

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR INDIAN RIVER, MARTIN, OKEECHOBEE, AND ST. LUCIE COUNTIES  
STATE OF FLORIDA

**ADMINISTRATIVE ORDER 2020-10**

**IN RE: COVID-19 REOPENING JURY PROTOCOLS**

WHEREAS, the Nineteenth Judicial Circuit COVID-19 Reopening Workgroup has established protocols for the safe resumption of jury trials set forth herein;

THEREFORE, pursuant to the authority of the Chief Judge under section 43.26, Florida Statutes, and Florida Rule of Judicial Administration 2.215,

IT IS HEREBY ORDERED as follows:

Effective immediately, the following protocols shall be observed in the Nineteenth Judicial Circuit:

**A. JUDGES**

1. **Protocol Judges.** Each of the four counties in the Nineteenth Judicial Circuit presents different logistical challenges. In each county, a “Protocol Judge” is hereby designated to assist the other judges, the Clerk, court recording, and court security to facilitate the protocols herein. The Protocol Judges are:

For Indian River County, the Honorable David Morgan

For Martin County, the Honorable Sherwood Bauer

For St. Lucie County, the Honorable Daryl Isenhower

For Okeechobee County, the Honorable William Wallace

2. **Selection of Jurors.** Prior to the resumption of trials, on a county by county basis, all judges for whom the Clerk summons jurors should meet as a group, led by the Protocol Judge, and work together to decide the following:
  - a. A schedule of dates and times for each judge to select juries (i.e. Judge A picks on Monday and Judge B picks on Tuesday). If more than one judge needs to select juries on a particular day, the report times for the prospective jurors

should be staggered to avoid overcrowding in the jury assembly room (i.e. Judge A's panel reports at 8:30 a.m. and Judge B's panel reports at 10:00 a.m.).

- b. Which courtrooms will be used to select juries and determine the number of prospective jurors that each of the courtrooms will accommodate. This number will dictate the maximum number of prospective jurors available for each judge at any given time. If needed, the judge may bring in another panel the same day at a later time to replace challenged jurors.
    - c. The location of jurors during the selection process. During jury selection proceedings, jurors should be seated in the audience seats and/or the jury box adding additional chairs as necessary to allow for social distancing.
3. **Juror Location During Trial.** Seating of selected jurors in the audience section should be avoided unless there is no other alternative. If the audience section is used, care must be taken to create a physical separation between the jurors and spectators. It is anticipated the jury deliberation rooms will be too small to allow social distancing. If possible, an empty courtroom or the jury assembly room should be used during lengthy bench conferences during trial. An empty courtroom, the actual courtroom, the jury assembly room or other available, secure space should be used for deliberations.
4. **Priority for Jurors.** If an insufficient number of jurors appear on jury selection days, then priority for the jurors will go to: 1) Criminal cases in which speedy trial has been demanded or not waived; 2) circuit criminal cases; 3) county criminal cases; and 4) civil cases.
5. **Settlement of Cases.** To avoid jurors being unnecessarily brought to the courthouse, judges should take extra measures to avoid setting cases for trial that result in settlement.
  - a. In criminal cases, judges should set mini-dockets at a time before the jurors are brought to the courthouse to ensure that the plea negotiation process has been fully exhausted. Lawyers should understand the extra stress of the jury process on the jurors and the system and adjust their negotiations accordingly.
  - b. In civil cases, the judges should use case management hearings for this purpose. Alternate dispute resolution (mediation) should be employed at every opportunity, taking into account the unprecedented nature of the situation. Lawyers should understand that even if the court utilizes every conceivable

method to attempt to seat a jury in this unprecedented time, there is a higher than normal chance of a mistrial at many points.

- c. If a case settles, every effort must be made to timely communicate the settlement to the Clerk so that affected jurors can be notified to avoid having them show up for jury duty.

## **B. CLERKS OF COURTS AND SHERIFFS**

1. **Number of Jurors Summoned.** It is anticipated that the report rate for jurors may be substantially lower. As the dynamics of each county may dictate, Clerks should issue an increased number of summonses. It is suggested that Clerks issue at least fifty percent more than the usual number of summonses for the first several weeks after resumption of trials and then adjust that amount according to the response rate.
2. **Summonses; Additional Information.** Juror summonses should be printed with or issued with a separate piece of paper containing the information set forth in subdivisions (a) and (b) below:
  - a. A statement encouraging jurors to participate in the important civic duty of jury service and advising them of health and safety protocols that have been put in place in the courthouses. For example:

*The court understands that persons summoned for jury duty may have concerns regarding the coronavirus. Protocols have been put in place in every courthouse to minimize the risk of transmission of the virus and so that you can safely and comfortably participate in the jury trial process, which is fundamental to our Constitution. These protocols are consistent with the phasing of societal reopening in our state. The following are examples of some of the health and safety measures employed at the courthouses:*

- *All persons entering courthouses must have their temperature taken in a non-intrusive manner. Persons with temperatures over 100.4 degrees will be denied entry into the courthouse.*
- *Each person entering a courthouse is screened by verbal questionnaire regarding COVID-19 related risks.*
- *All persons entering courthouses must wear a face covering.*
- *All persons must keep at least six feet between themselves and others, even when wearing a face covering.*

- *Hand sanitization is available and encouraged for all persons in the courthouse.*
- *Courthouses are frequently and routinely wiped and disinfected.*

*While jury service is compulsory and failure to appear can be punished as contempt of court, the court encourages you to comply with your summons and participate out of a desire to maintain the values of our American way of life during this challenging time.*

- b. A notice regarding deferment of jury service. In each county, the Protocol Judge and Clerk should determine which of the following two notices should be included in or with each summons:
- i. If you are in a high risk group for serious complications from COVID-19 or live in a household with a high risk person, you should contact the Clerk at [applicable phone / weblink / email / chat feature]. Please include a return phone number in your message or email. The Clerk is authorized to grant deferment from jury service for up to six months.

OR

- ii. If you are in a high risk group or live in a household with a high risk person and your concern over possibly contracting COVID-19 is such that you feel you would be incapable of giving your complete attention as a juror, then you may elect to defer your jury service for a period of up to six months. You will still be called to serve in the future. If you select deferment for this reason, please check this box:

This Administrative Order shall remain in effect until further notice.

**DONE AND ORDERED** at Stuart, Florida this 3<sup>rd</sup> day of June, 2020.



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LAWRENCE MIRMAN, CHIEF JUDGE