



January 10, 2021

Re: Re-Certification of In-Person Operating Plans

As required by the Supreme Court's Emergency Orders and Guidance from the Office of Court Administration, I include here the required re-certification of the Harris County Justice Court's In-Person Operating Plan.

I have consulted with the local public health authority regarding the local pandemic conditions and have reviewed with the health authority the previously-submitted in-person operating plan to determine whether the plan provides sufficient health and safety protocols to permit in-person proceedings.¹ The local public health authority has determined that (check one):

- Local pandemic conditions are conducive to in-person proceedings under the precautions and protocols contained in the previously-submitted in-person operating plan;
- Local pandemic conditions are conducive to in-person proceedings with modifications to the precautions and protocols in the previously-submitted in-person operating plan;²
- Local pandemic conditions are not currently conducive to in-person proceedings under the precautions and protocols contained in the previously-submitted in-person operating plan.

In addition, I have conferred with the Justices of the Peace of the courts with courtrooms in county buildings and have determined that the following criteria will be used to determine when an in-person proceeding is necessary and when all reasonable efforts do not permit the proceeding to be conducted remotely:

All judges in of the Harris County Justice Courts, before conducting an in-person hearing shall first determine if an in-person hearing is necessary by following this procedure:

1. The judge shall inform each counsel and pro se litigant that the hearing shall be conducted remotely over Zoom. The judge shall provide each counsel and pro se litigant a phone number

¹ Documentation of the consultation can be accomplished by submitting this letter stating such or an email or letter from the local public health authority.

² If it is determined that the previously-submitted in-person operating plan needs to be modified, the local administrative district judge or presiding judge of the municipal court should submit the modified plan after following the process detailed on p. 3 of the [Guidance for All Court Proceedings During COVID-19 Pandemic](#).

or email address to inform the judge if they believe any counsel, their clients, a pro se litigant, any witness, an interpreter, or any other participant (all referred to below as “Participant”) cannot participate remotely. The judge or judge’s staff shall then determine whether a Participant is unable to participate in the hearing due to any one or more of the following:

- a. lack of technology which precludes or impedes their ability to participate in the hearing via the Zoom videoconferencing app. Examples of the lack of such technology include:
 - i. lack of access to a computer tablet or other device with internet video capability;
 - ii. lack of access to a cell phone; or
 - iii. lack of access to an internet connection.
 - b. A physical, mental, or other disability that prevents a Participant from being able to effectively operate or utilize the required technology. Examples of such a disability include:
 - i. a physical or mental disability that precludes them from effectively operating the technology necessary to access the Zoom videoconferencing app;
 - ii. a physical disability that precludes them from effectively seeing, hearing, or otherwise participating in a Zoom video hearing;
 - iii. the lack of or unavailability of an interpreter who can assist the individual in communicating during a Zoom hearing;³
 - iv. incarceration and the incarcerating facility’s lack of technological resources or facilities to allow the inmate to participate remotely in the hearing or confer privately with the inmate’s legal counsel;⁴ or
 - v. if the proceeding is in a specialty court defined by Title 2, Subtitle K of the Texas Government Code (e.g. veteran’s court, mental health court, drug court, etc), the specialty court team determines that there is a risk to the physical or mental well-being of a participant in the specialty court program if the proceeding is not held in person.
 - c. A confrontation clause constitutional objection is raised by criminal defense counsel or a pro se litigant, and the judge sustains the objection after conducting a *Haggard*⁵ analysis.
 - d. A proceeding where one participant needs to appear in person due to a need to provide fingerprints, is subject to incarceration, or must meet with multiple departments as a result of the court proceeding, in which case that party may need to appear while the other parties appear remotely.
2. If an individual is unable to participate for one of these reasons, prior to holding an in-person hearing, the judge shall make reasonable efforts to accommodate the individual as set forth in the procedure below.

³ If a Spanish interpreter is needed, please consider using OCA’s free Spanish interpretation service. More information and scheduling options is available at <https://www.txcourts.gov/tcris/>.

⁴ If the facility is a TDCJ facility, judges should contact coronavirus@txcourts.gov to see if OCA can assist with getting the facility connected with the court.

⁵ [Haggard v. State](#), 2020 WL 7233672 (Tex. Crim. App. 2020)

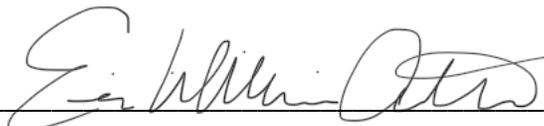
When an individual is found to be unable to participate in a Zoom videoconference for one of the reasons stated above, prior to holding an in-person hearing, the judge considering the in-person hearing shall make all reasonable efforts to make accommodations that will allow the individual(s) to participate. The accommodations that the Justices of the Peace of the Harris County Justice Courts shall consider include:

1. When an individual does not have adequate technological resources on their own to participate in a Zoom videoconferencing hearing, a judge shall:
 - a. determine whether the court has the ability to provide the individual with a laptop or other device which would allow the individual to participate in the hearing from some segregated location within the court facility while following appropriate COVID-19 precautions and protocols;
 - b. determine if such technological resources can be provided to the individual by some other source (e.g. a participating attorney, a party, a family member, friend, public library, or an appropriate agency of the State of Texas); and
 - c. determine whether the individual could participate in a meaningful manner by telephone (audio only).
2. When an individual has physical or mental disabilities that would prevent the individual from operating the technology required, a judge shall:
 - a. determine if the individual has legal counsel, family or friends who can assist in operating the required technology; and
 - b. inquire as to what, if any, accommodations could be made which would allow the individual with a disability to participate.
3. When an individual is incarcerated, a judge shall:
 - a. determine whether the facility has the technological resources or facilities to allow the incarcerated individual to participate in the hearing;
 - b. if the facility does not have the technological resources to allow the inmate to participate in a Zoom videoconference, determine whether the inmate could participate in a meaningful manner by telephone (audio only).
4. When an individual is otherwise unable to participate in a hearing via videoconference or by audio only, a judge shall determine whether the individual can effectively participate in the proceeding by a sworn statement made out of court as permitted by the Emergency Orders of the Supreme Court of Texas.
5. If no accommodation is available, the judge shall determine if a continuance is warranted, balancing the risk to public health and safety with the need to resolve the particular case.
6. If no accommodation is available and the judge determines a continuance is not warranted, the judge may permit the hearing to occur in-person under the precautions and protocols in the approved in-person operating plan.

Having completed the required re-certification, I am submitting it to you in your role as Regional Presiding Judge. I understand and have communicated to the Justices of the Peace of the courts with courtrooms in county buildings that no in-person hearings will be permitted on or after January 11 until I receive an acknowledgement from you that the re-certification meets the requirements of OCA's Guidance.

Sincerely,

Date 1/10/2021

A handwritten signature in black ink, appearing to read "Eric William Carter", written over a horizontal line.

Eric William Carter, Justice of the Peace, Precinct 1 Place 1
Presiding Judge, Harris County Justice Courts



COVID-19 Operating Plan for the Harris County Justice Courts

The Justices of the Peace of the Harris County Justice Courts recognize the need to reevaluate the COVID-19 Operating Plan to ensure the health and safety of litigants, defendants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts to conduct court business; and, therefore, implement the following protective measures. Furthermore, in the event the judge determines that a hearing should occur in-person under the approved Re-certification of In-Person Operating Plans, effective January 11, 2021, the following precautions and protocols shall apply.

General

1. All judges will continue to comply with the Emergency Orders issued by the Supreme Court of Texas and Texas Court of Criminal Appeals, including that all courts will use all reasonable efforts to conduct proceedings remotely and only conduct in-person proceedings when factually or constitutionally required.
2. All judges will adhere to all future and subsequent local guidance set forth by the local administrative district judge and justice court presiding judge in coordination with public health. The local administrative district judge and justice court presiding judge will continue to maintain regular communication with the local health authority and county judge and will adjust this operating plan as necessary depending on conditions in the county.
3. All required in-person proceedings will continue to be conducted according to the guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.

Judge and Court Staff Health

1. Judges and court staff who can perform the essential functions of their job remotely will telework when possible.
2. If the County has provided screeners at the courthouse annex, judges and court staff will submit to having their temperature taken upon entry. If the County has not provided screeners at the courthouse annex, judges and court staff will self-screen and submit to having their temperature taken by another member of the court staff.
3. Judges or court staff who feel feverish or have measured temperatures greater than 100.4°F (or 99.6°F for those who are age 65 or older) or with new or worsening signs or symptoms of COVID-19 or flu, such as fever, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, sore throat, loss of taste or smell, congestion or runny nose, nausea or vomiting, or diarrhea, or having been in close contact with a person who is confirmed to have COVID-19 or is exhibiting any symptoms described above, will not be permitted to enter the building and should seek medical advice.

4. If a judge or staff member does test positive for COVID-19, the judge will notify the other court staff and any other courts/departments sharing space that an individual in the court has tested positive. The judge will also notify the Office of Court Management to ensure that proper notification be made to the local health authorities so that contact tracing can be performed, and to the county facilities department so that the office space can be promptly and properly disinfected and cleaned.
5. Judges and court staff will be required and continue to practice 6 feet of social distancing where possible and appropriate hygiene recommendations, including frequent handwashing, at all times.
6. Judges and court staff will be required to wear face coverings, and have been provided with guidance on how to make a home-made face covering and properly wear it.
7. Judges and court staff have been provided with training materials and information related to COVID-19 symptoms, how to stop the spread of COVID-19, and screening procedures.
8. Protective Measures: The County has installed sneeze guards for various points at which the judges and/or court staff may have direct face-to-face contact with the public. Hand sanitizer, tissues, waste baskets, and disposable face coverings have been and will continue to be made available to the public.

Scheduling

In an effort to reduce occupancy in the court buildings:

1. Each court will review its docket and determine those cases that can be handled by submission, those cases that can be handled remotely or partially remotely, and those cases that require in-person proceedings. Each court will be lenient in considering requests from parties to appear remotely through Zoom or via alternate means (i.e. telephone), and generous in granting requests for continuances as appropriate. Each court will schedule any necessary in-person dockets in such a way as to allow for proper social distancing within the courtroom itself. As Harris County is a large county, and each justice court is its own department with a unique docket size, it will be up to each court to establish a schedule to stagger dockets (by times throughout a given day) to reduce the flow of defendants, litigants, witnesses, potential jurors, and the general public visiting the court at any given time. Further, the courts will develop these schedules ensuring that the most pressing cases are given priority.
2. The courts are equipped with Zoom accounts to conduct remote proceedings as possible and appropriate. The County has purchased its own streaming service to abide by the open courts doctrine. Court notices, including notices of hearings, will notify parties that dockets will be conducted virtually, and that if a party is unable to appear remotely (via Zoom or telephonically), the party must notify the court for a determination under the Re-certification of In-Person Operating Plans.
3. Any proceeding occurring in-person after a such determination is made shall proceed subject to the precautions and protocols outlined herein. Every attempt will be made to minimize exposure between members not of the same household.

4. Court notices, including notices of hearings, will continue to include language stating that if a party or attorney is exhibiting any COVID-19 symptoms or if one believes he or she may have been exposed to COVID-19, the party or attorney is encouraged to contact the court before appearing in person so that appropriate accommodations can be made. All notices from the court include a statement that says or is similar to:

If you are exhibiting any COVID-19 or flu-like symptoms, including fever, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, sore throat, loss of taste or smell, congestion or runny nose, nausea or vomiting, or diarrhea, or if you have been in close contact with a person who is confirmed to have COVID-19 or is exhibiting any symptoms described above, you are encouraged to contact the Court before appearing.

Similar language has been included on the courts' website.

Vulnerable Populations

1. Individuals who are age 65 or older and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy, are considered to be vulnerable populations.
2. Court notices, the courts' website, and other communications from the court will continue to include language notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations.
3. Individuals who are in vulnerable populations who are scheduled for court will be accommodated by allowing participation via remote proceedings or through continuances as appropriate, regardless whether a judge has made a finding that an in-person proceeding is factually or constitutionally required.

Social Distancing

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.
2. For those courthouse annexes with elevators servicing the courts, signs will be posted that no more than two individuals not from the same household will be permitted in an elevator. If more than one individual from the same household is in an elevator, no other individuals will be permitted in the elevator.
3. The courts will utilize floor markers within elevators, if applicable, and, where possible, in areas where individuals would be waiting in lines to conduct court business.
4. Public common areas under the supervision of the court, if applicable, have been closed to the public.

Gallery

5. The maximum number of persons permitted in the gallery of each courtroom has been determined and posted. The maximum capacity of the courtroom will continue to be monitored and enforced by the court bailiff and/or court staff.

6. The gallery of the courtroom has been marked to identify appropriate social distancing in the seating. Seating is limited to every other row. To the extent possible, benches have been marked to reflect appropriate spacing to maintain social distancing.

Well

7. In each courtroom, the counsel tables, witness stand, juror seating, judge's bench, and clerk and bailiff seating have been arranged, and marked, in such a way so as to maintain social distancing as best as possible.

Hygiene

1. Hand sanitizer dispensers have been placed at the entrances to the building, outside of elevators on each floor, outside of each courtroom, and outside of bathrooms. Hand sanitizer will contain at least 60% alcohol.
2. Tissues have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the judges' benches, and in the hallways where possible. Waste bins have been placed in these areas to ensure proper disposal of tissues immediately after use.
3. Signage related to proper hygiene practices has been placed throughout the court areas and annex buildings, including the restrooms.

Screening

1. When at all possible and when the County will so provide, when individuals attempt to enter the court building, the County provided screeners will ask the individuals if they are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be refused admittance to the court building.
2. When at all possible and when the County will so provide, when individuals attempt to enter the court building, the County provided screeners will use an infrared thermometer to determine the temperature of the individual. Individuals whose temperature equals or exceeds 100.4°F will be refused admittance to the court building.

Face Coverings

1. All individuals entering the court building will be required to wear face coverings at all times, and individual courts reserve the right to turn away an individual who declines to wear a mask. The courts have included information about this on the courts' main website and provided links to information on how to make a home-made face covering and properly wear one.
2. Individuals will be encouraged to bring cloth face coverings with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided, so long as a supply is available.

Cleaning

1. Court building cleaning staff, as provided by the County, will clean and disinfect the common areas of the court building so that common spaces are cleaned at least every 4 hours.

2. Court building cleaning staff will clean and disinfect the courtrooms as often as possible after each docket.
3. Court building cleaning staff have been provided cleaning and disinfectant supplies shown to be effective with this coronavirus. Court cleaning staff will be provided EPA-registered products that have an approved emerging viral pathogen claim for COVID-19. These products should be used according to label instructions.
4. Court building cleaning staff have been trained on proper cleaning and disinfecting techniques and provided appropriate personal protective equipment.
5. To the extent cleaning and disinfecting supplies are available, court staff will disinfect common surfaces in the courtroom and at the clerk's windows as often as possible.

Other

The justice courts have increased the ability of defendants in criminal cases to resolve their cases through the courts' main website (www.jp.hctx.net) by signing up for driving safety courses, entering pleas of guilty or no contest, paying court fines and fees, making partial payments on judgments, and paying costs due on deferred dispositions and driving safety courses, all in an effort to reduce the flow of person traffic into the courthouse and at the clerks' windows. The courts continue to investigate additional uses for the website to further reduce the need for a physical trip to the courthouse. The courts are also actively encouraging litigants in most civil cases, and some criminal cases, to file documents electronically through the efiletexas.gov website, or through submission to the court via email or fax. The courts are also developing an online dispute resolution option to allow for parties in civil disputes to mediate their cases remotely without necessitating an in-person appearance in court.

I have attempted to confer with all Harris County Justices of the Peace regarding this Operating Plan. This plan was developed in consultation with the local health authority, county committees and departments, and county judge. I will ensure, to the extent of my ability, that the judges of courts with courtrooms covered by this Operating Plan conduct proceedings consistent with the plan.

Date 1/10/2021



Eric William Carter, Justice of the Peace, Precinct 1 Place 1
Presiding Judge, Harris County Justice Courts