

CIRCUIT FOR THE STATE OF OREGON
FOR THE 10TH JUDICIAL DISTRICT UNION/WALLOWA COUNTIES

IN THE MATTER OF:)	
)	PRESIDING JUDGE ORDER
CONTINUED/REVISED LEVEL 2 COURT OPERATIONS)	
)	20-06 (Replaces 20-02)

Our judicial district, along with judicial districts statewide, implemented restrictive operational plans limiting in-person contact with the court by court staff, litigants, attorneys, judges, and the general public in response to the COVID-19 pandemic, while allowing essential court services to continue. Our local restrictions implemented statewide Orders of the Chief Justice and Executive Orders of the Governor. Since those initial restrictions, Union and Wallowa Counties have successfully moved into “Phase 2” COVID-19 restrictions under statewide executive and emergency orders. Our local courts have moved from highly restrictive “Level 3” operations to less-restrictive “Level 2” operations. The court deeply appreciates the cooperation of attorneys, the public, and court staff in following the public safety protocols while in court, including maintaining social distances, wearing face coverings, adhering to room capacity directions, and following sanitation protocols.

While remote appearances by attorneys, parties, witnesses and others have served as means to uninterrupted court operations in a COVID-restricted environment, there are inherent limitations. It is therefore the intent of this order to restore in-person court appearances to the extent allowed by the Orders of the Chief Justice, Executive Orders of the Governor, and local public health and safety directives.

The intent of this Order is not to remove the ability to provide remote services, but to shift toward case-specific remote options. It will be necessary to move away from temporary “blanket” approvals into case record requests where all parties in the specific case will be fully informed of who will be appearing in-person or remotely, rather than some of the confusion we are currently experiencing. If more restrictive operational plans are re-imposed by Executive Order, Chief Justice Order, or as indicated by local public health authorities, then the court will adjust its policies and procedures accordingly.

It is hereby ORDERED, that the following local procedures are adopted pursuant to the CJO No. 20-016(8):

1. **Expectations for Lawyers.** CJO 20-16(12) directs the in-person attendance of lawyers at any trial or hearing conducted during the pendency of these Orders, unless excused by motion and order for each case wishing remote appearance CJO 20-16(8)(e). All prior blanket requests on record for remote appearance are void.

- a. The only exceptions at this time are juvenile dependency hearings which will be conducted via Webex. DHS/AAG attorneys have prior approval of the court to appear at dependency hearings remotely during AAG Victoria Dethloff's extended leave. All other counsel are expected to appear in person or to file a motion for remote appearance.
2. **Trials and Hearings.** All trials and hearings will be scheduled at the discretion of the Presiding Judge. The following rules for appearances in trials and hearings are hereby ordered.
- a. Any party who wishes to appear remotely must be approved by motion and order before a specific appearance or by other approved written request. Prior blanket requests are hereby null and void.
 - b. All in-person hearings in the courtroom will abide by social distancing and face covering guidelines. Appropriate room capacity limitations will be observed, and all sanitation protocols will continue.
 - c. Defendants and probationers in-custody will resume in-person appearances, with the exception of standard in-custody arraignment times and the protocol for short-set request considerations¹.
 - d. For any trials or hearings cancelled or postponed by the Presiding Judge due to a COVID concern, a party seeking to conduct or schedule such a trial or hearing during the pendency of the CJO may file a motion to show good cause to conduct or schedule the proceeding, including good cause to believe that failing to conduct or schedule the proceeding would violate a statutory or constitutional right.
 - e. In-person customer service hours are subject to change at either courthouse. Phone hours will remain the same.
 - f. Defendants charged and already cited for appearance on a Tuesday at 9:00 am in Union County or 9:30 a.m. Wednesdays in Wallowa County will appear and be arraigned as usual. Any non-appearing party may face failure to appear consequences.
 - g. Court appointed counsel consultation will be made available to any person appearing in Union County on Tuesdays for a crime. Court appointed counsel applications will be made available to all persons in and out of custody in both jurisdictions of the 10th Judicial District. All applications will be processed accordingly. The remote option for this process will remain available.
 - h. When matters are designated to be by phone, SLR 3.051, UTCR 4.050 and 5.050 set out parameters for teleconferencing multiple parties. In the event other options are available and approved, court personnel will provide other remote options to parties.

¹ Local protocol for in-custody appearances. When a request is made to arrange a hearing requiring an in-person appearance for an inmate less than 24-hours in advance of the appearance will be subject to jail personnel availability. Alternatives will be discussed in that event.

3. **Exhibits** shall be presented in person in court.
 - a. Electronic submissions of exhibits will only be allowed where motions to appear remotely have been approved. Otherwise the expectation is the exhibits would be presented in person.
 - b. Exhibits may be submitted electronically in shelter care hearings, or where motions for the remote appearance of counsel have been approved.
4. **Appearing in Court.** The following rules shall govern appearances in court.
 - a. Visibly ill persons will not be allowed past the security check point in either courthouse. If the person has a scheduled court appearance, court security or court staff will advise the person to be seated and court personnel will determine a next action for their appearance. Alternate forms of appearance will be exhausted before cancellation.
 - b. Visibly ill persons who show up at the court, unless they are attending as directed by a subpoena, citation or court notice, will be asked to leave and make their court service inquiries by phone.
 - c. Any party represented by counsel who wishes to appear remotely must be approved by motion and order before a specific appearance or by other approved written request.
 - d. The court shall enforce social distancing and sanitation directives in the courtrooms during all trials and hearings, and in the lobby areas of the courthouses. Court staff is required to clean after each hearing and more deep cleaning at the end of each business day in all public and staff areas. If at any time courtrooms fill up and cannot maintain social distancing guidelines, some people will be asked to wait outside of the courtroom or building.
 - e. Any person not leaving the premises when directed may face further consequences by the Sheriff's Department Deputy or Court.
5. **Witnesses:** When organizing witnesses, plan for staggering witness arrivals, or on-call methods so that there does not become a distancing control issue in the court facility which could result in asking people to leave. Witnesses should never be summoned to the courthouse at the same time court personnel would be checking in jurors. Please allow time for voir dire and opening statements when designating times for witnesses to arrive or develop an on-call method for your witnesses. This may require staff from the respective attorney's office to make sure witnesses are appropriately arriving and standing by according to the status of the trial/hearing being heard.
6. For the most part, court staff will resume workdays in-person at the courthouse. Some options for staff to work remotely offsite will be preapproved by the Trial Court Administrator. The TCA shall consider "high risk" employees when scheduling in-person and remote work assignments. All staff procedures will be at the direction of the TCA in concert with Judicial Department's policies.

- a. Circuit Court work areas shall observe “social distancing” and sanitation guidelines as directed by TCA per public health recommendations.
 - b. Court staff are required to call in before coming in if they are experiencing any COVID symptoms.
 - c. Court staff are required to take their temperatures upon arriving in the building before signing onto workstations.
7. Judges shall resume their normal schedules and shall be available in-person for all court hours. Judges shall also resume their normal rotation and travel schedule to Wallowa County.
8. Masks are still required under PJO 20-05.
 - a. Masks or shields are required to enter the courthouse and are to be worn over the mouth and nose unless otherwise advised while in public areas of the courthouse.
 - b. Face shields are available for persons unable to wear a mask.
 - c. Masks may be removed while on the witness stand or at counsel table when authorized.
 - d. Masks may be removed during the voir dire portion of a jury trial when authorized.
9. This Order supersedes Presiding Judge Order 20-02.
10. This Order takes effect on October 21, 2020

Signed: 10/14/2020 04:56 PM



Circuit Court Judge Thomas B Powers