



## CHATTAHOOCHEE JUDICIAL CIRCUIT

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# MARION COUNTY GUIDE FOR RESUMING JURY PROCEEDINGS

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November 24, 2020

### **COMMITTEE MEMBERS:**

Hon. William Rumer, Superior Court Judge, Chair  
Chief Superior Court Judge, Bemon G. McBride, Ex officio Member  
Hon. Heather Stuart, Probate Court Judge  
Ms. Julia Slater, District Attorney  
Mr. Ray Daniel, Assistant District Attorney  
Mr. Moffett Flournoy, Circuit Public Defender  
Mr. Eric Webb, Assistant Circuit Public Defender  
Ms. Joy Smith, Clerk Superior Court  
Sheriff Darrell Neal, Marion County Sheriff  
Mr. George Neal, Jr., County Commission Chairman  
Mr. Justin Strickland, County Manager's Office  
Ms. Sylvia Russell, County Manager's Office  
Ms. Renee Barrett, Nurse Manager, Georgia Dept. of Public Health  
Ms. Josephine Gosa, Epidemiologist, Georgia Dept. of Public Health  
Ms. Brandi Nelson, Epidemiologist, Georgia Dept. of Public Health  
Mr. Mark Jones, District Attorney Elect  
Mr. Chris Breault, Attorney  
Mr. Robert Wadkins, Attorney  
Mr. Steve Hodges, Attorney  
Mr. Edward F. Berry, Court Administrator

By Order entered September 10, 2020, Chief Supreme Court Judge Harold Melton, in his Sixth Order Extending Statewide Judicial Order, directed the Chief Judge of each Judicial Circuit to convene for each county in their circuit, a local committee of judicial system participants to develop a plan for safely resuming jury trials in the county, as further specified in the “Guidance for Local Committees on Resuming Jury Trials” included in the Appendix to this order. Guidance for safely conducting jury trials is being developed by the Judicial COVID-19 Task Force and will be provided to local committees. Court operating guidelines for in-person proceedings incorporating final jury trial plans shall be submitted to the Administrative Office of the Courts (AOC) as soon as possible and before the jury trial process begins.

These plans seek to apply previously adopted “COVID-19 Safe Operating Guidelines” to the specific context of jury proceedings.

The Committee met on three occasions, October 14, 2020 via Zoom, October 22, 2020 to walk through possible alternative sites for jury trials, and November 9, 2020 via Zoom. This report was adopted by email consent of all committee members on November 24, 2020.

## GENERAL CONSIDERATIONS

### **The Courthouse**

The Marion County courthouse claims that it is the oldest Georgia courthouse still in operation as a courthouse.

The Marion County courthouse was built in 1850. The average man in 1850 was five feet seven inches tall. He weighed 145 pounds. This was 170 years ago. The courtroom is small, and it is upstairs on the second floor.

To socially distance each individual juror for voir dire would result in only 16 jurors seated in the courtroom for voir dire. This is far from an adequate number to pick a jury, it would require three staggered panels of 16 at a minimum for voir dire (48 jurors on a regular criminal jury trial).

If the case involved two criminal Defendants, then you have to bring a minimum of 60 jurors, and maybe more for two criminal defendants. This is roughly three panels staggered, but with no place to wait inside the courthouse.

To seat a grand jury in Marion County would require about 45 jurors to get grand jury empaneled, and again, this would be three staggered shifts for voir dire.

In ordinary times, Monday, October 26, 2020, would be the day that the Superior Court would convene to select a grand jury, arraignment, and call the civil docket for jury trials. That is on hold.

The 1850 courthouse has other limitations that are of concern. To enter the courthouse, there is only one door to pass through for security. The other two doors on the first floor are locked down for security. The first floor is composed of offices for the Probate Court, the Tax office, and the Clerk's office for the Superior Court. The fourth office is an auxiliary office for the Sheriff. All offices are moderately small.

There is only one stairwell to go up to the courtroom. It is a tight stairwell.

There is only one prisoner's elevator from the first floor up/down to the courtroom. The elevator is an open "cage." It is small. It is not an elevator as we know one or could use.

The well before the bench has two counsel tables shared by all attorneys and parties. It would be difficult to social distance even the lawyers and the parties at both tables, much less each table from the other table.

The court reporter sits in front of the bench, but he is not six feet away from at least one lawyer or a party at counsel table.

The witness on the witness stand is less than six feet away from the judge, and within the six feet zone of several of the jurors in the box.

The jury box is very tight and it is within six feet of the Defendant's table.

The only bathrooms available for lawyers, staff, and the public would be one upstairs bathroom in the jury room, and two bathrooms on the ground floor, but these are marked "Staff Men" and "Staff Women."

In April, 2020, an earlier grand jury was delayed. The Superior Court Clerk stated that many grand jurors told her that they did not want to come to the courtroom because of COVID. The citizens knew how crowded it would be. Of course, the subpoenaed grand jurors were told not to come but wait for future calls.

After considering the space that is the Marion County courthouse, the committee chair, the Sheriff, the Clerk of Court, the County Manager, and others, talked about other venues and visited the site that appears to answer most of our concerns.

Therefore, the committee has agreed that the courthouse function will be moved to the "old middle school<sup>1</sup>" located on 100 Burkhalter Avenue, Buena Vista, Georgia 31803. This is 0.0275 miles away from the Marion County courthouse.

This facility is presently used by the County Commission as well as other offices connected to the county.

The Chief Judge will sign and enter the appropriate order dedicating the use of said building as the courthouse in Marion County until further order of the court.

### **How to Go Forward – Article in *Daily Report*, November 3, 2020, Page 1**

*Just two weeks after lifting a seven-month suspension of in-person jury trials, the chief justice of the Supreme Court of Georgia has signaled that nothing in that order is irreversible, given that "COVID is not nearly done with us just yet."*

*Chief Justice Harold Melton told an emergency meeting of the Judicial Council of Georgia on Oct. 26, "Nothing that we said in that previous order is irreversible.... If you need to roll back any [trial] proceedings, at the local level, you can."*

*"We as a court are not mandating anything," Melton told judges who attended the virtual emergency meeting. "What we did initially is place a suspension on jury trials. Now that suspension is removed. It's up to you guys to figure out how you want to do that, [and] the pace you decide to do that. We don't intend to get in the way of your judgment, nor do I think you want us to."*

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<sup>1</sup> In the community, this building is known as the "Old Middle School," and I will use that term in this order.

*“We do want you to be mindful and careful,” he added. “The most recent reports are the winter is going to be rough. ... So let’s continue to exercise sound judgment.”*

\* \* \*

*Given the fact that the projections for the COVID spread are not favorable, it is advisable, I think, that we have as many options as possible on the table,” [Melton] said.*

Therefore, being mindful of the COVID virus and its virulence, the trial court will proceed, but it will be tempered by the judgment that the court can stop, if necessary.

### **Summoning the Jury Pool**

This Plan contemplates the summoning of prospective jurors for one civil or criminal jury trial. The designated prospective Jury Pool Assembly Areas (JPAA) will be in the old Middle School in the auditorium<sup>2</sup> and in the cafeteria (now the meeting room for the county commissioners).<sup>3</sup>

When jurors are initially summoned, the Clerk will create a Summons Packet that will be mailed to prospective jurors as follows:

- The Summons shall direct jurors to report to the old Middle School located on 100 Burkhalter Avenue, Buena Vista, Georgia 31803 at the appointed day and time. It will also provide contact information for jurors to call with health-related questions or concerns.
- The Summons Packet will contain information expressing the Court’s appreciation for the jurors’ service, assuring those jurors of the Court’s concerns for their safety, informing those jurors in summary form of the steps that will be taken to protect them while serving as jurors.
- The Summons Packet will contain a questionnaire asking for the jurors’ contact information (name, address, cell phone number, and email), other questions designed to reduce the time required by jury selection, and a series of questions to determine whether they are in a category of persons identified by the CDC as being at an increased risk for severe illness from COVID-19.
- Jurors will be sent an Excusal Request Form that temporarily waives the requirement that it be notarized before submission.

### **Courthouse Physical Space Preparation at 100 Burkhalter Avenue, Buena Vista, Georgia**

- In addition to the on-going extra-ordinary sanitizing and cleaning of the interior space of the old Middle School prior to the arrival of summoned jurors, those areas that jurors will come in contact with, will be sanitized and cleaned adequately. Marion County facilities maintenance personnel will utilize a fogger to clean and sanitize the courtroom area, the jury assembly areas, bathrooms, and any other areas jurors may go during trial or hearings.

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<sup>2</sup> The auditorium measures 30 feet wide by 70 feet long. The auditorium stage is 30 feet wide and 20 feet long. This is total square footage of 2,700.

<sup>3</sup> The cafeteria is 30 feet by 50 feet. This is total square footage of 1,500.

It has been represented that this fogger gives a clean surface for 21 days. Nevertheless, the judge can order additional cleanings if the judge orders or a if a juror requests it. These foggers are used also by teachers in this area.

- HVAC and air handling components – The old Middle School HVAC system will be monitored by facilities maintenance and provided with new filters that will be installed within 24 hours of the arrival of summoned jurors. The filters will be checked and changed regularly based on current recommended intervals. Also, the judge can order a change of filters at any time.
- Automatic Hand Sanitization Stations – Automatic no touch hand sanitizer dispensers are available prior to and after security check-in. Therefore, two gravity and automatic dispensers will be available before a juror goes through security, and a second dispenser at the end of the security check-in.
- Protocols for Masks and Face Coverings – All entrants to the buildings are required to wear masks or other face coverings to enter the courthouse. Masks and face coverings must remain in proper position over nose and mouth, unless instructed by the judge to remove them. Any person that arrives without a mask will be provided one at the checkpoint. Any visitor that refuses to wear a mask will be prohibited from entering the courthouse. Signs outside the courthouse will inform entrants of mask and face covering requirements.
- Protocols for Social Distancing – Outside and inside the buildings, signs and notices are posted in prominent places to remind visitors to socially distance. Proper socially distanced seating will be clearly delineated.

### **Security at Check-In**

On the morning of service and each day thereafter for the length of the jury trial, jurors will report to the JPAA and will encounter the following safety precautions:

- Controlled check-in – Because of the potential bottlenecks and long lines at security and check-in, juror summons will include staggered report times. Jurors reporting before their summoned time will not be checked in and directed to wait outside until their report time arrives.
- Health Screenings. Everyone entering the courthouse is screened for illness and COVID-19 exposure and will sign in with their name, address, and phone number for the purpose of contact tracing.
- If any prospective juror reports having been diagnosed with COVID-19 in the previous 14 days, or in contact over the previous 14 days with someone who has been diagnosed with COVID-19, or that they are concerned they may have been exposed or infected, they will not be permitted to enter and will be instructed to report to an area designated for isolation and the trial judge and the Superior Court Clerk will be immediately notified to consider releasing the prospective juror from service.
- If any prospective juror reports having experienced a persistent cough, difficulty breathing or fever above 100.4 degrees within the previous three days, they will not be permitted to enter and will be instructed to report to an area designated for isolation and the trial judge and the Superior Court Clerk will be immediately notified to consider releasing the prospective juror from service.

Sheriff Deputies will take the temperature of each entrant with a no-touch thermometer.

- Social Distancing – The Jury Pool Assembly Areas (JPAA) have been set up with chairs properly social distanced. The auditorium of the old Middle School will be the Jury Pool Assembly Area.  
The Auditorium can hold 46 persons properly social distanced.  
Up to 27 overflow jurors if needed will be seated in the County Commission Meeting Room (cafeteria).  
There will be a total of 73 prospective jurors seats available.
- Physical Barriers – The staff of the Superior Court Clerk and the Marion County Sheriff's Office will check in prospective jurors in the JPAA and jurors the courthouse, keeping distance in 6 ft and wearing masks or face coverings.
- Badges – Jurors will proceed to the table outside the jury room to pick up their juror badge off the table instead of staff handing it to them. The badges will be placed in single rows across the table.
- Overflow seating – In the event that there are overflow jurors, they will be directed to go to the County Commissioner's Meeting Room (formerly the cafeteria) where 27 persons can be seated in a social distanced manner. Streaming will be accomplished so that jurors can participate in each venue if needed. If necessary, there are classrooms available. Each classroom is approximately 30 feet x 20 feet, and the rooms were vacant when visited.
- Clear Masks/Face shields – Court personnel will use transparent face shields or clear masks to accommodate hearing-impaired or language-challenged jurors.
- Nightly Deep Cleaning – Building Maintenance will sanitize the JAA and other publicly used areas each evening.
- Judges and the law clerk(s) and the judicial assistants and, attorneys (defense attorneys and district attorneys, and their support staff) shall be health screened each day of the jury trial as they enter.
- Any prospective juror who has been diagnosed with Covid-19, or the prospective juror is concerned that the prospective juror has been exposed or infected or is symptomatic shall remain in their personal car and beep the horn and flash their car lights to alert the deputies to come to the car. Any such prospective juror shall remain in their car until the judge can rule on releasing said juror.

### **Excusals and/or Deferrals**

Prior to jurors reporting on the date of their service, the court and Clerk's office will work cooperatively to determine whether any prospective juror should be excused or have their service deferred due to medical concerns. Any deferral or excusal will be solely at the discretion of and upon approval of the assigned judge and/or the Superior Court Clerk.

The Summons Packet to be mailed to the prospective jurors will instruct prospective jurors to call a phone number if they have COVID-19 related questions and/or are seeking an excusal for COVID-19 related reasons. They will also instruct prospective jurors that to be considered for a deferral or excusal, the form must be returned 10 days prior to their date of service.

The Marion County Superior Court Clerk's Office will receive phone calls, answer any questions, and vet any request before sending the person's contact information to the assigned judge's office.

Staff will be available by phone on the day of the reporting as well, so that prospective jurors who wake up feeling ill can receive instructions before coming to the courthouse.

## Impaneling Process

- The Clerk will summon \_\_\_\_\_ prospective jurors to make up the jury pool. The objective is to qualify \_\_\_\_\_jurors.
- Expected reporting percentages are unknown at this time, but the reporting times below will allow for an orderly check-in of a traditional 33.33% response rate.
  - 8:30am – Jurors 1-50
  - 9:00am – Jurors 51-100
  - 9:30pm – Jurors 101-120 (subject to call-in)
- Seating of the jury pool
  - The first 46 jurors will be seated in the auditorium and the next 27 in the Commissioners’ Meeting Room, formerly the school cafeteria.
  - An excess overflow will be seated in two nearby classrooms. Social Distancing will be observed. The classrooms are 30 feet by approximately 20 feet.
- Morning Check-In
  - After all jurors of the jury pool are checked-in, The Jury Manager will notify the assigned judge to come to the Superior Court Courtroom (Auditorium) and then to the Commissioner’s Meeting Room (formerly cafeteria).
  - Non-qualified jurors will be excused, and their service concluded.
  - Remaining jurors will be sworn in and given further instruction from the Superior Court Clerk regarding when and where to report.
- Seating
  - The first twelve jurors and alternates will be seated in the Superior Court Courtroom (Auditorium). The first row will not be used.
  - The room or area will be laid out in courtroom fashion. There will be a bench for the judge, tables for the participants of the trial and seating for the panel. All will follow CDC guidelines.
- An appropriate number of Deputy Sheriffs and bailiffs will provide support in all the procedures outlined.

## Jury Selection

- Jury Selection (voir dire) will take place in Superior Court courtroom/ Auditorium. However, procedures may be modified by the Judge and the clerk’s office, with appropriate communication to the jurors.
  - OCGA § 15-12-131 requires that the court place a panel of 12 in the jury box “upon the request of either party.” The jury box, under this plan, will be the area in front of the raised stage in the Auditorium. Again the first row will be empty. The 12 jurors in the “box” will be socially distanced.
  - During individual voir dire, the remaining perspective jurors will be assembled in the Commissioners meeting room, formerly the cafeteria or other room where they can socially distance while waiting to be called.
- Once all prospective jurors have been questioned, the attorneys will strike the jury **without** bringing the prospective jurors back in the auditorium.
- Jurors selected will be seated in the “jury box” and given further instructions for service.

## **Courtroom Layout**

The area in front of the stage in the Auditorium will be converted into the jury box, and jurors placed at seats marked every 6 feet circumference to comply with social distancing requirements. No jurors will be placed in the first row.

- The Judge's Bench will be in the middle of the Auditorium stage.  
A separate table for the prosecutor will be to the right of the judge, and the defense table will be to the left of the Judge's Bench.  
Court Personnel will be stationed in accordance with CDC guidelines.
- The court reporter will be in an area of the court that allows the court reporter to see and hear any participant of the trial that is speaking.
- Witnesses will be seated in front of the Judge's Bench, or any other place the court feels necessary for the jury and participants to be able to see and hear the witness without impediment.
- Witnesses will be positioned such that counsel, the parties, and Jurors will be able to see and hear the witness. Jurors will be instructed to let the Judge know if they are having any difficulty hearing or seeing.
- Attorneys will be asked to speak so that everyone in the courtroom is able to hear the proceedings. If available, participants will use wireless or wired microphones.

## **TRIAL**

### **General Protocols**

The assigned trial judge will conduct proceedings in accordance with all constitutional and statutory requirements, seeking to ensure a fair and impartial trial while doing so within the confines of public health guidelines.

- Masks are generally required.
  - Judges, court staff, bailiffs, lawyers, and jurors will all wear masks during the trial unless otherwise instructed by the judge.
  - At the sole discretion and judgment of the presiding Judge; trial participants, attorneys, and jurors may be permitted to remove their masks while speaking.
  - Witnesses will testify while wearing a clear face mask.
- Due to difficulties guiding the jurors throughout the courthouse, it is anticipated that trials will necessitate the use of more than the usual number of bailiffs.
  - Bailiffs will meet the jurors just past security, at the designated time, and escort them to the courtroom.
- The judge shall provide jurors with a point of contact if potentially exposed to COVID-19 or experiencing symptoms of COVID-19. They should not be required to report.
- Any juror who does not pass the temperature check or COVID screening questions will be brought to the Judge's attention immediate



## **Presentation and Handling of Evidence**

Courtroom evidence should be displayed to the jurors in a digital format whenever possible, making use of appropriately sized television monitors or other media to be able to be seen by participants.

- Witnesses will testify wearing a clear face mask provided to them by the court.
- The lectern will be easily moved in the event trial participants are unable to see and hear. Attorneys will be asked to display PDFs, digital photos, and PowerPoint presentations on television monitors mounted in the courtroom. A document camera should also be used display images of any paper document evidence.
- There will be certain items that cannot be displayed in a digital format and the attorneys will be directed to seek guidance from the Court.
- Attorneys will present their case from the lectern and seek permission from the Court before moving freely about the courtroom. Otherwise, they will remain at counsel table and the lectern.
- Attorneys will be provided wipes and will be responsible for wiping down the lectern, and anything else they touched, before returning to their table. They will also be asked to wipe down their table at the end of the day.

## **Jury Deliberation Room**

- A classroom within the old Middle School will be designated the Jury Deliberation Room.
- The classroom will be furnished with twelve (12) chairs and tables that will allow the seating of the jurors. The classroom is approximately 20 feet x 31 feet. If necessary an alternate room for the jury would be the Commissioners' room (cafeteria).
- The bailiff will have a supply table with extra disposable masks, hand sanitizer, paper towels, gloves, tissues, juror pads and pencils, bottled water, and disinfecting spray. Jurors should keep up with their own items, so as to prevent sharing.
- Jurors will be assigned a seat by the bailiffs and should use the same seating area for the duration of the trial.
- Jurors will be permitted to leave at lunchtime and return, or the judge may decide to bring in meals for the Jurors. Jurors will be permitted to bring in their own food, however there will be no community refrigerator available.
- Jurors with dietary restrictions, or who prefer to bring their own food, should do so in a personal size cooler bag which will remain in the jury room.
- Jurors will abide by social distancing guidelines when consuming food.
- Bailiffs will be stationed outside of each door to the jury room and shall keep the area secure. Bailiffs will escort jurors to the closest restrooms.
- Jury rooms will be cleaned and disinfected nightly.

## **Public Viewing Rooms and/or separate Teacher's Rooms for consultation with victim families, etc. and defendant's families, etc.**

The Auditorium/Courtroom can appropriately accommodate socially distanced public spectators. In the event social distancing is not possible, separate classrooms will be set up to accommodate overflow public viewing as well as the trial participants family and friends.

- A closed-circuit video stream will be set up so that a camera will be aimed at the well of the courtroom.
- The stream will be displayed in rooms to be identified, where members of the public can sit and view the trial.
- Seating in the viewing rooms will be clearly marked 6 feet apart, unless attendees are from the same household. All persons in the room must keep their masks on at all times. A deputy will be stationed in the viewing rooms.



# A SAFE JURY DUTY EXPERIENCE... IS OUR TOP PRIORITY.

- **Health Measures at the Marion County Courthouse**

The Chattahoochee Judicial Circuit is dedicated to protecting your health and the health of our employees, visitors, and community. As we begin to resume jury proceedings, our commitment to fighting the spread of COVID-19 has not changed. We are adhering to public health guidelines, modifying check in procedures, reconfiguring courtrooms, and educating you, a prospective juror, about the measures taken. Thank you for your commitment to our community and county.

*We thank you for your service and look forward to having you at the Marion County Courthouse!*

**HAVE COVID-19 QUESTIONS?**

Please don't hesitate to contact us! 229- 649-7321 or Joy.Smith@GSCCCA.org

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## What We're Doing:

Health Screenings

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Face Coverings

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Social Distancing

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Cleaning

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Disinfecting

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Staggered Report Times

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Smaller Jury Pools

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## COVID-19 Juror Questionnaire

Name:	
Phone:	
Email:	
1. Are you over the age of 65?	
2. Do you have any serious underlying medical conditions such as high blood pressure, chronic lung disease, diabetes, severe obesity, severe asthma, severe heart disease, or cancer?	
3. Are you or have you recently undergone chemotherapy or another medical treatment that has caused your immune system to be compromised?	
4. Do you live with or care for someone considered to be at an increased risk of severe illness from COVID-19? Anyone who would answer “yes” to questions 1-3 above might be at increased risk.	
5. Are you requesting to defer your jury service to a later date because of answering “yes” to any of the above questions?	

Additionally, on the day of service, you will be screened at the courthouse entrance and asked the following questions:

1. Have you been diagnosed with COVID-19, or been in contact over the last 14 days with anyone who has been diagnosed with COVID-19, or been concerned for any reason that you may have been exposed or infected with COVID-19?
2. Are you currently experiencing any cough, difficulty breathing, or fever above 100.4 degrees, or have you experienced any such symptoms in the last three days?

If your answer is yes to either question *on the day of your service*, you should call the Clerk of Courts office immediately to request a deferral. Failing to appear without justifiable cause may place you in contempt of court.

Questions?

Call the Marion County Superior Court Clerk’s Office at 229-649-7321.

# NOTES