



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 673D AIR BASE WING
JOINT BASE ELMENDORF-RICHARDSON, ALASKA

13 September 2021

MEMORANDUM FOR THE MILITARY JUDGE (Judge Wiedie)

FROM: TRIAL AND DEFENSE COUNSEL

SUBJECT: *United States v. Master Sergeant Jeffery K. Andersen* – Joint COVID-19
Mitigation Plan for Court-Martial

Pursuant to the Court's requirement in its 7 June 2021 Scheduling Order, the parties jointly submit the following Memorandum for Record:

1. **Trial.** The court-martial is scheduled from 4 October to 8 October 2021 and will take place at the JBER Arctic Warrior Event Center (AWEC), , in order to maximize social distancing and because the 673 ABW/JA courtroom is currently under renovation and is unavailable. The trial will require at least the military judge, two trial counsel, two defense counsel plus the accused, a bailiff, the confinement officer with escorts, a panel of at least four members, and at least 17 witnesses to be present for the court-martial.

2. **Parties.** Capt Eilif Vanderkolk, , Trial Counsel, and Capt Morgan Taylor, will participate for the Government. Capt Vanderkolk and Capt Taylor are stationed at JBER, AK. Capt Clair Strom, Circuit Defense Counsel, is stationed at JBSA Randolph, TX, and Capt Kevin Malloy, Area Defense Counsel, is stationed at Altus AFB, OK. They will participate in person for the Defense. All Defense counsel will travel to JBER, AK by commercial air, and will use a vehicle as mode of travel. A court reporter, who has not yet been identified, will travel by commercial air and use a vehicle as mode of travel.

3. **Support Facilities.** JBER has a fully capable, in-patient Medical Treatment Facility (MTF) located on the installation. The MTF offers COVID-19 testing, rapid testing, as well as offering acute COVID-19 treatment to entitled military healthcare recipients. There are several COVID-19 testing facilities located in Anchorage, AK, as well. In addition, there are lodging facilities available both on JBER and in Anchorage, with a multitude of food delivery, drive-through, and pick-up services available should a Restriction of Movement (ROM) be necessary.

4. **Travel Restrictions.**

a. *Local Regulations.* All Alaska health and travel mandates have been downgraded to health and travel advisories. Therefore, though there are no longer any requirements for travel into Alaska, the following mitigation measures are still recommended:

(1) For non-immunized travelers: Arrive with a qualifying negative COVID-19 test taken within 72 hours of departure and take a second test 5 to 14 days after arrival; OR take

~~PRIVACY ACT STATEMENT - This document contains information protected by the Privacy Act of 1974, 10 U.S.C. 802 et seq. and is confidential and protected from disclosure. Any use, distribution, copying, or other disclosure by any other person is strictly prohibited and may be prosecuted under the United States Code and/or the Uniform Code of Military Justice. This communication is designated For Official Use Only (FOUO). If you have received this transmission in error, please notify the sender at the phone number or e-mail above.~~

a qualifying test upon arrival, practice social distancing until results are received, and take a second test 5 to 14 days after arrival. A qualifying test is one that uses a molecular-based test for SARS-CoV2. In addition, adhere to strict social distancing for the first 7 days after arrival.

- (2) For fully immunized travelers: Fully immunized travelers are exempted from pre- and post-travel testing, as well as self-quarantine post-travel. “Fully immunized” is defined as more than two weeks following receipt of the second dose in a two-dose series, or more than two weeks following receipt of one dose of a single-dose vaccine.
- b. *JBER Regulations.* JBER is currently in HPCON BRAVO and is no longer in a declared Public Health Emergency. The current installation policy is the “JBER COVID-19 Installation Policy Memorandum,” dated 30 July 2021 (see Atch). The following restrictions apply:
- (1) For non-immunized travelers: Domestic travelers will enter a 10-day ROM and will stay out of JBER store fronts for the duration of their ROM. Travelers are encouraged to take a free COVID-19 test upon arrival to Alaska, and to take a second test on or after day 5 of the ROM. Travelers who have their ROM waived must still stay out of JBER store fronts for 10 days upon arrival to Alaska.
 - (2) For fully immunized travelers: Domestic and international travelers are exempted from ROM and may immediately enter JBER store fronts so long as they are not feeling ill or experiencing any COVID-19 symptoms. “Fully immunized” is defined as two weeks after the second dose of a two shot series, or two weeks after one dose in a single shot series.
 - (3) For travelers recovered within the past 90 days: Travelers who can show proof of their positive test and proof of recovery are exempt from testing and ROM, and may immediately enter JBER store fronts so long as they are not feeling ill or experiencing any COVID-19 symptoms.

For non-immunized parties or witnesses traveling in, 673 ABW/JA will route an exception to policy (ETP) in order for such parties and witnesses to enter JBER and participate in court activities.

5. **Mask Wear.** Mask wear on JBER is now mandated for all Service Members, Federal employees, onsite contractor employees, and visitors regardless of vaccination status. Mask wear in the courtroom is discussed further below in paragraph 7 and will comply with JBER mask wear requirements. The Municipality of Anchorage has no mask wear restrictions in place, though individuals are still strongly encouraged to continue masking.

6. **Courtroom Setup (AWEC).**

- a. The JBER Education Center is a one-story building located at _____, with several rooms of varying sizes. The court-martial would be held in the

main auditorium, which is a large, spacious room with available audio/visual equipment. The room is large enough to accommodate all parties, all members for voir dire, and a limited gallery with the appropriate spacing. The AWEC has other conference rooms, which the military judge, trial counsel, and defense counsel can use for case preparation. In addition, there is a conference room which would act as the deliberation room. The building has men's and women's restrooms in the main hallway of the building on both floors (but not in what would be the deliberation room). Defense counsel has not had the opportunity to view these facilities or evaluate if they are appropriate for these proceedings however the spacing described would be in compliance with COVID-19 mitigation.

- b. Under the current JBER installation policy, no ETPs will be required to increase the number of personnel gathered indoors for The current indoor limit is 100 people for official gatherings with appropriate distancing and mitigation controls. Unit commanders, or comparable director level supervisors, may approve gatherings above this limit. The 100-person limit will accommodate all trial participants needed at any given time, to include voir dire. However, the number of observers in the gallery may be limited based on the number of trial participants in court at the time.
- c. Public Health has previously reviewed the AWEC for its ability to safely host court proceedings in the past, and the 673 ABW/JA has successfully held two General Courts-Martial at the AWEC in the last year.

7. Proposed Safety Measures. The parties jointly propose the following COVID-19 safety measures be implemented for this court-martial, to include any pre-trial proceedings in the auditorium at the AWEC:

- a. Maintain 6 feet of distance as much as possible.
- b. Mandatory use of masks for all personnel entering the courtroom.
- c. Post signs throughout the auditorium reminding personnel of a and b above.
- d. All parties shall wear masks in accordance with the below, at the court's discretion:
 - i. The Defense Counsel and Accused may remove their masks as necessary to conduct effective attorney/client consultation.
 - ii. Counsel may remove masks when conducting voir dire, opening statements, direct and cross examination, closing arguments, potential sentencing arguments, rebuttals, or other statements at the podium, so long as they maintain 6 feet of distance from all other personnel.
 - iii. Witnesses on the stand may remove their mask, so long as they maintain 6 feet of distance from all other personnel.
 - iv. If counsel approaches a witness during questioning, both counsel and the witness will put their masks back on until they are once again at least 6 feet apart.
 - v. Masks may be briefly removed while actively drinking or eating.
- e. Maintain only one entry/exit to the auditorium.
- f. Personnel exhibiting signs of COVID-19 (e.g. fever, shortness of breath, body aching, coughing) will not be allowed in the building.

- g. The legal office will send an email to all trial participants ahead of the court-martial to remind them to bring their masks to the courtroom and ask them to inform the legal office whether they have COVID-19 symptoms.
 - h. The legal office will supply masks to individuals in the room who do not have their own and are not able to obtain one immediately.
 - i. Turn on light switches and leave them on throughout the day to minimize personnel touching the same common use items.
 - j. At the beginning of the duty day, during court-martial recesses, and at the end of the duty day, all door handles will be sprayed with disinfectant.
 - k. At the end of each day after a proceeding, every surface in the room that might have been touched will be sprayed with disinfectant or wiped with antibacterial cleaner, including door handles, light switches, chairs, desks, computers, phones, and microphones.
 - l. Gloves will be readily available in multiple sizes.
 - m. Bathrooms in the building will be stocked with soap, hot water, and paper towels.
 - n. Hand sanitizer will be located in numerous locations throughout the room and building.
 - o. The room will be marked with 6-ft markers to assist counsel in maintaining social distancing.
8. Counsel jointly request the Court recommend any additional measures it determines necessary.

Respectfully submitted,

MORGAN L. TAYLOR, Capt, USAF
Trial Counsel

CLAIR M. SPROM, Capt, USAF
Circuit Defense Counsel

Attachment:
JBER COVID-19 Installation Policy Memorandum, dated 30 July 21