Office of District Judge
118th JUDICIAL DISTRICT
HOWARD, MARTIN AND GLASSCOCK COUNTIES
P.O. BOX 528
Big Spring, Texas
79721-0528

TIMOTHY D. YEATS
DISTRICT JUDGE
tim.yeats@howardcountytx.com

TELEPHONE 432-264-2225
FAX 432-264-2270
DISTRICT COURT BUILDING
312 SCURRY STREET
BIG SPRING, TEXAS 79720

Re-Certification of In-Person Operating Plan

January 15, 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 Howard, Martin and Glassock Counties' County's 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. 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;
- 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 judges of the courts with courtrooms in county/municipal 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 Howard, Martin and Glasscock counties, before conducting an in-person hearing shall first determine if an in-person hearing is necessary by following this procedure:

- 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 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:

- 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:
    - lack of access to a computer tablet or other device with internet video capability;
    - lack of access to a cell phone; or
    - lack of access to an internet connection.
- 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:
    - a physical or mental disability that precludes them from effectively operating the technology necessary to access the Zoom videoconferencing app;
    - a physical disability that precludes them from effectively seeing, hearing, or otherwise participating in a Zoom video hearing;
    - the lack of or unavailability of an interpreter who can assist the individual in communicating during a Zoom hearing;
    - 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; or
    - 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.
- 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* analysis.
- A proceeding where one Participants 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.

- 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.

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 judges of the County/Municipal Court shall consider include:

- When an individual does not have adequate technological resources on their own to participate in a Zoom videoconferencing hearing, a judge shall:

    - 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;
    - 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
    - determine whether the individual could participate in a meaningful manner by telephone (audio only).
- When an individual has physical or mental disabilities that would prevent the individual from operating the technology required, a judge shall:
    - determine if the individual has legal counsel, family or friends who can assist in operating the required technology; and
    - inquire as to what, if any, accommodations could be made which would allow the individual with a disability to participate.
- When an individual is incarcerated, a judge shall:
    - determine whether the facility has the technological resources or facilities to allow the incarcerated individual to participate in the hearing;
    - 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).
- 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.
- 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.
- 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 judges with courtrooms in county/municipal facilities 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,

Timothy D. Yeats
Local Administrative Judge