judges will consider insufficient answers or failures to respond as a reason to proceed to summon that person for further inquiry.
- The court is planning for a lower yield from the jury pool during the pandemic, and the court will monitor whether a larger number of jury summons than typical should be issued based upon all the facts and circumstances of the county.
- Each judge will plan for the loss of a greater number of seated jurors during the pandemic due to illness or the need to care for sick family members. When considering the number of alternate jurors to seat in criminal cases and the overall number of jurors to seat in civil cases, judges will take into consideration the possibility of losing jurors during the trial. During pre-trial, the court should place on the record the plan for alternate jurors and contingencies for loss of jurors once the panel is sworn.
- The jury clerk of the district court will keep statistics of questionnaires sent, excuses requested due to virus concerns, the number of people deferred over virus concerns, and the number of people excused for virus concerns. The court may offer voluntary self-identification of jurors and as such, should also track excusals and deferrals based

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on self-identified racial and ethnic characteristics.

- Per Supreme Court Rule 167, juror questionnaires are not a public record; the court will inform prospective jurors that any revealed health information will not be subject to disclosure.

8. Space Preparation

- **Paths of Travel:** Paths of juror travel from the entrance into the courthouses to rooms within are or will be clearly marked. Social distancing markers are placed throughout the courthouses, in and near restrooms, and by elevators. As explained in more detail later, elevators are or will be clearly marked and limited to one or two riders per elevator. As alternatives to elevators, the public is encouraged to use stairwells. County maintenance staff will continually spray and wipe down handrails and doorknobs used by anyone in the courthouse throughout the day.
- **Courtrooms:**
 - On July 1st, 2020, the 31st Judicial District began in-person court hearings with social distancing.
 - The court has appropriately planned and executed social distancing in all the courtrooms.
 - If approved, to allow for substantially increased social distancing the Neodesha Civic Center and the Bowlus will be used for all jury trials in Wilson and Allen Counties.
 - In **Allen County**, the large courtroom in Iola could also be used for jury trials and grand jury proceedings, but the Bowlus allows for more social distancing and alleviates other issues. By utilizing the Bowlus during jury trials, the large courtroom will remain available for in-person hearings. Jurors will be screened and have his or her temperature taken as they enter the building. The Bowlus’ new entrance is located on the east side of the Bowlus, and the auditorium is located on the second floor with access by elevator. After arriving on the second-floor jurors enter a very large room that will be utilized for a socially distanced check-in for each juror. By utilizing a hallway adjacent to the auditorium, jurors will be escorted and seated in numerically marked seats. The venire will be seated in the Bowlus’ audience seating area that could hold 104 non-family members with social distancing. However, to insure social distancing jurors’ arrival will be staggered. Jury selection and the trial will be conducted on the large stage. The Bowlus has adjacent spaces for socially distanced attorney-client conversations or meetings with jurors, witnesses, and alleged victims. The converted large art room easily allows for social distancing, and during the trial, the art room will be the jury room and used for jury deliberations. (Note: this art room was recently utilized for complex union negotiations.) The public will be able to watch the trial from seats in the auditorium. The Bowlus has a handicap bathroom and another bathroom outside the auditorium. It also has two additional bathrooms on the lower level which

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are accessed by two large stairwells. The Bowlus has excellent acoustics and lighting. From the beginning of jury selection through completion of the trial, from the auditorium’s designated booth a professional light and sound technician will control both light and sound.

- In **Wilson County** by conducting jury trials and grand jury proceedings in the Neodesha Civic Center, the large courtroom in the Wilson County Courthouse in Fredonia remains available for concurrent in-person hearings. As they enter the civic center jurors will be screened and have their temperature taken. The jury trial entrance will be located on the northwest corner of the civic center. Jurors will enter a large room that easily allows for social distancing. This large room is utilized for storage, and it will be cleared and regularly sanitized. Jurors will check-in at a desk located in the large storage room before being seated in their assigned seats in the civic center. The civic center easily holds more than 80 socially distanced potential jurors, plus the bailiff and other needed court staff, security, attorneys, parties, court reporter and the judge. However, jurors' arrival will be staggered. During jury selection, the Civic Center will be set-up with the judge, court reporter, counsel, parties, prospective jurors being seated at the west end of the civic center. Once the jury is selected, a large city council room located on the south side of the Civic Center will be utilized as the jury room. This room easily allows for the 12 jurors to meet and deliberate with social distancing. There is also another meeting room that can be used for attorney-client meetings. There are only two large restrooms, both are handicap accessible. Acoustics are excellent in the facility with a modern sound system. Cordless microphones will be used in the civic center. Once the jury is chosen, the room will likely be re-arranged to even improve the courtroom, while still allowing a large audience area. Once the jury is chosen, if necessary, security can accompany jurors walking to and from the restrooms to the jury room.
- The two Chanute Judicial Annex courtrooms have inadequate space for socially distanced jury trials. The Erie Courtroom is the largest courtroom in the 31st Judicial District. Thus, all **Neosho County** jury trials will occur in Erie. The Erie courtroom is on the ground floor, and it may be entered without an elevator. Jurors will gather in the basement meeting room that will be accessed by the west stairwell that is located by the elevator. After jury orientation in the basement meeting room, the jury will be chosen by panels. Jurors will be escorted to their numbered seats in the courtroom. During jury selection, a YouTube/Zoom audio feed will be set up in the basement meeting room, so those seated in the basement meeting room can hear the jury selection occurring in the courtroom. As needed after jurors are struck, new jurors will be accompanied to the courtroom by security. After the jury is chosen, this meeting room will be the jury room. This meeting room is about 63 feet by 108 feet, and it has a kitchenette. The old jury room adjacent to the courtroom and a meeting room inside the public entrance area to the Clerk of the District Court office can both be used for attorney-client meeting rooms. Both are large enough for socially distanced

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small meetings. A jury room that was built about 15 years ago for perhaps the longest jury trial in Kansas history has apparently been re-purposed as a storage room. Thus, unfortunately it is not available.

- In **Woodson County** (Yates Center), there is no alternative site or meeting room. The courtroom will be used for jury trials. Jurors will be selected in panels of about 10. To allow for maximum social distancing the courtroom will also serve as the room for jury deliberations. Before deliberations, the jury room combined with the adjacent visiting judge’s office will be the meeting place for the jury. The Woodson County courthouse also has limited meeting space for meetings with jurors, witnesses, and victims.
- The Woodson County and Bowlus courtrooms are located on the second floor, and stairways and elevators are available. On the other hand, the Erie Courtroom is on the ground floor, and the basement meeting room can be accessed by elevator or stairways.
- Elevators in the Erie and Woodson County Courthouses are one-person elevators. The Bowlus elevator is larger and with social distancing, two people at a time may ride the elevator. All elevators are or will be appropriately marked for their capacity. The Neodesha Civic Center is entirely on the ground level.
- **Common areas:** Juror amenities will be limited. For each juror, the court will provide bottled water, notepads, pens, and other items as determined by the jury. In addition, the 31st Judicial District has and will rely on the Johnson County focus group and the Sedgwick County post-jury-trial questionnaires to identify what juror amenities are perceived as most important for a sense of comfort.
- **Restrooms:** Except for Woodson County which only has a unisex restroom adjacent to the courtroom, all courtrooms have restrooms within, or adjacent to, the courtrooms and support spaces. In Woodson County, there is another restroom on the first floor that can be accessed by elevator or stairwell. Additional special signage regarding the importance of proper handwashing is posted in all restrooms and nearby public spaces.
- **Cleaning:** Courthouse maintenance, security and court staff will conduct deep cleaning of all occupied spaces each day and after each session. Further, courthouse maintenance, security and court staff will regularly clean all utilized court spaces including restrooms, eating areas and stairwells. High-touch surfaces including chairs, tables, door handles, counters and witness stands will be wiped down frequently with disinfectant wipes. Hand sanitizer and cleaning liquid is or will be available throughout the courtrooms and jury deliberation spaces. In addition, at the end of each day and as needed at other times, all courtrooms will be cleaned with an electric sanitizing atomizer fogger/mister.

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9. Arrival on the Day of Jury Service

- As required by Orders 2020-PR-48 and 76, appropriate signage is or will be posted in English and Spanish and in compliance with the American with Disabilities Act (ADA) at the courthouse entrances and throughout the courthouses about-face coverings, social distancing, and hygiene. Directional signs and taped arrows is or will be on the floors and walls for the proper distancing of jurors, attorneys, and members of the public waiting in the security line.
- Disposable face coverings are available at security screening and throughout the courthouses.
- Hand sanitizer will be available at the security screening lines.
- Jurors will be greeted after security screening and checked-in at the designated area in each facility. Social distancing tape is or will be marked at each location. Jurors will be sent immediately to the meeting area for each courthouse. Realizing the increased time frame necessary to screen venire members entering the jury selection location, additional court personnel may be stationed to assist with screening, check-in, and to assist prospective jurors in finding their assigned seats in the courtroom.
- At the time of check-in, each prospective juror will be asked the same COVID-19 related supplemental questions as provided in the summons.

10. Gathering Jurors in a Safe Environment

- After check-in jurors will be escorted to the applicable room, the stairwells will be heavily used. Maintenance staff will frequently clean the stairwell’s handrails.
- Based on the size of each jury pool, the court plans to stagger the arrival times of prospective jurors.
- At this time there is no need to plan for reserve jury panels.
- For the health of the jurors and the court staff, jurors will be instructed to keep all their court-provided amenities separate from other jurors.

11. Staff Interaction with Jurors

- Jurors will be instructed to self-report to the jury staff any symptoms they may have that morning before entering the courthouse.
- Staff will be masked and trained to limit contact with jurors and if possible, refrain from touching documents that jurors have handled.
- The court plans to use pre-printed lanyards for juror badges instead of plastic badges. The court may not keep the lanyards after use.
- Jurors will report directly to the respective court on subsequent trial days.
- Juror orientation will be conducted by the judge and will include a review of the steps the court is taking to increase juror safety. Jurors will be reminded of the steps they must take for their enhanced safety, including robust hygiene and frequent hand

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washing for at least 20 seconds. The court will also remove magazines and newspapers from jury spaces, and encourage jurors to bring their own reading material.

- Prospective jurors may be provided boxed lunches. Only pre-packaged food will be offered to jurors.

12. Preparing the Courtroom for Jury Selection and Trial

- Local health officials have provided guidance for safe courtroom environments and will continue to review our proposed jury plans.
- Due to a lack of technology, our court is unable to admit electronic evidence. Each court has a large television monitor where jurors may view the evidence as presented and if necessary, speakers will be added to increase the volume. The Bowlus and Civic Center also have very large screens that can be utilized to view some exhibits.
- Microphones will be appropriately placed for sidebars, juror voir dire, court reporting, and remote presentation of proceedings.
 - The court will determine whether there are sufficient stationary microphones in the voir dire area for prospective jurors to be heard so that hand-held microphones are not being passed between jurors. To avoid cross-contamination if hand-held microphones are utilized, then they will be regularly sanitized. In addition, if possible, to allow for appropriate social distancing a six-foot microphone holder may also be used by security or staff.
 - Sidebars: the four courtrooms will be taped for proper placement of the attorneys, prospective jurors, and judge. A court reporter can remain at the bench rather than being exposed to the sidebar; the court reporter can use headphones to listen and take the record of sidebars.
 - Attorneys will be permitted to use laptops or tablets for confidential conversations with clients while in court.
- Funding is limited, but the court may consult with the local health officials and facilities to determine what HVAC modifications can be made regarding airflow and air sanitization in the courtrooms.
- Except for the Bowlus and Neodesha Civic Center, all courtrooms have limited space after social distancing. Therefore, public attendance in Neosho and Woodson County courtrooms may not be feasible; therefore, the court will audio stream, and if possible, video stream, the jury trials live via Zoom and/or YouTube. In addition, if possible, the court in both courtrooms may provide in-person public audio or audio/video stream in unused court areas that are appropriately marked for social distancing.
- When social distancing is not possible, in compliance with 2020-PR-099 and local health officials appropriate engineering or plexiglass dividers may be installed in appropriate places in the courtrooms, meeting rooms and adjacent common areas.

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- All podiums have been removed from all the courtrooms. If engineering or plexiglass is available to enclose the podiums, then podiums may be placed in the courtrooms. If not, counsel will conduct their questioning from counsel tables.

13. Considerations for Jury Selection and Trial

- Judges may consider continuance motions more favorably given the difficulties in preparation by both sides. Special consideration must be addressed for criminal cases on a speedy trial clock. When a motion for continuance is filed by an attorney, the defendant should be placed under oath to ask her if she agrees with the continuance.
- After each break in the trial, whether overnight or midday, the court will ask the defendant whether she was able to speak to her attorney and place the answer on the record.
- Judges will **instruct** the jury that “during this trial, the parties, attorneys, witnesses, court staff, and the judge must wear masks unless the court grants an exception. You should not draw any conclusions or prejudice any party in any way solely based upon a court participant wearing a mask during this trial.”
- During the final pre-trial conference, and in addition if possible in the applicable courtroom or alternate site, the presiding judge will review all the procedures from front door to the jury room with the court staff, attorneys, screening personnel, security, and all county and facility personnel. Further the procedures from the front door to the jury room, were discussed by telephone, correspondence or during meetings with all four county health nurses, court staff, some security, janitorial staff, and most of the attorneys. Moreover, all four county health nurses have approved this jury trial plan for their respective county.
- All the requirements set forth in paragraph 13 of Administrative Order 2020-PR-099 are posted in all courthouse entry areas, court offices, jury rooms, work areas and hallways. Prior to the commencement of any jury trial in the Bowlus or the Neodesha Civic Center, those same requirements will be posted in the entryways, offices, work areas, jury rooms, restrooms, common areas and hallways of those buildings. Additionally, all the 2020-PR-099 requirements were previously distributed to all staff.
- All violations of the requirements set forth in paragraph 13 of Administrative Order 2020-PR-099 shall be immediately reported to court staff. Court staff will take the appropriate immediate action.
- Selection/Seating
 - Limit Jury Trials: By administrative order, all cases, both civil and criminal, have a mandatory settlement conference before a jury trial occurs. The court has designated the Bowlus and the three largest courtrooms for jury trials. If necessary, the large courtroom in Allen County is an alternative to the Bowlus. All five (5) courtrooms, including the Bowlus, should be approved for jury trials.
 - Seats will be assigned for voir dire with court staff guiding prospective

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jurors to the appropriate location. For individual voir dire, prospective jurors will remain in the courtroom in assigned seats, and if necessary individual interviews will occur in a separate location outside the courtroom.

- Audio and Record Taking
 - The court may place microphones on each side of the bar entrance and direct jurors being questioned to speak from the marked location.
 - All courtrooms have amplification systems and microphones, except the civic center that has two cordless microphones with more being purchased.
 - The court will examine the Johnson County focus group and Sedgwick county post-jury-trial questionnaire information for recommendations for the use of the microphones.
 - Court reporters that appear in-person may have plexiglass barriers installed at their stations.
- Court Interpreting
 - Assuming all the technology is available, the use of remote interpretation by video may be a source of interpreting services for jury trials. If an interpreter will be available to conduct in-person interpretation services, there must be six-foot social distancing or plexiglass dividers.
 - Prior to the commencement of a jury trial that requires in-person interpreting, the court must identify and deploy a listening device such as infrared to allow the interpreter to listen to what the parties are saying without the need to be up close. Interpreters may also use a second channel to interpret simultaneously for the party in need of services without having to get overly close to the parties.
 - No in-person interpreting shall proceed in a jury trial without the adherence to established protocols from the public health officer.
- Evidence presentation
 - Unfortunately, all courtrooms in the 31st Judicial District are unable to utilize digital presentation of evidence. However, Allen County has an ELMO available to display evidence to the jury. In addition, the Bowlus has more advanced technology. All sites have large screens with the Bowlus and Civic Center having very large screens to display evidence. In addition, the chief judge has examined the Johnson County juror focus group and Sedgwick County questionnaires identifying preferred methods of evidence during trial and deliberations.
 - Prior to the final pre-trial conference, counsel may be asked to brief legal issues that are specific to conducting the jury trial during a pandemic.

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- Sidebar
 - Most likely, except for the Bowlus sidebars will occur at the bench. When possible, other unused courtrooms or other available rooms available in the courthouses could be utilized for sidebars.
 - A court may use microphones and earpieces to facilitate sidebar conferences that maintain social distancing. Sidebars should not be heard by jurors or others present in the courtroom.
- Counsel
 - Unless the court can enclose podiums with plexiglass, counsel should address the court and argue to the jury from counsel tables. Before the court began the mitigated in-person hearings, all podiums were removed from the courtrooms. If the court is able to purchase plexiglass cubicles for the podiums, then podiums may be utilized.
 - Floor markings restrict and direct movement in the courtroom for all trial participants.
- Defendants in Criminal Cases
 - If necessary, the court will provide separate secure and adequate space for attorney-client conferences to be held outside the courtroom setting. Defense counsel will be asked to accept, on the record, the setup for the courtroom once the issues are briefed by the parties.
 - During the final pre-trial conference, the judge shall address, on the record, any objections related to the courtroom layout, courtroom rules, or to counsel being unable to read jurors’ expressions in response to testimony, evidence, objections, and judicial rulings.
 - When deaf/hearing-impaired staff, defendants, or others are involved in a proceeding, the court will provide participants with clear face coverings or clear face shields to allow the mouth to be visible.
- Witnesses
 - Allen County witnesses may wait in several vacant rooms, hallways, and large entry areas at the Bowlus Fine Arts Center. Neosho County witnesses may wait on benches in the hallways, large entry area of the Erie Courthouse or open-air areas. Wilson County (Civic Center) witnesses may wait in vacant rooms, hallways, or in open-air areas. Woodson County witnesses may wait in the large hallways and open-air areas. At all locations, the court and counsel will admonish all witnesses that while waiting to testify they should maintain social distancing. Additionally, all attorneys, the court, criminal defendants and witnesses will wear clear face coverings or shields. (Note: Except for Allen County, all county commissions are **not** requiring face coverings in the courthouses. Face coverings or masks are only required in the courtrooms, offices and adjacent hallways.)

“The right of trial by jury shall be inviolate.” Kan. Const. Bill of Rights, § 5.

- Unless the court can secure plexiglass to secure podiums and absent leave from the court, all witnesses should be questioned from counsel tables. At all locations, the arrangement of counsel tables allows for appropriate social distancing. The Bowlus stage and the Civic Center do not have space constraints in the well of the courtroom. In Neosho County and Woodson Counties, there are space constraints within the well of each courtroom. To allow social distancing the floors will be marked. Witness stands at all locations allow for witnesses to testify with social distancing.
 - Judges are prepared to explain to jurors that the court has ordered the use of face coverings and therefore the jury shall not make a credibility determination about the witness based on compliance with an order of the court. When testifying, all witnesses shall wear clear face coverings.
 - Parties will be asked to brief whether they intend to have an in-court identification and, if so, how that identification will be performed to be certain that the Confrontation Clause is protected.
 - The court is authorized under Supreme Court Order PR-2020-54 to conduct remote testimony. During the pre-trial conference for a jury trial, counsel will be asked on the record to verify any witnesses that shall testify remotely with the consent of the parties. In criminal cases, unless the defendant knowingly and voluntarily agrees on the record that the witness may testify remotely, witnesses shall appear in person.
- Breaks in Proceedings
 - Prior to trial if it is available, judges will identify and secure additional space for juror breaks. Generally, in Allen County, the Bowlus art room will be used for breaks and deliberation. To use the restroom, jurors will need to leave the art room, and if necessary, they will be accompanied by law enforcement to and from the restrooms. In Neosho County, jurors can utilize the bathrooms adjacent to the downstairs meeting room. In Wilson County, jurors can access the bathrooms on the other side of the civic center, and if necessary, jurors will be accompanied by security. In Woodson County, there is a unisex bathroom immediately outside the courtroom and other restroom(s) are on the first floor of the courthouse. Security can accompany jurors to the first-floor restroom in the Woodson County Courthouse. During the trial, security will be posted outside each juror room. Smoking is prohibited in each courthouse. Jurors will need to go outside to smoke, and they may be accompanied by security.
 - In Allen and Woodson counties the judge, court staff and security will direct jurors to additional public restrooms as back-up facilities for juror breaks and notify maintenance for additional cleaning rotations.
 - The court recognizes that a significant component of jury collaboration

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comes from their interactions with each other outside the presence of the judge and the attorneys as they gather and take breaks. The court will take care not to separate the jury on these breaks because factions and coalitions could unwittingly be forming.

14. Deliberations

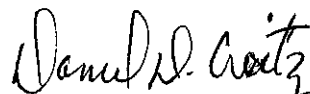
- In Allen County, jurors will deliberate in the Bowlus art room. In Neosho County, jurors will deliberate in the basement meeting room with the courtroom being an alternative deliberation room. In Wilson County, the jury will deliberate in the large Civic Center meeting room that normally is utilized for City Council meetings. In Woodson County, the jury will deliberate in the courtroom. Administrative Assistants may seek assistance from court security to ensure juror deliberation remains confidential.
- Note-taking/Questions
 - Only the jury foreperson will write jury questions and complete the verdict form.
 - The court will ensure a large supply of single-use notebooks and pens on hand. After each trial, the court will dispose of pens and juror pens.
 - Jurors will be instructed to store their own notebooks and pens at the end of the trial day in the jury room with large individual envelopes for storage.
- Lunch/snacks: The court may provide boxed lunches and pre-packaged single-serve snacks for jurors.
- For post-verdict questions, the court will assess the best manner to gain information.

15. Possibility of virtual grand jury proceedings

- Grand jury proceedings occur infrequently in the 31st Judicial District. But if a grand jury is requested during the pandemic, then the court will first consider handling the grand jury proceedings virtually.

IT IS SO ORDERED

October 9th, 2020



Hon. Daniel D. Creitz
Chief Judge; 31st Judicial District