

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION
DIVISIONAL STANDING ORDER No. 2020-5**

The Ward R. Burke United States Courthouse in Lufkin, Texas (the Courthouse) is a public building in which the public is welcomed. Unfortunately, because of the coronavirus disease 2019 (COVID-19) pandemic, operations at the Courthouse have been reduced. Most hearings have been conducted by phone or video conference, and physical access to the Courthouse has been limited. Jury trials have been postponed. This has the potential to conflict with the constitutional right to a trial by jury. Congress has expressed its clear intent that litigants must be afforded a prompt resolution of disputes, consistent with the requirements of the Constitution and statutory law. In criminal cases, while limited exceptions are permitted, the Speedy Trial Act sets deadlines for, and requires that priority be given to, providing a prompt and fair trial for each defendant charged with a criminal offense. Another important consideration is, with very limited exceptions such as cases involving minors, protection of the right of public access to court proceedings, especially criminal trials.

This court and its staff have been engaged in what is known as “Recovery Planning,” so that the court will be prepared to operate safely as the Courthouse becomes more open to the public. The court has reviewed guidance from the Administrative Office of the United States Courts (AO), in particular the “Updated Guidance Regarding Judiciary Response to COVID-19” (8/14/2020), “COVID-19 Guidance: Centers for Disease Control and Prevention Answers to Courts’ COVID-19 Questions” (7/17/2020), “Health Screening, Use of Masks/Face Coverings, Testing, and General Health Questions” (6/8/2020), “Updated Guidance Regarding Judiciary Response to COVID-19” (5/22/2020), the “Federal Judiciary COVID-19 Recovery Guidelines” (5/7/2020), the “COVID-19 Judiciary Recovery Planning Checklist” (5/7/2020), and AO posts such as “Coronavirus (COVID-19) Guidance: Jury Duty FAQs.” The court has also reviewed recommendations issued by the U.S. Centers for Disease Control and Prevention (CDC) concerning precautions to be taken, executive orders from the Governor of the State of Texas, including Executive Order No. GA-29 relating to the use of face coverings, as well as statistical data concerning COVID-19 cases in the Lufkin Division and in Angelina County, where the Courthouse is located.

The court has carefully considered all of these factors in balancing the rights of criminal defendants to a speedy and fair trial by jury, the rights of civil litigants to a prompt and fair resolution of disputes, the right of the public to “open courts,” and the safety of Courthouse staff, jurors, witnesses,

parties, observers, and counsel. The court has determined that, effective October 1, 2020, trials, hearings, and mediation may continue to be held on a limited and controlled basis in the Courthouse consistent with the court's prior Divisional Standing Orders No. 2020-1, 2020-2, 2020-3, and 2020-4.

It is therefore **ORDERED**, effective **October 1, 2020**, at 12:01 a.m., that absent a specific order from this court, for the protection of courthouse staff, litigants, attorneys, and observers, the following persons shall not enter the Courthouse:

1. Any person who has traveled to any of the following countries within the preceding 14 days: People's Republic of China, Brazil, Iran, or Europe;
2. Any person who has resided with, or has had close contact with, someone who has traveled to one of the countries listed above within the preceding 14 days;
3. Any person who is currently under the direction of a licensed healthcare professional or public health agency to self-quarantine;
4. Any person who has been diagnosed by a licensed health care provider as having Coronavirus or has tested positive for Coronavirus by a source authorized by the State of Texas, and who has not obtained written verification from a licensed medical doctor, doctor of osteopathy, hospital or public health agency professional that they are currently not contagious;
5. Any person who lives with, or cares for, a person described in category 4 above; or
6. Any person who exhibits or reports currently having, a fever, persistent cough or shortness of breath, persistent pain or pressure in the chest, or nausea.

It is further **ORDERED** that any person seeking entry to the Courthouse at any time will be asked by a Court Security Officer (CSO) or a member of the court staff to confirm that none of the exclusions listed above applies to that person. Each person entering the Courthouse must maintain appropriate distance from others in the Courthouse and must follow instructions of court staff and CSOs to aid in maintaining distance in the Courthouse.

It is further **ORDERED** that during jury selection and while any jury trial is being conducted, or while any hearing is being conducted, or while any mediation is being conducted at which it is reasonable to expect 10 or more participants and/or spectators, that those persons who are not barred by one of the exclusions described in categories 1 through 6 above will have their temperature taken by a Deputy Clerk, using a non-contact thermometer, and will be allowed to enter only if the reading is below One Hundred Degrees Fahrenheit (100 °F). Upon entry into the Courthouse for such jury trial or hearing, all persons must comply with following requirements.

- a. Each person, except a witness while testifying, and an attorney while examining a witness or

making a statement to a jury, must wear an appropriate face mask or covering while inside the Courthouse in courtrooms, jury rooms, public hallways, public restrooms, and elevators, unless excused from this requirement by the judge or the mediator. Witnesses shall testify unmasked, and attorneys may speak unmasked, but only while behind the plexiglass shields at their respective podiums. Persons other than jurors must supply their own masks or face covering.

b. Each person must maintain appropriate distancing from others in the Courthouse, to include sitting at the location assigned by a member of the court staff. Each person must follow instructions of court staff and CSOs to aid in maintaining distance in the Courthouse.

c. During jury selection there will not be space in the courtroom for spectators. A video feed to another room may be provided. Space in the video room may not accommodate all persons wanting to observe. During the trial the video room will be used for “on-deck” witnesses. In rare cases there will not be seating in the courtroom for all who want to observe. In either situation, entry into the courthouse and seating for observers may be on a first-come first-served basis.

It is further **ORDERED** that all CSOs, following substantive guidance provided by this Order and administrative guidance from the United States Marshal for the Eastern District of Texas (EDTX), shall deny entry to anyone attempting to enter, or remain in, the Courthouse in violation of these protocols. In the event of any uncertainty as to whether a person should be denied entrance to the Courthouse, the CSOs shall immediately contact the U.S. Marshal for the EDTX or the designated Deputy Marshal for a determination, which shall control.

If you are scheduled or required to appear in the Courthouse before the district court or the magistrate court during the period that this order is in effect, and you are unable to gain entry because of the targeted visitor restrictions in this order, you should proceed as follows:

- a. If you are represented by an attorney, please contact your attorney.
- b. If you are an attorney scheduled to appear in court before a judge, please contact that judge’s Chambers directly by telephone, and if necessary follow-up by email.
- c. If you are scheduled to meet with a Probation or Pretrial Services Officer, please contact the Probation and Pretrial Services Office directly for guidance and instructions.
- d. For any other District Court matters, please contact the office of the Deputy Clerk in Charge of the Lufkin and Beaumont Divisions at (409) 654-7000.

It is further **ORDERED** that, unless extended by subsequent order, these restrictions shall remain in place until October 31, 2020 at 11:59 p.m., when they shall automatically expire. After this order is signed, and filed with the Standing Orders of the EDTX, the U.S. Marshal for the EDTX shall post it in a prominent location at the main entrance to the Ward R. Burke United States Courthouse in Lufkin, Texas so that the public may have advance notice of its requirements before it takes effect.

So **ORDERED** and **SIGNED**, September 22, 2020.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge