

OFFICE OF THE ADMINISTRATIVE JUDGE
10TH Judicial District - Nassau County



MEMORANDUM

To: Nassau County Legal Community

From: Hon. Norman St. George, District Administrative Judge

Date: February 19, 2021

Re: Updated Operating Protocols for Nassau County Courts

As we approach the one year anniversary of the Covid-19 pandemic affecting New York State and the nation as a whole, it is important to take measure of the Nassau County Court's response to the pandemic and to map out the direction the Courts will take moving forward. We thank Nassau County's Justices, Judges and Non-Judicial Personnel and the entire Nassau County Legal Community for their continued dedication, professionalism, and flexibility during these difficult times.

Throughout the pandemic, Nassau's Courts have remained open. There have been various periods of time that have required modifications to Court operations based upon the Covid-19 metrics published by the State of New York. In March and April of 2020, the Courts dramatically reduced the amount of In-Person proceedings, limiting those proceedings to essential matters. During the late Spring and into the early Fall of 2020, Nassau's Courts increased the level of In-Person proceedings in accordance with the Governor's un-PAUSE New York Plan. In late Fall of 2020, the metrics again required a reduction of In-Person proceedings in Nassau's Courthouses to protect the health and safety of litigants, lawyers, Court staff and Judges.

Currently, the metrics permit an opportunity to increase In-Person proceedings. While Virtual Appearances remain preferred, certain additional In-Person proceedings will recommence. As always, Nassau's Courts will continue to monitor the changes in metrics, and, in conjunction with the Office of Court Administration and Courts throughout the state, remain flexible and ready to quickly adapt as conditions warrant. The main change at this time is the resumption of In-Person Civil and Criminal Jury Trials and In-Person Criminal Pre-Trial Hearings on March 22, 2021.

The updated Operating Protocols contained herein supersede the Updated Operating Protocols that became effective on December 9, 2020. Commencing February 22, 2021, all Court operations in the Tenth Judicial District—Nassau County shall be conducted pursuant to these Protocols. To the extent the provisions of these Updated Operating Protocols are inconsistent with the provisions in the Administrative Order issued by this Court on December 23, 2020, and any previously issued memoranda, the provisions of these Protocols should be relied upon to guide operations.

I. Courthouse Operations

A. Scheduling

1. Calendar times shall be staggered so that different Parts in the same Courthouse start at different times.
2. Each Judge may hold In-Person proceedings up to two days per week, subject to clerk staff, Courtroom space, and time availability, unless an exception is requested and granted by the Administrative Judge. A Judge presiding over any hearing or trial that continues to an additional day or days shall be granted additional courtroom time. All scheduling shall be coordinated by Supervising Judges and Chief Clerks to assure appropriate limiting of foot traffic in the Courts.
3. In each Court, there shall be a maximum of 10 cases/proceedings scheduled In-Person per hour, except as stated in Section (II)(B)(10).

B. Occupancy of all Courtrooms shall be limited to a maximum of the lesser of 20 people or ½ the posted room occupancy per code unless otherwise approved by the Administrative Judge. An exception shall be granted for Jury Trials or Grand Juries. Any exceptions that were previously granted to the occupancy limits are rescinded until further notice.

C. The number of non-judicial staff reporting to the Courthouse shall be increased at the discretion of the Administrative Judge to the minimum number necessary to ensure safe operations. In-Person staffing at these levels should be scheduled in a manner that limits the likelihood and adverse consequence of a positive COVID transmission in the Courts. All staff not reporting to the Courthouse shall work remotely. In all circumstances, non-judicial staff reporting to the Courthouse shall be between 40%-60% of normal pre-COVID staffing.

D. All current safety measures and protocols will continue. Court managers and PPE Compliance Coordinators shall take steps to enhance monitoring and compliance with all safety measures including social distancing at all times.

E. Each Court shall continue to have a space (kiosk or dedicated room) available for use by litigants who are unable to appear virtually.

II. Court Proceedings

A. Notwithstanding any other provision herein, except for Criminal Jury Trials or Criminal Evidentiary Hearings, no adult In-Custody in the Tenth Judicial District's Nassau County Correctional Center shall be produced to any Court (Supreme, County, Family, City, Town or Village), unless the Administrative Judge grants permission for an In-Person appearance. Where an In-Person proceeding involves an adult housed at a facility other than one located in the Tenth Judicial District—Nassau County, that individual shall

appear virtually utilizing electronic means unless the Presiding Judge orders otherwise after appropriate application is made.

B. Matters that may be heard In-Person (or hybrid of In-Person and Virtual) PROVIDED THAT THE PRESIDING JUDGE FIRST FINDS THAT THE MATTER CANNOT PROCEED VIRTUALLY (LEGALLY IMPERMISSIBLE OR LOGISTICALLY IMPRACTICAL).

1. Matters as designated in Exhibit A.
2. Family Court Act Article 10 evidentiary hearings.
3. Permanency Hearings.
4. Criminal Preliminary Hearings.
5. Pleas and Sentences.
6. Jury Trials may be scheduled to occur beginning on March 22, 2021. The scheduling of the trials shall be approved by the Administrative Judge in consultation with the Deputy Chief Administrative Judge. Jury Trials shall be conducted in Nassau County in accordance with the individual plan submitted to the Administrative Judge by the Supervising Judges and Chief Clerks of their respective Courts and pursuant to the Tenth Judicial District Jury Trial plan as approved by the Deputy Chief Administrative Judge. Notwithstanding any provision of the aforementioned plans, occupancy shall be limited to the lesser of 30 people or ½ the posted room occupancy per code unless otherwise approved by the Administrative Judge. With regard to Criminal Jury Trials, priority should be given to incarcerated defendants. No Jury Trial shall be conducted before March 22, 2021.
7. Arraignments where the Court is notified of a request for an In-Person arraignment by either the prosecution or the defense.
8. Eviction proceedings to the extent permissible by law.
9. Surrogate's Court Citations.
10. Treatment Court and Judicial Diversion appearances where the Presiding Judge determines, in consultation with Supervising Judge, that an appearance in an acute case is necessary to protect the health and safety of a defendant.
11. Any proceeding involving a self-represented litigant(s) where the Presiding Judge determines that holding the proceeding via Microsoft Teams denies the self-represented litigant(s) meaningful access to the proceeding and where the Presiding Judge determines that the matter can be heard In-Person consistent with all OCA safety protocols.
12. Criminal Pre-Trial Evidentiary Hearings.

C. ALL other matters MUST be heard virtually using Microsoft Teams video conferencing, or telephone, including but not limited to:

1. Motion arguments.
2. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20).
3. ADR where both parties are represented by counsel and counsel will be present.
4. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program.

5. Small Claims Assessment Review proceedings.
6. Other routine Court matters not expressly included in Paragraph II(B).

Exhibit A

- A. Criminal matters.
 - 1. Arraignments.
 - 2. Bail applications, reviews, and writs.
 - 3. Temporary Orders of Protection.
 - 4. Resentencing of retained and incarcerated defendants.
 - 5. Essential Sex Offender Registration act (SORA) matters.

- B. Family Court.
 - 1. Child protection intake cases involving removal applications.
 - 2. Juvenile delinquency cases involving remand placement applications, or modification thereof.
 - 3. Emergency Family Offense Petitions/Temporary Orders of Protection.
 - 4. Orders to Show Cause.

- C. Supreme Court.
 - 1. MHL applications for an Assisted Outpatient Treatment (AOT) plan
 - 2. Emergency applications in guardianship matters.
 - 3. Temporary Orders of Protection (including but not limited to matters involving domestic violence).
 - 4. Emergency applications related to the coronavirus.
 - 5. Emergency Election Law applications.
 - 6. Extreme Risk Protection Orders (ERPO).

- D. Civil/Housing matters.
 - 1. Applications addressing landlord lockouts (including reductions in essential services).
 - 2. Applications addressing serious code violations.
 - 3. Applications addressing serious repair orders.
 - 4. Applications for post-eviction relief.

- E. Surrogate's Court - Any matter involving an individual who passed away due to COVID-related causes.