



STATE OF FLORIDA
NINTH JUDICIAL CIRCUIT OF FLORIDA
ELAINE A. BARBOUR, CIRCUIT JUDGE

**TEMPORARY PROCEDURES FOR CRIMINAL DIVISION 16
DUE TO COVID-19 HEALTH CRISIS
UPDATED MARCH 15, 2022**

SECTION I
GENERAL

All criminal divisions operate on a 5 week cycle. 2 weeks of hearings followed by 3 weeks of jury trials. As of this writing, inmates are being transported subject to the Orange County Jail's procedures implementing CDC guidelines. Inmates in quarantine will not be transported. Inmates in restricted movement, may be transported by order. Inmate status changes from day to day. You may check with the court deputies for an update -- failing that the JA. The Court Deputies are the most immediate and knowledgeable source. The Court allows both in person and remote appearances for hearings with prior court approval. Jury trials will be conducted in person unless prior virtual witness arrangements have been made. The Court has clear plastic disposable masks that may be provided to any party or witness. State please have your witnesses place on a clear mask prior to entering the courtroom. Defense please have your client wear a clear plastic mask if identity is at issue or during the testimony of any witness who will be asked to identify the defendant.

Emails: The Court will be communicating with you to provide links and dockets via email. It is your responsibility to keep the court file up-dated as to the proper email designation as this is what will be used. It is your responsibility to immediately open and read all court emails to include the attachments.

In person appearances: PPE equipment and social distancing inside the courthouse as well as the courtroom is optional. The courtroom deputies' instructions are to be followed. Inmates should be seen in the basement holding facility **prior to** being brought to the courtroom.

Remote appearances: The Court will continue to alternate between two (2) main platforms: Cisco and Microsoft Teams. Until further notice, Division 16 will use Microsoft Teams for all pretrial conferences. Any courtroom walk ins will be subject to being taken as the court can fit you in. Unless scheduled otherwise, all other remote appearances are through Cisco.

Cisco: Cisco instructions are on the Ninth Circuit website. Here is the link:

[Cisco](#) Meeting App instructions for this platform may also be found on the Court's [webpage](#). Any Cisco related or AV related issues or questions should be addressed by calling our AV department at 407-836-0522.

The following are the applicable division 16 Cisco links:

Courtroom 7D

<https://join.ocnjcc.net/invited.sf?secret=n8bWi4kbByp0aEBwPGwDpw&id=108219664>

Teams: instructions may be found on the Court's [webpage](#). In advance of any Teams docket, the JA will send out the appropriate invitation link. You will also receive the docket in that email.

The attorney calling a witness or requesting remote appearance of a client is responsible to insure of the proper instruction for proper use of the platform utilized.

Proper Attire and Etiquette: Please wear proper courtroom attire. When able, please shadow your background. Keep your camera on while your case is being addressed. Instruct your clients and witnesses as to proper courtroom attire and etiquette. No one appearing in a bedroom, a bathroom, eating, smoking, driving a car or other distracting and inappropriate settings will be allowed. Anyone not addressing the court, must mute their audio device.

SECTION II **PROCEDURES**

BOND/PTR HEARINGS: If the parties can agree please forward the motion and order to the Judicial Assistant Christine Bratek-Cohen at ctjacb2@ocnjcc.org. There must be some written indication that the parties agree. If so, the Court will review the file and sign the appropriate order in chambers. Please provide the Order in Word format to the JA.

If a hearing is required, the JA will set the date/time. Witnesses may appear remotely or in person. Pursuant to the Florida Constitution and Marys's Law, victims must be notified in advance and given the opportunity to be heard. It is the State's responsibility to properly notify the victim. Pursuant to AOSC 21-17 and its amendments, notaries and other persons qualified to administer an oath in this State may swear a witness remotely provided they can positively identify the witness.

PLEAS: Until further notice, the Court will hear both out of custody and in custody pleas during its regular docket M-F 9 a.m. to 5:00 p.m. All pleas must be coordinated and scheduled through the Judicial Assistant, Christine Bratek-Cohen, email address: ctjacb2@ocnjcc.org If you are asking that the court to also accept a plea on a non-division 16 case, you must notify the judicial assistant at time of scheduling. Pleas to any unscheduled/off docket cases will only be accepted if you have notified the trial clerk in advance of the case being called.

Plea Forms: Written plea forms are required for all pleas. The Defendant must have fully read the form, reviewed it with counsel and signed same **in advance** of appearing in the courtroom. Plea forms may be turned in at time of the plea or may be filed with the Clerk of the Court at least 48 hours in advance of the scheduled plea. Forms may be found on the Ninth Judicial Circuit's website. The link is: [Plea Forms](#)

Scoresheets: The JA will no longer accept emailed copies of scoresheets or plea forms.

EVIDENTIARY HEARINGS: All available evidentiary time slots will be listed in [JACS \(Judicial Automated Calendering System\)](#) You may go to Division 16 webpage to see available times. After coordination of dates/times, you must email the JA, Chrissy, for confirmation of date and time.

It is expected that the litigants will work together to coordinate, set and properly notice the hearings. Parties will receive a confirmation email.

Pursuant to AOSC 21-17 and its amendments, notaries and other persons qualified to administer an oath in this State may swear a witness remotely provided they can positively identify the witness. Please read that order for further information.

NOTE: Notices of Hearing must be prepared, e-filed and e-served. They must include a copy to all parties to include witnesses. It is the responsibility of the attorney calling a witness to provide the video link. The Notice must state in the body thereof that this is a hearing that will be conducted virtually via teleconference communications approved for use by the Ninth Judicial Circuit or an in person hearing.

PROCEDURES FOR PRE-TRIAL CONFERENCES & VOP STATUS HEARINGS:

The State must provide its offer to the defense in writing by email not less than 5 business days in advance of any first time pre-trial conference or VOP status. Defense counsel should advise the State as soon as is known of the Defendant's acceptance or rejection of the offer. The State must advise the defense in writing by email or orally in open court of any offer cut off dates/expiration or revocations. At least 24 business hours prior, advise the JA of which defendants will be pleas.

Until further notice, all pre-trial conferences will be conducted in a hybrid fashion both in person and virtually using the platform Microsoft Teams. The Court will alternate between the two (2) rooms as the Court sees fit. The JA will send out the docket as well as the Teams link in advance to your designated email.

Until further notice, all VOP Status hearings will be in person. Defendant's appearance is mandatory. Inmates will be transported. Only inmates who will be a plea will be brought up to the courtroom. Advise the Court Deputy of who you want brought up. Speak to your clients prior to the onset of court.

PROCEDURES FOR SUPPLYING INFORMATION TO COURT:

Any videos, documents, depositions or the like that you wish the Court to view in advance of any hearing must be fully disclosed to the opposing party and the agreement of the opposing party obtained for the Court to view in advance of any evidentiary hearing. Otherwise, predicate for admissibility must be laid. All agreed upon information may be electronically transmitted by email to the JA, however, if the attachment is exceeding 20 pages in total length should be provided to the JA in hard copy by dropping off to the Court's 8th floor drop box. For those matters that cannot be uploaded electronically, they may be dropped off on the 8th floor to the drop box for Judge Barbour. After you have dropped it off, notify the JA by phone or email so she may retrieve it. Any other non-evidentiary documentation or case law may be provided electronically to my JA.

Memorandums of Law and case law should be provided to opposing counsel and the court at least three (3) business days in advance of the hearing. Non-semantic case law or memorandums exceeding 20 pages in total length should be provided to the JA in hard copy by dropping off to the Court's 8th floor drop box.

SECTION III
JURY TRIALS

Trials will generally proceed the same day as jury selection. Jury selection will take place in courtroom 7D unless directed otherwise. Facemasks for jurors and participants are optional. Any facemask worn by a voir dire juror, witness or defendant must be a clear face mask. The Court has clear disposable masks. Witness video appearance must be requested and dealt with in advance of jury selection. The parties are expected to have read AOSC 21-17 and its current amendment relating to jury trials and remote appearances and generally be familiar with that AO as well as the latest AO from Chief Judge of the Ninth Judicial Circuit, all of which can be found on the website of the Florida Supreme Court and the Ninth Judicial Circuit. All exhibits sought to be introduced must be provided to the trial clerk for marking **prior to opening** statements. Proposed jury instructions must be provided to opposing counsel and the court in WORD format not later than 24 business hours prior to jury selection.

Any questions should be sent via email and will be responded to as soon as possible. Please direct any email to my JA, Christine Bratek-Cohen at ctjacb2@ocnjcc.org.