

**ELEVENTH JUDICIAL DISTRICT AND MAGISTRATE COURTS**  
**San Juan and McKinley Counties**  
**Aztec, Farmington, and Gallup, New Mexico**

**PLAN FOR EXPANDED OPERATIONS**

**March 21, 2022**

THE ELEVENTH JUDICIAL DISTRICT AND MAGISTRATE COURTS FOLLOW THE MOST CURRENT NEW MEXICO SUPREME COURT ORDER AS IT IMPACTS THE OPERATIONS OF THE COURTS. FOR MORE INFORMATION, FIND THE MOST CURRENT NEW MEXICO SUPREME COURT ORDER HERE: <HTTPS://WWW.NMCOURTS.GOV/COVID-19/>.

Throughout the pandemic, all hearings, trials and other court-organized gatherings have been held in a manner that limited the number of people in a single room or connected space. This allowed the general public and court personnel to interact with each other while maintaining a minimum of six feet in each direction between each individual.

As this District expands operations under this plan, we are confident we can safely conduct court business, hearings, and trials while reducing the social distancing requirement to three feet in each direction. This plan outlines how the Eleventh Judicial District and Magistrate Courts will safely carry out business while protecting the public we serve.

- I. Safety: Managing the number of people permitted in a courthouse:
  - A. Remote proceedings:
    1. Remote participation by self-represented litigants is accommodated by:
      - a) Google Meets (video)
      - b) Google Meets (telephone line)
    2. Remote participation by the public and press is accommodated by:
      - a) Google Meets (video)
      - b) Google Meets (telephone line)

- c) The public and press are permitted in courtrooms provided there is proper social distancing space available. Victims are given priority in courtroom seating and are given the option of attending in a viewing room, if available, or attending remotely from another location in the courthouse.
  
- B. Format of court proceedings: The Eleventh Judicial District and Magistrate Courts follow the most current New Mexico Supreme Court Order to determine whether a trial or hearing is conducted in-person or remotely. Find the most current New Mexico Supreme Court Order here: <https://www.nmcourts.gov/covid-19/>.
  
- C. Filing court documents:
  - 1. Filing by self-represented litigants is allowed by email and fax.
  - 2. Filing by attorneys in case types not currently available for e-filing is allowed by email and fax.
  - 3. Safety for in-person filings is maintained by:
    - a) Locating scanners in the lobbies of the clerks' offices (if possible) so the public submitting in-person documents can file without person-to-person contact.
    - b) Marking areas outside the courthouses and interior public hallways to ensure proper distancing and traffic flow.
    - c) Placing hand sanitizer and tissues in public lobbies and on the counters of the clerks' offices.
    - d) Providing a mask to anyone entering a courthouse if they are without one (as long as masks are required). Anyone refusing to wear a mask is not allowed entrance to a courthouse. Staff members do not go outside of a courthouse to assist those refusing to wear a mask. Instead, that person is provided the Court's number for information on how to proceed with their case.
    - e) Sanitizing the clerk's lobby counters, public computers, door handles, pens and scanner after each person leaves. If staff cannot

sanitize after each person, they sanitize a minimum of once every 2 hours.

- f) Posting maximum occupancy signs at the entrance of each public lobby. If a staff member determines there are more than the maximum occupancy in a lobby, the person who last entered will be asked to wait in a designated area until the lobby is below maximum capacity.

D. Scheduling: Scheduling hearings and jury trials is coordinated in order to reduce the number of people entering or congregating in a courthouse at any one period of time. See Section III for more information.

- 1. In-person hearings: The Court takes all precautions necessary to keep the number people in a courthouse at a minimum. As in-person hearings are allowed, no judicial officer will schedule trailing dockets where large numbers of attorneys, litigants, and visitors are likely to gather at one time.
- 2. Jury trials: There is ample room throughout many of the District's courthouses to safely conduct more than one jury trial per day. In this circumstance, the Court takes all precautions necessary to keep the number of people in the courthouse at one time to a minimum.

II. Safety: Keeping the public, employees and judges safe:

A. Screening at building entries - public, employees, judges, detention center(s).

- 1. Public: Each District and Magistrate Court has one entrance for the public. Individuals coming in are required to go through a security check-point. The public is screened and not permitted to enter a courthouse if they answer "Yes" to any of the COVID-19 screening questions mandated by the New Mexico Supreme Court. A copy of the screening questions is available to the public at the security check-points. A phone number is given to the public answering "Yes" to the screening questions. That person will be able to call the Court's number for information on how to proceed with their case.

2. Employees and Judges: Judges, judicial staff, and employees self-screen by answering the screening questions electronically as they enter the building. An employee answering “Yes” to the screening questions will call their immediate supervisor for further instructions.
  3. Detention Center(s): Detention Center inmates being transported to a courthouse by corrections personnel must be checked before transport. An inmate answering “Yes” to the screening questions will not be transported into a courthouse.
- B. Domestic Violence (DV) service: Safety protocols have been established for the service of DV TROs within a courthouse.
- C. Vulnerable populations<sup>1</sup>: The Court works to reduce the appearance of vulnerable populations at a courthouse by taking the following measures:
1. Signs at courthouse entrances.
  2. Information on the Court’s web page.
  3. Appearances by video or phone for hearings.
  4. In addition to the procedures for juror excusals set forth in NMSA 1978, Section 38-5-2, the jury clerks may postpone jury service of a potential juror who self-identifies as falling into a vulnerable population prior to entering the courthouse.
  5. A litigant, witness, or counsel who self-identifies as a member of a vulnerable population, or as someone experiencing COVID-19 related anxiety that would interfere with their appearance, and who requests accommodation, will be allowed to appear via video either from a location within a courthouse or remotely when such accommodation is possible.

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<sup>1</sup> Defined as those age 65 and older; individuals with serious underlying conditions such as high blood pressure, chronic lung disease, diabetes, obesity, asthma and those with compromised immune systems resulting from cancer treatment or other autoimmune disorders.

- D. Social distancing is maintained:
1. At public entrances, security check-points, public lobbies, and clerks' counters by:
    - a) Markings on the floor indicating proper distancing.
    - b) Signs reminding the public of social distancing.
  2. In the clerks' secured offices by:
    - a) Signs reminding employees of social distancing.
    - b) Cubicles in the clerks' secure offices place each Judicial Specialist beyond social distancing requirements of each other. If needed, the Judicial Specialists can move to cubicle stations that allow for enhanced social distancing.
  3. At public resource rooms by:
    - a) Signs reminding the public of social distancing.
    - b) Limiting use to ensure appropriate social distancing.
  4. In Problem-Solving Courts' offices by:
    - a) Markings on the floor indicating proper distancing.
    - b) Signs reminding the public of social distancing.
    - c) Staggering office reporting and drug testing appointments to lessen large crowds of people in the office at any one time.
    - d) Limiting the number of individuals meeting in internal offices. If necessary, meetings can take place in a designated area where social distancing is maintained.
  5. At the public restrooms by posting signs reminding the public of social distancing.
  6. In secure hallways, secure processing areas, and secure employee break rooms by posting signs reminding employees of social distancing.
  7. In public and secure employee elevators by:
    - a) Markings on the floor and signs indicating social distancing.
    - b) Signs on walls reminding the public and employees of social distancing.

E. Face coverings:

1. The Court follows the most current New Mexico Supreme Court Order mandating face coverings (masks) for members of the public, including jurors, witnesses, and attorneys entering and while in a courthouse. Find the most current New Mexico Supreme Court Order here: <https://www.nmcourts.gov/covid-19/>. The most current mask requirements are outlined in Addendum #2.
2. As long as masks are required, the Court will provide a mask to anyone entering a courthouse without one. Anyone who refuses to wear a mask must be denied entry. Staff members may not go outside of a courthouse to assist those refusing to wear a mask.
3. Exceptions to the mask requirement are set forth in the most current New Mexico Supreme Court Order for the Safe and Effective Administration of the New Mexico Judiciary during the Covid-19 Public Health Emergency.

F. Air purifiers:

1. Air purifiers are utilized in courtrooms and highly trafficked areas as needed.
2. Desktop air purifiers are provided to all personnel which must be operated at all times while working.

G. Hygiene:

1. Hand sanitizer, tissues, and waste bins are located at the public lobbies, secure mailrooms, public counters, bathrooms (secured and public), secure file rooms, Administration areas, and security check-points. All individual offices are provided hand sanitizer, tissues, and waste bins.
2. Signs are posted reminding the public and employees to wash their hands regularly, practice social distancing, and if masks are required in the building.
3. The Court maintains an adequate supply of hygiene products. To ensure our courts are kept safe, the Finance Department maintains an inventory of

the COVID supplies available onsite. This inventory is updated on a bi-weekly basis with each department providing input on their needs.

H. Cleaning:

1. Work areas: Staff clean their work area every day.
2. Courtrooms: Items used, such as tables, microphones, pews, chairs, and door handles, are sanitized after each hearing. Sanitizing wipes are available at the lectern and witness area.
3. High traffic/high touch areas: Items used, such as public counters, public computers, door handles, pens, and scanners, are sanitized after each use. If staff is unable to sanitize after each use, they sanitize a minimum of once every 2 hours. Hand sanitizer is readily available near high-touch surfaces.

- I. Contact tracing: Pursuant to the most current New Mexico Supreme Court Order, the Court maintains a daily log of all persons, including judicial officers and judicial employees entering the court. Find the most current New Mexico Supreme Court Order here: <https://www.nmcourts.gov/covid-19/>.

III. Docket Management and Scheduling:

- A. Civil hearings and proceedings that have been delayed (if any) will be addressed by case review and prioritization.
- B. Criminal cases that have been delayed (if any) will be prioritized by incarceration of the defendant, age of the case, cases where the Victims' Rights Act is invoked, and other particularized prejudice to either the defendant or the State.
- C. Influx of new cases will be managed by efficient calendaring, and re-evaluation as needs require.

#### IV. Jury Trials<sup>2</sup>

- A. Face coverings: The Court follows the most current New Mexico Supreme Court Order mandating face coverings (masks) for jurors, witnesses, attorneys, judges, and court staff during jury trials. Find the most current New Mexico Supreme Court Order here: <https://www.nmcourts.gov/covid-19/>. The most current mask requirements are outlined in Addendum #2.
  
- B. Courtroom occupancy limits: See, Addendum #1 for each courtroom broken out by courthouse.
  
- C. Usage of Interpreters: The Eleventh Judicial District remains committed to exploring alternate technologies to allow remote appearances by interpreters. When needed for hearings and trials, the placement of interpreters in courtrooms follows COVID-Safe Practices. If possible, the Court will arrange for interpreters to appear remotely.
  
- D. Reduction of crowd measures: Jury panels have been reduced to allow for COVID-Safe Practices. Should more than one panel be required, times to appear at the courthouse are staggered.
  
- E. Trial efficiency: District Judges continue to schedule pretrial conferences to ensure cases are proceeding in a timely manner. Judges also enter case management orders to ensure that jury trials operate as efficiently as possible, to reduce the number of jurors at the courthouse at any given time, and to reduce the amount of time jurors are in a courthouse. Case management orders include, but are not limited to, the following case requirements:
  - 1. Plea Meets – a mandatory plea conference will be held at least one month before the jury trial setting, with required attendance of the prosecutor, defense counsel, and the defendant. Counsel shall be responsible for

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<sup>2</sup> Refers to petit jury trials. Grand juries are not typically utilized in the 11<sup>th</sup> Judicial District

scheduling the Plea Meets using Google Meets (or another agreed upon platform). A Certificate of Compliance affirming that the conference was held shall be signed by both attorneys and filed. Counsel shall indicate on the Certificate if the case is proceeding to jury trial or if a Change of Plea hearing is requested.

2. Plea Deadlines – Pursuant to the most current New Mexico Supreme Court Order, a plea agreement or settlement agreement must be submitted no later than five (5) business days before the scheduled date for jury selection or bench trial. An untimely submitted plea agreement or settlement agreement will not be granted without a written finding by the judge of extraordinary circumstances that excuse the untimely submission.
3. Jury Instructions – proposed jury instructions shall be submitted prior to trial and a hearing will be scheduled to resolve as many jury instruction issues as is possible before the day of trial.
4. Witness and Exhibit Lists – final witness and exhibit lists shall be submitted prior to the trial and a hearing will be set to identify stipulations and address issues.
5. Motions in Limine – motions in limine shall be addressed prior to the day of trial, unless the Court makes a finding of good cause for the delay. It is the duty of counsel to request a hearing on motions in limine.
6. Bench conference.
  - a) Speaking objections is prohibited per local rule.
  - b) The Court will make evidentiary determinations prior to trial or parties will stipulate to evidence.
  - c) If a bench conference is necessary, the judge and attorneys will meet in the judge’s chambers or an adjacent conference room, maintaining social distancing. The Court Monitor will be present and use FTR to ensure a record is made.
7. Confidential Communications – notepads, texting and emailing are allowed for confidential communications between attorneys and clients. The

attorney is also permitted to ask for a short recess to conference with their client outside the courtroom.

8. Walk-throughs - to ensure that safety, social distancing, and constitutional protection issues are identified and addressed in advance of a jury trial, a trial walk-through may be held prior to the jury trial.

F. Juror utilization.

1. In addition to the procedures for juror excusals set forth in NMSA 1978, Section 38-5-2, the jury clerk may postpone jury service of a potential juror who self-identifies as falling into a vulnerable population prior to entering the courthouse.
2. Each juror is provided with their own set of jury instructions and is provided individual exhibit notebooks.

G. Minimizing risk of contagion

1. Jurors are screened by being asked the COVID-19 screening questions mandated by the New Mexico Supreme Court.
2. Each juror receives a bag with masks, water, hand sanitizer, a new pen & pad of paper.
3. Tissues and trash bins are readily available to jurors.
4. Check-in may be conducted:
  - a) Inside the courthouse following social distancing requirements. Proper disinfecting protocols are followed during check-in.
  - b) Outside the courthouse building if necessary to assist with social distancing requirements.
5. Checked-in jurors are placed in designated areas where chairs and pews are marked following proper social distancing.
6. Jury deliberations take place in the courtroom's jury room if social distancing allows; otherwise, in an empty courtroom or in the original trial courtroom. The courtroom is cleared of everyone but the jurors and deliberation takes place maintaining social distancing. The courtroom

microphones are shut off and the blinds are pulled on any windows. The jury room is open for bathroom breaks with only one juror allowed in the room at one time. Bailiffs are located outside the door for jurors to contact.

# ADDENDUM #1

Each room listed can safely accommodate the number of persons listed while maintaining current social distancing standards.

Occupancy limits are posted in and outside each courtroom.

The occupancy limits listed below exclude the Judge, staff, counsel, and jury.

## AZTEC DISTRICT COURT

1. Courtroom 1 - 73 persons.
2. Courtroom 2 - 53 persons.
3. Courtroom 3 - 53 persons.
4. Courtroom 4 - 25 persons.

## AZTEC MAGISTRATE COURT

1. Courtroom 1 - 28 persons
2. Courtroom 2 - 28 persons
3. Courtroom 3 - 36 persons

## FARMINGTON DISTRICT COURT

1. Courtroom 1 - 38 persons
2. Courtroom 2 - 34 persons
3. Hearing Room - 15 persons

## FARMINGTON MAGISTRATE COURT

1. Courtroom 1 - 30 persons
2. Courtroom 2 - 35 persons
3. Courtroom 3 - 40 persons

## GALLUP DISTRICT COURT

1. Courtroom 1 - 40 persons
2. Courtroom 2 - 40 persons
3. Historical courtroom - 85 persons
3. Small hearing room - N/A

## GALLUP MAGISTRATE COURT

1. Courtroom 1 - 35 persons
2. Courtroom 2 - 35 persons
3. Courtroom 3 - 35 persons
4. Courtroom 4 - 35 persons

## **ADDENDUM #2**

Mask requirements as of March 21, 2022:

The most recent New Mexico Supreme Court Order effective March 21, 2022, requires masks for everyone inside a courtroom or jury assembly area, including members of the public, jurors, attorneys, defendants, and court personnel. All court personnel are required to wear an approved mask when interacting with the public.