

IN THE MUNICIPAL COURT
FOR THE CITY OF SURPRISE, ARIZONA

In the Matter of:

LIMITATION OF COURT OPERATIONS
DURING A PUBLIC HEALTH
EMERGENCY AND TRANSITION TO
RESUMPTION OF CERTAIN
OPERATIONS

ADMINISTRATIVE ORDER
NO. 20-07
(Replacing Administrative
Order No. 20-05)

Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona declared a statewide emergency pursuant to A.R.S. § 26-303 and in accordance with A.R.S. § 26-301(15). Additionally, the Arizona Supreme Court has issued Administrative Order No. 2020-79 authorizing limitation of court operations during a public health emergency and transition to resumption of certain operations. On April 27, 2020 this Court's Administrative Order No. 20-05 directed that court business be conducted in a manner that reduces the risk associated with this public health emergency. This order revises, clarifies, and adds to that direction.

IT IS ORDERED that Administrative Order 20-05 is replaced by this Order.

This Court remains open to serve the public. Nevertheless, given the ongoing threat to public safety, certain limitations and changes in court practices and operations are still necessary. Therefore, pursuant to Arizona Supreme Court Administrative Order No. 2020-79, this Court will begin transitioning to in-person proceedings on June 2, 2020 to the extent this can be safely accomplished. These changes will occur in phases consistent with this order and the Arizona Supreme Court Administrative Order No. 2020-79, and Attachment A of that order. (Attachment A is attached to this order)

IT IS FURTHER ORDERED that:

I. TO PROTECT COURTHOUSE SAFETY

1. Until Arizona enters Phase II, the Court has implemented a staffing plan, which may include dividing personnel into two or more teams or using other methods to prevent all or a substantial portion of court personnel from becoming infected or requiring quarantine at the same time due to work-related contact.

2. Court operations will be modified to limit the number of transportation events to necessary in-court hearings for individuals in custody or receiving services pursuant to court order, including combining hearings subject to maximum gathering size required by this order, and to minimize mixing of populations to eliminate avoidable quarantines when such individuals are returned to custody following court hearings.

3. Rule 10.2, Rules of Criminal Procedure, and any local rule that provides litigants with a change of judge as a matter of right, are suspended until December 31, 2020 to reduce the risk of virus exposure inherent in out-of-county judges' travel, and to ensure adequate judicial resources for backlog reduction.

4. The Court has adopted practices following the gathering size and social distancing standards considering the size of the courtrooms and other spaces where people gather in and around the courthouse as noted in Attachment A of the Arizona Supreme Court Administrative Order No. 2020-79. The Court will not schedule in-person multiple, simultaneous proceedings that are inconsistent with these standards. Until Phase II, in extraordinary circumstances and with appropriate precautions, the Court may authorize a maximum of 30 persons to gather in one location provided social distancing measures are taken.

5. All participants in court proceedings, including attorneys, parties, victims, witnesses, jurors, court personnel, and other necessary persons, are required to notify the court prior to appearing at the courthouse, of any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities and to make alternative arrangements to participate.

6. Until Phase III, any required in-person proceedings shall be limited to attorneys, parties, victims, witnesses, jurors, court personnel, and other necessary persons, where necessary to maintain the recommended social distancing within the courthouse, including each courtroom, and the judge in each proceeding is authorized to make reasonable orders to ensure the health and safety of hearing participants consistent with the parties' right to due process of law.

7. Participants attending in-person proceedings should minimize the time they are inside the court and shall not enter the courthouse more than fifteen (15) minutes prior to the start of the proceeding and immediately exit upon the conclusion of the hearing. Jurors may enter the courthouse at any time during their date of service, however, after entering the courthouse, the jurors should remain in spaces specifically designated for jurors.

8. The Presiding Judge may grant access to the court building to specific individuals to conduct or facilitate necessary court business.

9. Judges shall liberally grant continuances and make accommodations, if necessary and possible, for attorneys, parties, victims, witnesses, jurors, and others with business before the courts who are at a high risk of illness from COVID-19 or who report any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities.

10. Through Phase I, the COVID-19 health screening protocol for court and judicial personnel is implemented. Not later than June 1, 2020, court staff and judicial officers are required to wear their own or court-provided masks, face coverings, or face shields when having any in-person contact with other personnel or the public, or as allowed by section I (12).

11. Through Phase I, the COVID-19 health screening protocol for the public is implemented. Court participants and visitors are required to wear a mask or other face-covering in the courthouse beginning not later than June 1, 2020. The Court may provide the required face-covering for use by persons who do not have their own. Persons who refuse to cooperate with or who do not pass established screening protocols or refuse to wear a mask or other face covering shall be excluded from the courthouse.

12. During in-courtroom proceedings, the judge may authorize removal of masks or face coverings for purposes of witness testimony, defendant identification, making an appropriate record, or other reasons as deemed necessary by the judge provided that appropriate social distancing or other protective measures are followed.

13. The Court will implement social distancing and sanitation measures established by the United States Department of Labor and the U.S. Center for Disease Control and Prevention (CDC).

II. TECHNOLOGY USE TO MINIMIZE IN-PERSON PROCEEDINGS

1. Proceedings in this Court may be held by teleconferencing or video conferencing, consistent with core constitutional rights.

2. During Phases I and II, the Court will limit in-person contact as much as possible by using available technologies, including alternative means of filing, teleconferencing, video conferencing, and use of email and text messages to reasonably ensure the health and safety of all participants.

3. Judges may hold ex parte and contested hearings on orders of protection electronically.

4. The Court may authorize the use of available online dispute resolution (ODR) platforms to resolve cases.

5. The Court may authorize the use of electronic, digital, or other means regularly used in court proceedings to create a verbatim record.

6. The 100-mile distance requirement for this Court to accept a telephonic plea under Rule 17.1 (f) of the Rules of Criminal Procedure is suspended through December 31, 2020.

7. When conducting virtual hearings, the Courts may establish procedures to collect the defendant's fingerprint, or to otherwise establish the defendant's identity as an alternative means of complying with the procedures required by A.R.S. § 13-607 and Rule 26.10 of the Rules of Criminal Procedure.

III. TO SAFELY PROVIDE FOR JURY TRIALS

1. Beginning June 15, 2020, jury trials will commence on a limited basis in Surprise City Court.

2. The Court will employ appropriate social distancing and other measures necessary for the protection of jurors and the general public.

3. Jurors may enter the courthouse at any time during their date of service, however, after entering the courthouse, the jurors should remain in spaces specifically designated for jurors.

4. Until December 31, 2020, to reduce the number of citizens summoned to jury duty, Rule 18.4(c), Rules of Criminal Procedure is modified to afford litigants one peremptory strike per side in all misdemeanor cases, tried in this Court.

5. To accommodate social distancing standards, this Court may stagger times for prospective jurors to report for jury duty, direct them to individual courtrooms rather than jury assembly rooms, and conduct voir dire remotely or in multiple groups. At the direction of the Presiding Judge, prospective jurors may be summoned to non-courthouse facilities that can accommodate larger numbers of individuals.

6. As required by A.R.S. § 21-202(b)(2), the jury commissioner must temporarily excuse prospective jurors whose jury service would substantially and materially affect the public welfare in an adverse manner, including but not limited to those who report a COVID-19 diagnosis, symptoms, or notification by a public health official of exposure to COVID-19 and may temporarily excuse potential jurors who are highly vulnerable to COVID-19.

IV. TO CALCULATE TIME CONSIDERING THE EMERGENCY

1. The period of March 18, 2020 through August 1, 2020 is excluded from calculation of time under rule provisions and statutory procedures that require court proceedings to be held within a specific period of time, including Rule 8, Rules of Criminal Procedure. A judge, pursuant to Rule 8, may extend this exclusion of time in

criminal cases, for good cause including, but not limited to COVID-19 illness, quarantine and travel restrictions.

2. The following are not excluded from calculations of time:

(a) For persons held in-custody: initial appearances, arraignments, preliminary hearings, in-custody probation violation, and conditions of release; and (b) Domestic violence protective proceedings.

V. IN GENERAL

1. Court offices shall remain accessible to the public by telephone and email during their regular business hours to the greatest extent possible, including using drop boxes for documents that cannot be e-filed if it becomes necessary to close court offices to the public.

2. Persons without a scheduled court appearance should first contact the Court before appearing at the Courthouse.

3. To assist with social distancing, the Court will coordinate with law enforcement to require staggered citation appearance times.


4. During this period of reduced operations, the Court will make reasonable efforts to provide alternative methods of accessing court records.

5. A judge may perform a marriage ceremony at the courthouse with no more than 10 persons present with proper social distancing and may perform a marriage ceremony in the electronic presence of the couple and witnesses at the parties' request.

6. All non-essential functions currently scheduled to be conducted in the Court are canceled until further notice, including field trips, tours, City Court Academy, and Teen Court.

7. The Court may issue orders as necessary to implement the provisions of Arizona Supreme Court Administrative Order No. 2020-79 and take actions consistent with that order and orders issued by the presiding superior court judge.

DATED this 1st day of June 2020.


Louis Frank Dominguez
Presiding Judge

cc: *Presiding Judge*
Associate Judge
Pro Tem Judges
Court Administrator
Court Supervisors
City Prosecutor's Office
Public Defenders
Mayor & City Council
City Manager's Office
City Attorney
Chief of Police
City Emergency Manager

ATTACHMENT A

Standards for Resumption of On-site Court Operations During a Public Health Emergency

In planning for a phased resumption of on-site court operations, courts¹ must consider the following factors:

1. The status of the pandemic in each local court jurisdiction;
2. The size and functionality of courthouse facilities, both in terms of courtrooms and other public meeting areas; and
3. The size of the bench and supporting court staff.

The timing of the phases will be largely determined by Arizona specific directives. The Administrative Office of the Courts (AOC) will notify the judicial leadership in advance of phase transition dates. Taking these factors into account, local courts should systematically resume on-site operations as follows:

Phase Zero (Current Phase): Due to the statewide public health emergency, all in-person court proceedings should be avoided to the greatest extent possible, consistent with constitutional rights.

- Courts should follow CDC social distancing guidelines and limit the number of persons at any court event to 10. Judicial leadership may authorize groups larger than 10, but not to exceed 30.
- The empaneling of new petit juries is suspended.
- In-person contact is to be limited through the use of virtual hearings (audio or video), electronic recording of court proceedings and electronic transmission of documents.
- Certain state and local court rules are suspended or amended to maximize public safety.

Phase I: Courts may begin transitioning to in-person proceedings to the extent this can be safely accomplished on June 1, 2020 in compliance with the following standards:

- Courthouse Safety:
 - Until Arizona enters Phase II and except where the size of the staff or other constraints will not allow, judicial leadership shall implement a staffing plan, which may include dividing personnel into two or more teams or other methods to accomplish the goal of preventing all or a substantial portion of court personnel from becoming infected or requiring quarantine at the same time due to work-related contact.
 - Judicial leadership shall limit any required in-person proceedings to attorneys, parties, victims, witnesses, jurors, court personnel, and other necessary persons.

¹ In this attachment, courts include Arizona courts, Office of the Presiding Disciplinary Judge, and Court of Appeals.

- Judicial leadership should modify operations to limit the number of transportation events to necessary in-court hearings for individuals in custody.
- Courts should follow CDC social distancing guidelines and limit the number of persons at any court event to 10. Judicial leadership may authorize groups larger than 10, but not to exceed 30.
- Courts shall utilize the AOC's health screening protocol.
- Courts shall require masks or face coverings to be worn in the courthouse.
- Courts shall exclude persons failing the screening protocol from entry to the courthouse.
- Rules which provide litigants a change of judge as a matter of right are suspended until December 31, 2020.
- Courts shall exclude persons failing the screening protocol from entry to the courthouse and attempt to make alternative arrangements for them to conduct court business. If an excluded person is attempting to attend a scheduled court proceeding, the appropriate court shall be notified of the person's inability to enter the courthouse.
- Technology
 - Courts shall continue the use of virtual hearings, electronic recording and electronic transmission of documents.
 - Courts shall provide public access by video or audio to court proceedings which are typically open to the public, specifically for the case types designated in this Administrative Order.
 - Courts shall consider and encourage the use of on-line dispute resolution (ODR).
- Appropriately Prioritize Case Processing
 - Courts shall follow the prioritization of case types, both for jury and non-jury cases.
 - Courts shall expand case disposition capacity, using retired judges and judges pro tempore and temporarily reassigning judges from other assignments.
- Jury Trials and Grand Juries
 - Jury trials may resume on June 15, 2020, subject to the approval of the presiding superior court judge.
 - Courts shall utilize appropriate social distancing and measures necessary for the protection of jurors, including the use of technology for virtual selection of petit and grand jurors and conducting of grand jury proceedings and, with the approval of the presiding superior court judge, for jury trials.
 - The presiding superior court judge may determine when grand juries can be resumed.
- In General
 - Courts may use drop boxes for filing documents that cannot be e-filed.

Phase II: Scheduling of in-person court proceedings can resume, while limiting the projected number of courthouse visitors during peak times.

- Courthouse Safety

- On-site court staffing should systematically increase during Phase II, as necessary to serve the increased number of visitors at the courthouse. Courts should continue to maintain two or more teams, with some teams working at the courthouse while others work remotely, or otherwise ensure that an exposed employee will not interrupt the operations of the court.
- Courts should follow CDC social distancing guidelines and limit the number of persons at any court event to 30. Judicial leadership may authorize groups larger than 30, but not to exceed 50.
- Technology
 - The use of technology should continue, both to maximize public safety and to maximize efficiencies in court operations.
- Appropriately Prioritize Case Processing
 - Some courts may no longer have a need to expand case disposition capacity.
- The other Phase I provisions remain in effect during Phase II, specifically the sections of this Administrative Order regarding:
 - Jury Trials and Grand Juries
 - In General

Phase III: Scheduling of in-person court proceedings and other on-site court services can fully resume, while limiting the projected number of courthouse visitors during peak times.

- Courthouse Safety
 - On-site court staffing should be largely restored during this phase to serve the increased number of visitors at the courthouse. Courts may still opt to have some staff continue working remotely. These staff would be available for deployment to the courthouse in the event that on-site staff become infected.
 - Courts should follow CDC social distancing guidelines and limit the number of persons at any court event accordingly.
 - Consistent with guidance from CDC, courts may relax screening protocols for court participants and visitors, including the wearing of masks in the courthouse.
- Technology
 - The use of technology should continue, both to maximize public safety and to achieve efficiencies in court operations.
- Jury Trials and Grand Juries
 - Courts should continue to employ appropriate social distancing and other measures necessary for the protection of jurors, including the use of technology for virtual selection of petit and grand jurors and conducting of grand jury proceedings and, with the approval of the presiding superior court judge, for jury trials.
- In General
 - Courts should continue to use drop boxes for documents that cannot be e-filed.

Phase IV: Return to normal operations – no restrictions.