

In the Indiana Supreme Court

In the Matter of the Petition of the Courts of
Marshall County for Administrative Rule 17
Emergency Relief

Supreme Court Case No.
20S-CB-146

Order Approving Expansion of Operations Plan

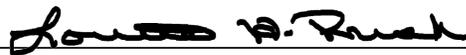
By orders issued April 24 and May 13, 2020, this Court ordered trial courts statewide to submit plans for gradually resuming normal operations under limitations appropriate to the 2019 novel coronavirus (COVID-19) public health emergency. Pursuant to that order, the petitioning court(s) filed an amended expansion of operations plan (“Plan”) on June 12, 2020.

The Court finds that the Plan was made in coordination with appropriate local authorities and local justice system partners to account for local health conditions, facility readiness, and litigants’ needs; and that the Plan makes reasonable provisions for resuming normal staffing, providing public access to non-confidential proceedings, and resuming jury trials. A copy of the Plan is attached to this order and incorporated by reference.

Being duly advised, and pursuant to Indiana Administrative Rule 17 and this Court’s inherent authority to supervise the administration of all courts of this State, the Court ORDERS as follows:

1. All emergency relief previously granted to the petitioning court(s) under Administrative Rule 17 is deemed to expire as of the effective date of this order, except as provided by this Court’s “Order Extending Trial Courts’ Emergency Tolling Authority and Setting Expiration of Other Emergency Orders” issued May 29, 2020 in Case No. 20S-CB-123. However, this Court’s May 13, 2020 “Emergency Order Permitting Expanded Remote Hearings” and paragraph 3 of its May 13 “Order Extending Time for Expanding Trial Court Operations” in Case No. 20S-CB-123 (prohibiting jury trials before July 1 without prior approval of this Court) remain in full force and effect.
2. The Plan is approved, and the petitioning court(s) shall comply with its terms through its stated duration, subject to further order of this Court.

Done at Indianapolis, Indiana, on 6/15/2020 , **effective May 22, 2020.**



Loretta H. Rush
Chief Justice of Indiana

MARSHALL COUNTY
COURT HOUSE TRANSITION PLAN FOR EXPANDED INTRODUCTION.

INTRODUCTION. Pursuant to an Order of the Indiana Supreme Court dated April 24, 2020 under Supreme Court Case no. 20S-CB-123, the Courts of Marshall County, Indiana adopt the following as its Transition Plan for Expanded Operations. However, the Courts recognize that the COVID-19 pandemic is a fluid set of circumstances that will, from time to time, require modification of this plan. This is simply a plan and is intended to provide direction to Courthouse staff, attorneys and all other interested parties. Additional standards may become necessary and could be enacted by subsequent Court orders.

PARTIES INVOLVED IN PLAN DEVELOPMENT. A panel was formed to develop this Plan. Rather than “convening” a meeting of the panel, each member of the panel was contacted and submitted recommendations for inclusion in this Plan. After all recommendations were submitted, a draft was circulated amongst the panel for additional input. The following standards were approved by all members of the panel. The panel consisted of the following individuals:

- The Honorable Curt D. Palmer, Judge, Marshall Circuit Court
- The Honorable Dean A. Colvin, Judge, Marshall Superior Court No. 2
- The Honorable Robert O. Bowen, Judge, Marshall Superior Court No. 1
- Deb VanDeMark, Clerk, Marshall Circuit Court
- E. Nelson Chipman, Prosecuting Attorney, Marshall County
- Matthew Hassel, Sheriff, Marshall County
- Sean Surrisi, Attorney, President of Marshall County Bar Association
- June E. Bules, Attorney, Public Defender
- Clyde Avery, Emergency Management Agency, Marshall County
- Ashley Garcia, Administrator, Marshall County Health Department

Although a meeting with all participants may not be held on a regular basis, regular contact between the members of the panel will be maintained and further initiatives may be implemented should the need, as determined by the panel or by Order of the Indiana Supreme Court, be apparent.

1. EMPLOYMENT PROCEDURES.

A. Remote work may continue where feasible throughout the pandemic, unless otherwise directed by the Court.

B. Employee Screening. Employees who have had recent contact with someone who has COVID-19 shall not return to work until after a period of self-quarantine and remaining symptom free for fourteen (14) days.

- C. Employees are required to monitor their health and shall not report to work if, in the prior three (3) days, they have experienced: Fever of 100.4 or greater; chills; muscle and body aches; headache; sore throat; cough; chest tightness, or shortness of breath; or any new loss of taste or smell. If onset of symptoms occurs at work, employees shall report and go home.
- D. Employees must report if anyone living in their household has tested positive for COVID-19 within the last 14 days.
- E. The Court may require the use of a rotating schedule to minimize the number of staff in the office at any one time.
- F. Employees may be required to wear masks when interacting with visitors, staff, attorneys and members of the public.
- G. Employees are required, when feasible, to maintain a distance of at least six (6) feet from others.
- H. Employees are required to practice a frequent schedule of hygiene, including hand washing with soap and water, or using an alcohol-based sanitizer; avoid touching the face; sneezing or coughing into a tissue or the arm; and frequent disinfection of used items and surfaces.
- I. Equipment should not be shared unless unavoidable. Equipment shall be disinfected after use. Common break areas shall not be used by more than one individual at a time, unless social distancing is maintained and facial coverings are used. All surfaces must be disinfected after each use.
- J. Judges, court, clerk and security staff as well as members of the public with a fever of 100.4 degrees or higher are not to come into the courthouse.
- K. Judges, court, clerk and security staff as well as members of the public who have trouble breathing or a dry, unproductive cough, are not to come into the courthouse.
- L. Judges, court, clerk and security staff as well as members of the public who have tested positive for COVID-19 are not to come into the courthouse until medically cleared.
- M. Judges, court, clerk and security staff as well as members of the public who have had contact with anyone who has tested positive for COVID-19 are not to come into the courthouse until after 14 days of isolation with no additional contact.

II. SCREENING PROCEDURES FOR THE PUBLIC

- A. Screening of persons entering the courtroom and probation and court offices shall continue until further order of Court. Temperatures may be taken and screening questions may be asked before admittance to the courtroom and probation and court offices will be allowed. Those

having a temperature or otherwise showing symptoms of the coronavirus will not be allowed admittance. Those not allowed in will be given appropriate clerk or court contact information.

B. All screening shall be conducted under the guidance of the Marshall County Health Department.

C. All individuals entering the courthouse must wear facial protection. If an individual does not have facial protection, a mask will be provided so long as they are available. If none are available and the individual has no facial protection, they will be denied admittance to the building and the appropriate court will be so notified. Upon leaving the security checkpoint, the individual will be required to use the provided hand sanitizer and shall continue wearing the mask where social distancing cannot be maintained.

III. COURTHOUSE FACILITY PLAN

A. The Marshall County Courthouse has adequate facilities and spacing to provide for social distancing. No alternate venues are needed or contemplated.

B. Entrance to the court house is only through the main entrance. All other access points will be locked at all times. The court house has a foyer inside the main entrance. The foyer separates the outside door and the inside door allowing access to the court house. The inside door will be locked at all times and public access inside will be controlled by security personnel.

- Security personnel are to wear masks or other facial covering and gloves when admitting the public to the Courthouse. In addition, hand sanitizers should be used and the public areas should be disinfected routinely.
- Only three (3) persons at a time are allowed inside the building at the security check point.
- Only three (3) persons at a time will be allowed in the foyer. Those individuals shall maintain appropriate social distancing.
- Outside the main entrance, two lines will be designated as holding areas. One to the east and one to the west. Cones will be set six (6) feet apart. An individual awaiting entrance to the building must stand at each cone until allowed into the foyer.
- All individuals entering the courthouse must wear facial protection. If an individual does not have facial protection, a mask will be provided so long as they are available. If none are available and the individual has no facial protection, they will be denied admittance to the building and the appropriate court will be so notified. Upon leaving the security checkpoint, the individual will be required to use the provided hand sanitizer and shall continue wearing the mask where social distancing cannot be maintained.
- The hallway inside the checkpoint and in front of the Clerk's office shall be marked for appropriate social distancing while waiting to enter the Clerk's Office.
- In the foyer, forms will be located. If filing a form, those forms must be completed prior to entrance into the courthouse. Fines and costs, traffic tickets and child support

payments can be placed in the night deposit box located outside of the building. Receipts will be mailed if one is requested.

C. Social distancing shall be practiced at all times. Facial covering shall be worn by all within the court house where social distancing cannot be maintained. All precautions shall be taken to ensure staff, litigants, witnesses and attorneys adhere to social distancing including such measures as: replacing benches in waiting areas with chairs appropriately spaced or sectioning off seating areas if benches remain in place; signage; partitions at counters where appropriate to separate staff and public; any other measure to promote social distancing.

D. Subject to availability, Personal Protection Equipment shall be utilized by the public at all times. Staff and attorneys shall wear Personal Protection Equipment where social distancing cannot be maintained.

E. Cleaning and disinfecting all areas in contact with the public shall occur after contact by a non-staff member. Hand sanitizer dispensers shall be available at various locations around the courthouse, including at the entry and exits from the building and courtroom.

F. The safeguards recommended by the OSHA bulletin “Guidance on Preparing Workplaces for COVID-19”, shall be followed to the extent feasible.

G. The directives of the Marshall County Health Department regarding cleaning, distancing and the use of PPE shall be followed at all times.

H. The directives and safeguards mandated by the Governor of Indiana and the Indiana Supreme Court shall be followed at all times.

IV. RESUMING NON-EMERGENCY HEARINGS

A. Hearings on non-emergency matters have resumed subject to the restrictions noted in this Plan.

B. Hearing times shall be spaced in a manner so as to minimize the number of individuals waiting in the hallway for their hearing to begin. In addition, the number of hearings set for one day may be limited.

C. Appearances at any “in person” hearing is limited to the attorneys, the parties and essential witnesses. Any witness waiting to testify shall remain outside the Courtroom and respect all social distancing guidelines. Seating at six (6) foot intervals is marked in each hallway and inside each court room. When live hearings must be held, attorneys, parties and witnesses must arrive timely and depart promptly upon conclusion. Admission into the Courtroom is strictly controlled by the Bailiff. All in attendance shall adhere to facial covering and social distancing requirements.

D. So long as AR 14 and AR 17 allow, video hearings through ZOOM and live streaming on YouTube are to be used where feasible. Such hearings shall occur in the court room or other location where a record of the proceedings can be maintained.

E. “Summary” hearings may be conducted upon request and with the consent of all parties. A summary hearing proceeds as follows: Each party submits an affidavit; each party is allowed one week to file a response affidavit; attorneys only appear in person, by video or by telephone for argument.

F. Criminal hearings for incarcerated individuals shall occur by video.

G. Criminal hearings for non-incarcerated individuals shall occur in person. However, a written plea agreement may be submitted and approved by the Court without a formal hearing if: an appropriate and detailed waiver of rights is attached to the plea agreement; the sentence does not call for any additional period of incarceration; the crime pled to is a misdemeanor or low level felony and is not a qualifying offense under the habitual traffic violator laws.

H. Should the backlog for any Court cause significant delays in obtaining a timely hearing, a Senior Judge may be requested and utilize the “spare” Courtroom. The “spare” Courtroom shall comply with all the requirements in place for the other Courtrooms in use.

V. JURY TRIALS

A. Jury trials shall not resume before August 1, 2020 unless ordered otherwise by the Indiana Supreme Court. Priority shall be given to those individuals incarcerated the longest or have filed for an early trial. The earliest trial setting available will be established; but congestion of the Court’s trial calendar prevents the Courts from establishing trial dates within certain time frames. Further tolling of time limits by the Supreme Court is requested.

B. Automatic deferrals shall be granted for essential workers; jurors with vulnerable health conditions, or those living with individuals who are vulnerable; jurors who have been exposed to COVID-19 and who have not been in quarantine and symptom free for the fourteen (14) days prior to jury service; jurors who are just returning to work after having been furloughed; jurors exhibiting symptoms occurring upon reporting or after jury is impaneled.

C. Information and instructions regarding the safety measures in-place at the Courthouse will be provided to the jurors prior to them reporting for jury duty.

D. If it is determined, after the call for a jury has commenced, that prospective jurors are reluctant to attend due to the COVID-19 pandemic, they are an essential health care worker or they have just been called back to work, the Court, in its discretion, may continue the jury trial.

E. The Courts are large enough to accommodate a jury with proper social distancing and modified seating arrangements. All social distancing requirements shall be enforced. Voir Dire may occur in multiple stages and the jury box will be expanded to accommodate social

distancing. Those appearing for jury duty but not called to the jury box for purposes of Voir Dire may be held in a “staging area” with proper social distancing if seating with proper social distancing is not available in the court room.

F. Jury trials shall be conducted in the courtroom with the jurors, attorneys and witnesses maintaining a safe social distance. In limited spaces, this may require that few, or no, members of the public will be allowed to attend. If necessary, non-confidential portions of trials will be live streamed to the public with any and all recording of the same being forbidden.

G. All exhibits admitted into evidence shall be displayed electronically. No paper copies shall be distributed to or passed among jurors.

H. During recesses and deliberations, the jury shall be escorted to the “spare” Courtroom. The bailiff shall designate seating for each juror that is properly social distanced.

I. Jurors remain in the designated “holding area” at all recesses and breaks during the day. Meals will be provided through delivery by local restaurants to the security desk at the Courthouse entrance. Court staff and security will then deliver the meals to the jurors.

VI. COURT SUPERVISED SERVICES.

A. Pre-trial Release. The Marshall County Probation Department conducts all pre-trial release investigations and makes recommendations to the Court. Since the beginning of this pandemic, rather than meet with a non-violent offender at the Marshall County Jail the morning after their incarceration, the jail staff provides the inmate with a questionnaire. Upon completion of that questionnaire, it is e-mailed or faxed to the Probation Department who then submits a written report to the Court by noon of that same day. If follow-up is needed, a telephone conference with the inmate is conducted. This procedure will be continued until social distancing is no longer required or the Marshall County Sheriff determines that the Probation Officer may safely enter the facility.

B. Marshall County Community Corrections. Marshall County Community Corrections supervises individuals placed on the Pre-Trial Release Program and those serving an alternative sentence. They currently maintain contact with each client by telephone or in writing. Home visits have been curtailed. If it is necessary for a face-to-face meeting with a client, proper social distancing and facial covering is required. This procedure will continue until such time as social distancing is not required by the Marshall County Health Department or by Order of the Indiana Supreme Court.

C. Post-Conviction Non-Violent Offenders. The Marshall County Prosecutor’s Office has reviewed the convictions and records of inmates housed at the Marshall County Jail on non-violent offenses and will continue to do so. Recommendations may be made for approval by the Court for modification of certain sentences. Inmate’s requests made pro-se and by counsel for modification of a sentence are reviewed and determined on a case by case basis. There is no a

policy in place for automatic modification and release of non-violent offenders. All decisions regarding modification of sentence are left to the discretion of the judge unless the sentence was imposed pursuant to the terms of a plea agreement.

VII. MISCELLANEOUS.

A. Staffing. The Courts, Clerk's Office, Marshall County Community Corrections, and Marshall County Probation Department are currently fully staffed.

B. Timetable. Subject to modification as circumstances warrant, the Courts anticipate to be fully open to litigants, attorneys and spectators on or before January 1, 2021. The exact date is impossible to determine and will be based on the local public health data and the recommendations of the Marshall County Health Department.

C. Mail. Communication with the Courts are requested to be done by telephone or e-mail. All filings, except pro-se filings, shall be through an E-Filing service. All written correspondence from inmates at the Marshall County Jail ~~is prohibited~~ shall be faxed or scanned and e-mailed to the Court. ~~However, matters of emergency or which a pro se inmate feels needs to be addressed immediately will be provided to the jail staff and faxed to the Court.~~

D. For any situation not specifically covered by this Transition Plan, the Judge of each court shall exercise his discretion cautiously with all due deference given to the safety and well-being of staff, courthouse personnel, attorneys and the public. It is advisable that the Marshall County Health Department be consulted for direction whenever possible.

E. The Court's pre-existing approved Administrative Rule 17 Petition is extended through August 1, 2020 or a later date if extended by the Indiana Supreme Court.

Approved by the Judges of Marshall County this 11th day of June, 2020.

/s/ Curtis D. Palmer
Curtis D. Palmer, Judge
Marshall Circuit Court

/s/ Robert O. Bowen
Robert O. Bowen, Judge
Marshall Superior Court No. 1

/s/ Dean A. Colvin
Dean A. Colvin, Judge
Marshall Superior Court No. 2