

IN THE SUPERIOR COURT FOR  
THE LOOKOUT MOUNTAIN JUDICIAL CIRCUIT

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Chattooga County, Georgia

STATE OF GEORGIA

JAN 29 2021

FIFTH ORDER DECLARING A JUDICIAL EMERGENCY IN THE  
LOOKOUT MOUNTAIN JUDICIAL CIRCUIT *Keri W. Smith Jones, Clerk*

On December 21, 2020, this Court entered a Fourth Order Declaring a Judicial Emergency in the Lookout Mountain Judicial Circuit set to expire on January 31, 2021. COVID-19 cases, illnesses, and hospitalizations continue to surge in the four counties of the Lookout Mountain Judicial Circuit (Catoosa, Chattooga, Dade, and Walker Counties). Therefore, this Court hereby extends that prior Order for an additional period of time beginning January 31, 2021, and extending through February 28, 2021. This authority is granted pursuant to O.C.G.A. § 38-3-61 and O.C.G.A. § 38-6-32, and re-affirmed in the Orders of the Supreme Court of Georgia of July 12, 2020, and November 9, 2020.

Each court of the circuit shall only hold in-person hearings on those matters deemed essential by the Presiding Judge. All other matters shall be conducted remotely by Zoom, WebEx, or other format selected by the Presiding Judge. Judge Graham presides in Chattooga County, Judge Van Pelt in Catoosa County, Judge House in Dade County, and Judge Thompson in Walker County, unless a particular judge has been specifically assigned otherwise. Furthermore, all attorneys, staff and court personnel are encouraged to work remotely whenever possible.

Any person seeking to set a hearing in a civil case (on a circuit day or by special setting) must do so by contacting the office of the Presiding Judge in advance and obtaining a time and date certain for the hearing and a determination from the Judge if that hearing will be conducted

in person or by virtual means.

Criminal matters shall be heard as currently scheduled. The office of the District Attorney shall communicate with the office of the Presiding Judge to determine if matters will be conducted in person or by virtual means.

The Third Order Declaring a Judicial Emergency in the Lookout Mountain Judicial Circuit suspended all Grand Jury proceedings in order to address certain issues regarding COVID-19 protocols and to better insure the public health concerns of all persons involved in those proceedings. The Fourth Order Declaring a Judicial Emergency in the Lookout Mountain Judicial Circuit re-instates Grand Jury proceedings on a limited basis in the Lookout Mountain Judicial Circuit subject to strict compliance with the recommended best practices for selection of new Grand Juries and for conducting in-person Grand Jury proceedings issued on September 10, 2020 in a document entitled Guidance for Resuming In-Person Grand Jury Proceedings by the Judicial COVID-19 Task Force, a copy of which is attached to this Order as Exhibit A.

This Court hereby expands the use of Grand Jury proceedings provided that strict compliance with those practices and procedures be adhered to set forth in the prior Order of the Court.

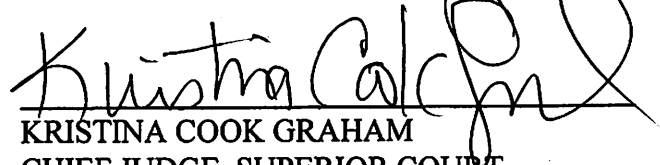
Grand Jury proceedings may continue in all four counties and a new Grand Jury may be selected in Catoosa and Chattooga Counties as currently scheduled.

This Court hereby instructs and Orders all members of the office of the District Attorney of the Lookout Mountain Judicial Circuit and all members of the Sheriff's offices of Catoosa, Chattooga, Dade, and Walker Counties to strictly enforce all mandates of this Order and all recommendations of best practices contained in the Guidance for Resuming In-Person Grand Jury Proceedings promulgated by the Judicial COVID-19 Task Force (Exhibit A)

Our Courts shall remain open and available to our citizens in compliance with public health guidelines

This Order may be extended if the Court deems necessary.

SO ORDERED THIS 29 DAY OF January, 2020. 1

  
KRISTINA COOK GRAHAM  
CHIEF JUDGE, SUPERIOR COURT  
LOOKOUT MOUNTAIN JUDICIAL CIRCUIT

## **SELECTION OF NEW GRAND JURIES**

### **Best Practices for In-Person Grand Juries**

1. Courts should prepare a special grand jury questionnaire that requests additional information not generally included on a standard questionnaire including, among other things, a cell phone number and email address for the potential juror, and whether the potential juror is a "vulnerable person" as defined by the Centers for Disease Control and Prevention and the Georgia Department of Public Health. Where virtual participation is considered as a potential option, the questionnaire should also ask whether the potential juror has access to a desktop, laptop, tablet, or other smart device with internet access; whether the potential juror has access to reliable high speed internet; whether the juror has other individuals in their home or office during the times the grand jury will be meeting; and whether the grand juror has experience with the video conferencing platform that would be utilized for the grand jury proceedings.

2. When summoning a new grand jury, the Clerk of Superior court should increase the number of people summoned for grand jury duty as more hardship requests are to be expected due to health, child care, and economic concerns. The summons should be mailed as soon as the Chief Judge of the Superior Court authorizes the resumption of grand jury proceedings in a county and preferably well in advance of the 25 days allowed by O.C.G.A. § 15-12-65.1.

3. Potential jurors should be provided a contact number for the court and instructed to call within 48 hours in advance of the appearance date to determine when and if the juror should appear and to confirm that the juror is not experiencing any symptoms of and has no known exposure to COVID-19.

4. Arrival times for potential jurors should be staggered, with no more than 12 potential jurors in the grand jury room at a time. The selection should take place in a room large enough for potential jurors and court staff to maintain social distancing of at least six feet. All persons should wear a mask or other face covering over their noses and mouths throughout the process. Where existing grand jury rooms will not allow for such spacing, the court should consider other locations in the courthouse and other county buildings where distancing requirements can be met. If there is a need to move from the courthouse to another location, the Chief Judge of the Superior Court should issue a declaration of judicial emergency under O.C.G.A. § 38-3-61 providing that the potential jurors' access to the courthouse is impractical and designating an appropriate alternative facility.

5. In order to ensure a quorum in the event that certain members become infected by COVID-19 or become otherwise unable to serve, courts should select 23 grand jurors and three alternates as provided by O.C.G.A. § 15-12-61.

6. Courts should consider utilizing concurrent grand juries pursuant to O.C.G.A. § 15-12-63. This will allow the grand juries to meet more frequently without further hardship to grand jurors who are working or acting as care givers and allow a more expedient resolution of any backlogs caused by the judicial emergency. Furthermore, if a member of one of the grand juries should test positive for COVID-19 and that grand jury is required to stop meeting for a period of time, the concurrent grand jury would be able to continue meeting.

### **Best Practices for Conducting In-Person Grand Jury Proceedings**

1. All members of the grand jury, the prosecuting attorney, and witnesses should maintain social distancing of at least six feet. Where existing grand jury rooms will not allow for such spacing, the court should consider other locations in the courthouse and other county buildings where the distancing requirements can be met while maintaining the secrecy required of grand jury proceedings. If there is a need to move from the courthouse to another location, the Chief Judge of the Superior Court should issue a declaration of emergency under O.C.G.A. § 38-3-61 providing that the grand jury's access to the courthouse is impractical and designating an appropriate alternative facility.

2. Due to the intimate nature of grand jury presentations and deliberations, each grand juror, witness, and prosecuting attorney should wear a mask or other face covering at all times while the grand jury is meeting. Witnesses should wear face shields so the grand jurors can better evaluate demeanor.

3. Any food or beverages provided to grand jurors should be individually packaged, and courts should consider loosening restrictions on grand jurors bringing in their own snacks and drinks.

4. Have a supply of single-use notebooks and writing instruments on hand, or have jurors bring their own.

5. Witnesses should be scheduled to arrive at staggered times to discourage waiting together with others in a witness room where social distancing would be difficult to maintain. Witnesses should be required to leave upon the completion of their testimony and avoid congregating in hallways or other public areas.

6. District Attorneys or their designated staff should educate law enforcement and other witnesses prior to the grand jury meeting about staggered arrival times and the need to be on time for their presentations to the grand jury.

7. If a witness arrives late, the witness should provide a cell phone number to a designated member of the District Attorney's office and should wait outside the courthouse or other facility until called to testify.

8. When showing evidence, technology should be utilized, if possible, to avoid passing

evidence between the grand jurors. When evidence must be passed between the grand jurors, gloves and hand sanitizer should be made available and utilized.

### **Other Responsibilities of Grand Juries**

The grand jury has other statutory responsibilities in addition to considering indictments in criminal matters.

Grand juries are required to inspect the offices of the Clerk of Superior Court, District Attorney, Probate Court, and Tax Commissioner once every three years. O.C.G.A. § 15-12-71. If no inspection is required in 2020, grand juries are encouraged to allow their successors to conduct those inspections in the next calendar year. If an inspection is required during this calendar year, the grand jury should, if possible, utilize technology to conduct the inspection. If the inspection must be conducted in-person, public health guidance should be followed, including face coverings and social distancing.

Grand juries are required to inspect the county jail every year. O.C.G.A. §§ 15-12-71, 15-12-78. If the grand jury did not inspect the county jail prior to the judicial emergency, technology should be utilized to complete the inspection, if possible. If the inspection must be conducted in-person, all guidelines of the CDC and Georgia Department of Public Health should be followed, including face coverings and social distancing.

Grand juries are permitted, when necessary, to inspect or investigate any county office or building. See O.C.G.A. § 15-12-71. If a grand jury determines that such an inspection or investigation is required, the grand jury should, if possible, utilize technology to conduct the inspection. If the inspection must be conducted in-person, public health guidance should be followed, including face coverings and social distancing.