

IN THE TRIAL COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

IN THE MATTER OF:

Suspension of Fairbanks Jury Trials and
Grand Jury Through 9/19/2021

Presiding Judge's Administrative Order
21- 18

**PRESIDING JUDGE'S ORDER SUSPENDING TRIAL AND GRAND JURY
AT FAIRBANKS**

As of the date of this order, the Alaska DHSS case rates for the Fairbanks Region are as follows. The average daily case rate for the last 14 days per 100,000 residents is 61.5. The total number of cases over the last 7 days per 100,000 is 552.7.

The most recent hospital survey conducted by DHSS indicates 530 inpatient beds available across the state with 24 ICU beds available. The interior region currently has 4 ICU beds available. Hospitals across Alaska are experiencing staffing shortages that compound any facilities shortages. The 7-day test positivity rate is at 13.6% with 4,320 tests given in the last week or about 3.8% of the Borough population tested.¹ Vaccination rates in the Greater Fairbanks area are around 50% with at least one dose.² Jury trials are currently scheduled.

Presiding Judge's Order 21-15 establishes a procedure and analysis for restricting or suspending jury trials in the Fourth District. In accordance with that order the follow findings apply:

1. Findings Related To Mitigating Conditions:

- a. The Fairbanks courthouse has sophisticated high capacity ventilation, including a filtration system specifically installed to address COVID-19 transmission risk.
- b. Courtrooms and public spaces at the Fairbanks Courthouse are arranged to ensure social distancing and adequate staff are available to enforce social distancing in the courthouse.

¹ For comparison the same day positive test rate for Anchorage was 7.9% with 6.8% of the population tested while Bethel was at a 6.9% positivity rate with 5.7% of the population tested. Higher positivity with lower testing suggests the incidence and rate of infection is significantly higher than reported in Fairbanks.

² According to Alaska DHSS data. By comparison Bethel has a current vaccination rate for at least one dose of 74.4%.

- c. Screening for symptoms and recent exposure is available.
- d. The Fairbanks courthouse is one of the largest courthouses in Alaska. It has a number of courtrooms that are very large, and has large jury deliberation rooms that can accommodate socially distanced jury deliberations.
- e. The public spaces in the Fairbanks courthouse are large and can accommodate socially distanced movement throughout the building.
- f. The jury assembly area at the Fairbanks courthouse can accommodate socially distanced jury selection.
- g. Jury selection procedures have been designed for the Fairbanks jury selection process specifically designed to control the number of jurors present and coming through the building at any one time.
- h. Courtrooms at the Fairbanks courthouse have been set up with plexiglass, signage, counsel tables, and procedures to ensure social distancing and minimal movement throughout the trial day.
- i. PJ Order 21-10 has established minimum procedures for in-person hearings including jury trials. Judges and staff have been operating under the procedures and restrictions in that order for many months.
- j. There are no significant mitigation efforts that have not been implemented in Fairbanks.

2. Findings Related to Necessity for Further Restrictions

- a. Presiding Judge's Order 21-17 restricted Fairbanks to one jury trial at a time through October 3, 2021. Presiding Judge's Order 21-10 sets minimum standards for in-person hearings, including jury trials.
- b. Fairbanks judges and staff have significant experience handling socially distanced trials and grand jury proceedings.
- c. The probability of a COVID positive juror be randomly selected for jury service (trial or grand jury) is high given the current numbers.
- d. ICU hospital beds statewide are very limited. ICU beds in the interior region are extremely limited.
- e. YOUTUBE broadcast remains available to make trials public.

- f. Fully video conferenced (Zoom) grand jury has not been attempted at Fairbanks. Remote witness and prosecutor presentations are available for Grand Jury.
- g. Courtrooms are following COVID requirements, including plexiglass and socially distanced seating, masking requirements, limited jury selection, and judicial oversight of courtroom compliance with COVID procedures.
- h. Current numbers put the COVID rate at Fairbanks well over the limit for presumptive suspension per PJ Order 21-16. Moreover, high positive test rates with a relatively low proportion of the population tested indicated that rates are likely higher than reported.
- i. Low vaccination rates, which the court cannot mitigate and which is not a factor currently used to restrict jury participation, suggest that the risk of hospitalization and serious illness or death is high in Fairbanks.
- j. There is no workable more restrictive alternative remaining that would permit trials to proceed safely at Fairbanks.

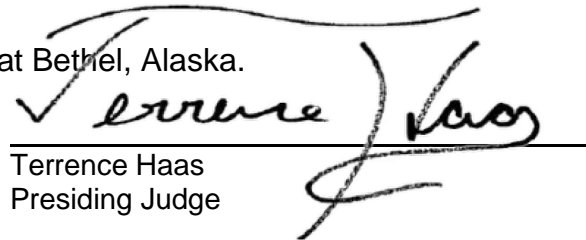
ORDER SUSPENDING JURY TRIALS AND GRAND JURY

- a. Per the requirements laid out in paragraph C 1 of the PJ Order 21-16 and based on the current COVID 19 transmission rates, the court finds that there are no less-restrictive alternatives or more narrowly tailored set of restrictions that will permit jury trials or grand jury to proceed at an acceptable level of risk at the Fairbanks court.
- b. Jury trials at the Fairbanks Courthouse shall be **SUSPENDED** through September 19, 2021. Jurors may be called for jury service no sooner than September 20, 2021.
- c. The time-period during which jury trials are suspended shall be excluded from all Rule 45 calculations.
- d. The Grand Jury at Fairbanks shall be suspended through September 19, 2021. The Grand Jury shall be convened no sooner than September 20, 2021.
- e. The calculation of the deadline for convening a preliminary examination per Criminal Rule 5(e)(4) shall be tolled through October 19, 2021.
- f. The administrative judge shall continue to issue consolidated trial orders as necessary per PJ Order 21-17.

- g. Per CJ Order 8310, judges should liberally allow remote participation where possible in all matters. Moreover, judges should manage and appropriately restrict access to courtrooms to avoid large groups that will violate social distancing rules.

It is So ORDERED.

Dated this 7th Day of September, 2021 at Bethel, Alaska.


Terrence Haas
Presiding Judge

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