

**SIXTH JUDICIAL DISTRICT COURT AND
MAGISTRATE COURT DIVISION**

**FIRST AMENDED PROPOSAL TO
RESUME COURT OPERATIONS**

**Submitted 7/23/2021
ERT APPROVED 08.26.21 subject to revisions herein
Re-submitted 09/20/21**

The Sixth Judicial District and Magistrate Court’s (6JDC) goal is to continue to provide a seamless process as we improve our practices through COVID19. *This plan will be amended as needed to adapt to any issues that arise during implementation and to meet with the NM Supreme Court, ERTs, and/or NM Administrative Office of the Courts/Human Resources Department’s directives, orders and/or protocols.*

ENTRY TO THE COURTHOUSES AND COURTROOMS

Any individual who enters 6JDC shall be subjected to the following requirements and screenings by either Grant or Luna County Sheriff’s Officers at District Court or designated employees in the Hidalgo District Court and all four Magistrate Courts:

1. Court signage will remain posted in clearly visible areas indicating proper masking and social distancing requirements.
2. All public entering the courthouse will answer the health questions and court security officers/staff shall follow the instructions on the screening questions if an individual cannot enter the premises and provide the appropriate phone number to resolve the issues that brought them into the court.
3. All persons who enter the courthouse are required to wear masks or other protective face coverings per NM Supreme Court Orders, and specifically outlined in the latest NM Judiciary Public Health Emergency Protocols (Nos. 1, 2 and 3) which can be found on the <https://www.nmcourts.gov/covid-19/> website. PEmployees shall also follow all protocols regarding protective face coverings in accordance with the latest New Mexico Supreme Court Order. Disposable masks will be provided to any individual who does not have a mask or other protective face covering.
4. All floors are identified with duct tape for visual assistance to allow social distancing in each of the clerks’ lobbies.
5. Chairs and benches have either been marked or removed to allow social distancing in common public areas.
6. Plexiglas barriers either previously existed or have been installed in all court clerk offices.
7. Where social distancing is a challenge in the courtroom, we are being more creative with courtroom layout including relocating the witness box/chair and counsel tables, and removing extra chairs in the gallery.

STAFF SAFETY

In addition to ensuring public safety, it is priority for the 6JDC to maintain a safe and stable work environment for all employees and judicial officers. The following precautions and measures have implemented to ensure employee and judicial officer safety. Staff will continue to clean all high touch surface areas in accordance with the CDC recommended guidelines for high touch surfaces.

Restrooms shall be cleaned and sanitized as per the CDC recommended guidelines for public restrooms. Staff shall maintain posted logs to track restroom cleaning. Juror restrooms shall be cleaned at least twice a day during jury trials and shall not be used by staff during the jury trial.

TELEWORKING

The onsite performance of job duties is the presumptive working arrangement for all judicial officers and employees, with exceptions approved by the Chief Judge. Employee and judicial officers will adhere to all directives, orders and protocols with regard to testing and daily health screening questions, and will abide by self-quarantine requirements, and will telework only when approved by the Chief Judge in writing.

MASKS, SOCIAL DISTANCING & HAND SANITIZER:

All employees, judicial officers, court security, contractors, other state employees housed in courthouses, and those members of the public entering our courthouses (judicial complex), **shall** abide by all NM Supreme Court's, ERTs, and/or the NM Administrative Office of the Courts/Human Resources Department's directives, orders and/or protocols relating to masks. **No mask, no entry into our courthouses, until and as amended by the NM Supreme Court.**

The Public/Attorneys shall maintain 6-foot social distancing at all times in the courthouse. Employees shall follow the latest New Mexico Supreme Court protocols regarding social distancing at all times.

All employees have been provided with hand sanitizer. Hand sanitizer is also available throughout our 7 courthouses for public use.

CONTACT TRACING LOGS:

Security, bailiffs or other court personnel in the courtroom shall continue to keep logs of all parties/counsel present in the courtroom for contact tracing purposes, and shall retain for two (2) weeks pursuant to the June 29, 2021, NM Judicial Public Health Emergency Protocol No. 2 (Precautionary Measures for Conducting Judicial Proceedings – Social Distancing and Face Mask Requirements on the <https://www.nmcourts.gov/covid-19/> website), and as amended in the future.

Employees, judicial officers and contractors shall continue to maintain contact tracing logs as directed for the appropriate retention timeframe directed by the NM Supreme Court.

INTERPRETERS

Requests for in-person interpreter services shall be granted if availability allows for in-person interpretation.

PUBLIC AND PRESS VIEWING

We have limited technology in the Sixth. We will do our best to accommodate public and press that wish to view a proceeding in-person subject to capacity restrictions which are different in each of our seven (7) court locations. If social distancing requirements do not allow for the public or press to be present in the courtroom, then at a minimum, the real time audio will be available via Google Meet or other virtual platforms. Court laptops are not available for public or press viewing.

CASE MANAGEMENT

The 6JDC will continue to allow self-represented litigants, law enforcement and attorneys to submit pleadings and exhibits to all courts in the 6JDC via facsimile and email for all cases in which e-filing is not currently authorized. We will continue to provide remote hearings through teleconferencing, Google Meet, or Zoom as appropriate.

MAGISTRATE COURT PROCEEDINGS

Beginning July 19, 2021, Magistrate Court proceedings shall commence as indicated below:

General: All hearings currently set with a Notice of Hearing indicating the proceeding will be virtual shall remain virtual unless the parties request an in person hearing, and the Presiding Judge determines an in person hearing is necessary. New Notices of Hearing shall issue in these cases indicating that the proceeding will be held in person.

Counsel for any party or any self-represented litigant may file a motion for an in-person hearing or a motion for a remote hearing to be granted at the discretion of the Presiding Judge.

All criminal and civil jury trials shall proceed in-person. In-person is defined as a hearing in which all attorneys, parties, and witnesses appear in-person, unless, as in pre-COVID times, they formally request to appear by telephone or video. Case-specific circumstances in presumed in-person hearings, may be set virtually as determined by the presiding judge in consultation with the Chief Judge.

All INMATES will be transported for jury trials. The court will contact the detention center the day prior to the jury trial to ensure the Defendant meets all the criteria for entry. If not, the jury trial will be vacated. If so, the Defendant will be screened again by the transport team at the time of transport prior to leaving the Detention facility. If at that time the Defendant does not qualify for entry in the courthouse, then the Defendant will not be transported and the jury trial will be vacated.

INMATES for all other proceedings shall be transported on an as needed basis, but the presumption for hearings with inmates **shall be remote** unless the notice of hearing explicitly states the hearing will be in person.

ALL REMOTE PROCEEDINGS: Counsel for Defendants shall abide by the New Mexico Supreme Orders regarding 48-hour notice to all parties and the Court if identity of a defendant is at issue.

BEGINNING AUGUST 9, 2021 (SUBJECT TO EXEPTIONS LISTED ABOVE):

Preliminary Hearings: All new preliminary hearings set by the Magistrate Court shall be set **in-person** unless the presiding judge, in consultation with the Chief Judge, determines the proceeding needs to occur remotely.

Criminal Bench Trials: All new requests for criminal bench trials shall be presumed to be **in-person** unless the presiding judge, in consultation with the Chief Judge, determines the proceeding need to occur remotely.

Traffic Bench Trials: Shall be presumed to take place **remotely** unless the notice of setting indicates the proceeding will be in-person.

Civil Bench Trials: Will be held in-person at the presiding judge's discretion, in consultation with the Chief Judge. The notice of setting shall indicate if the proceedings is taking place in-person or remotely.

GRANT COUNTY MAGISTRATE COURT CASES: In addition to the above designations, **Probation Violation Hearings** shall be presumed to take place in person and **Sentencing hearings** shall be presumed in person at the Presiding Judge's discretion.

Any SC Magistrate Court Cases initially assigned to Judge Grijalva, at the stipulation of the local bar and law enforcement shall have in person hearings at the **BAYARD MAGISTRATE COURT**.

DISTRICT COURT CASE MANAGEMENT

Beginning July 19, 2021, District Court proceedings shall commence as indicated below:

General: All hearings currently set with a Notice of Hearing indicating the proceeding will be virtual shall remain virtual unless the parties request an in person hearing, and the Presiding Judge, in consultation with the Chief Judge, determines an in person hearing is necessary. New Notices of Hearing shall issue in these cases indicating that the proceeding will be held in person.

In-person is defined as a hearing in which all attorneys, parties, and witnesses appear in-person, unless, as in pre-COVID times, they formally request to appear by telephone or video. Case-

specific circumstances in presumed in-person hearings, may be set virtually as determined by the presiding judge in consultation with the Chief Judge.

JURY TRIALS: All previous protocols regarding jury trials remains in effect including multiple jury panels to ensure social distancing requirements are met. All TCAAs must check with the court clerks and the other TCAAs to determine if the court has capacity to set other hearings during jury selection.

Criminal Cases: In-person hearings shall indicate that they are being in-person on the notice of setting, and remote hearings shall indicate that they are being held remotely in accordance with the NM Supreme Court Protocols. For all remote proceedings, counsel for defendants shall abide by the New Mexico Supreme Orders regarding 48-hour notice to all parties and the Court if identity of a defendant is at issue.

Civil Cases: Beginning Monday, July 12, 2021, the following proceedings shall be presumed to be in-person if they are not already set remotely, and a notice of hearing shall issue indicating the proceeding shall be in-person:

- **Kinship Guardianships.** New setting requests will be set in-person.
- **Domestic Violence Proceedings;** New cases or requests for settings filed on or after July 9, 2021 shall be set in-person.
- **Adoptions.** New setting requests will be set in-person.
- **PQ hearings.** Initial determinations regarding appointment of a guardian or conservator shall be in-person proceedings. All subsequent hearings and 10-year reviews shall be conducted via video to ensure that the protected party may appear from their nursing home, facility or personal home unless otherwise ordered by the presiding judge in consultation with the Chief Judge.
- **JQ cases** – After consultation with the local Bench and Bar, the following JQ hearings shall be presumed to be in person: 10 Day Custody Hearings, Contested Adjudicatory Hearings, and Termination of Parental Rights hearings shall be set in person unless otherwise ordered by the presiding judge in consultation with the Chief Judge. All other proceedings in JQ cases shall remain remote unless the parties’ motion for the hearing to be held in person. All remote proceedings shall be accomplished via video and video participation is required.
- **Sequestered cases.** All non-JQ and non-PQ sequestered cases shall be held in person.

Civil Bench Trials shall proceed in person at each presiding judge’s discretion in consultation with the Chief Judge. The notice of hearing will clearly indicate if the proceeding is remote or in-person.

Domestic Relations/CSED Hearings: These hearings shall be presumed to take place remotely unless a party motions for an in-person hearing or the presiding judge determines an in-person hearing is necessary in consultation with the Chief Judge.

INDIVIDUALS IN DETENTION

Inmates must pass health-screening questions prior to transport to the courthouse. The Sixth has worked diligently with all our detention centers to implement the use of Zoom, Polycom system and Google Meets. If inmates are unable to pass the health screening questions, then the inmates shall appear remotely.

All INMATES will be transported for jury trials. The court will contact the detention center the day prior to the jury trial to ensure the Defendant meets all the criteria for entry. If not, the jury trial will be vacated. If so, the Defendant will be screened again by the transport team at the time of transport prior to leaving the Detention facility. If at that time the Defendant does not qualify for entry in the courthouse, then the Defendant will not be transported and the jury trial will be vacated.