

POLK COUNTY FELONY DIVISION OF COURT
PRACTICE, PROCEDURE, AND SCHEDULING IN THE
POLK COUNTY FELONY DIVISION OF COURT
DURING PUBLIC HEALTH EMERGENCY

Revised February 22, 2020

Pursuant to the directive of the Administrative Judge of the Polk County Felony Division of Court, the following procedures update, consolidate, and supersede all previous directives related to the practice, procedure, and scheduling in the Polk County Felony Division of Court during the COVID-19 Public Health Emergency and shall be effective in the Polk County Felony Division of Court beginning February 22, 2020 until further notice:

I. APPEARANCES GENERALLY

Felony proceedings will be conducted with all persons appearing remotely unless the physical appearance of court participants is authorized by administrative order(s) of the Florida Supreme Court or the Tenth Judicial Circuit, by order of the presiding judge or a judge of superior jurisdiction, or as specifically authorized herein.

II. CALENDARING OF FELONY ARRAIGNMENTS, PRETRIAL CONFERENCES, NON-ARRAIGNMENT ESSENTIAL PROCEEDINGS, AND OTHER FELONY PROCEEDINGS

A. Calendaring and Scheduling of Arraignments and Pretrial Conferences in Division F9

The calendaring and scheduling of Arraignments and Pretrial Conferences in Division F9 shall be determined by the judge assigned by administrative order to preside in said division.

B. Calendaring of Arraignments, Hearing Division A2 (Divisions F1-F6)

1. Standard Arraignment Calendaring (Divisions F1 through F6)

- a. Arraignments shall be scheduled according to normal time standards in place prior to the COVID-19 public health emergency.
- b. Defendants released from custody prior to First Appearance shall be given a court date for an Arraignment at 8:15 a.m., and Defendants in custody at the time of first appearance shall be give a court date for an Arraignment at 1:00 p.m.. Court dates for arraignments shall be set on business days which are not court holidays corresponding alphabetically with the Defendant's last name as follows:
 - i. Normal schedule
 - Monday (A to L)
 - Wednesday (M to Z)
 - ii. Court holidays
 - Arraignments which would fall on Monday, May 31, 2021 (Memorial Day), shall be set the following day, Tuesday, June 1, 2021.

2. Resetting of Arraignment Times for persons released after First Appearance (Divisions F1-F6)

When the defendant is released from custody following First Appearance but prior to Arraignment, the Clerk of Court shall send notice to the defendant resetting the Arraignment from 1:00 p.m. to 8:15 a.m. on the same date as the Arraignment was originally scheduled.

C. Calendaring of Arraignments in Division VP

1. Arraignments for persons released from custody prior to First Appearance (Division VP)

a. Any case pending in Felony Divisions VP in which the Defendant is released from custody prior to First Appearance shall be scheduled for Arraignment according to normal time standards in place prior to the public health emergency.

b. Normal schedule

Persons released from custody in such cases prior to First Appearance shall be given a court date for an Arraignment at 8:30 a.m. on a business day which is not a court holiday corresponding alphabetically with his or last name as follows:

- i. Wednesday (A to I)
- ii. Thursday (J to R)
- iii. Friday (S to Z)

c. Court holidays

Arraignments which would fall during the week of March 29, 2021 (Good Friday, April 2, 2021), shall be scheduled as follows:

- i. Tuesday (A to I)
- ii. Wednesday (J to R)
- iii. Thursday (S to Z)

2. Arraignments for cases called at First Appearance (Division VP) and scheduling of Fugitive Extradition proceedings.

a. Any case pending in Division VP which is called up for First Appearance hearing shall be calendared by the Clerk of Court for an Arraignment according to normal time standards in place prior to the public health emergency in Division VP by “round robin” method on a business day which is a Wednesday, Thursday, or Friday at 8:30 a.m..

- b. Any Fugitive Extradition proceeding which is called up for First Appearance hearing shall be calendared for hearing on the next business day which is a Wednesday, Thursday or Friday and which is not a court holiday at 8:30 a.m. in Division VP.

D. Calendaring of Pretrial Conferences

1. Following a plea of not guilty at or prior to arraignment, the Clerk of Courts shall schedule the case for Pretrial Conference in Division F1 through F6 as appropriate and according to normal time standards in place prior to the public health emergency.
2. Pretrial Conferences for persons in custody shall be scheduled as follows, unless the court holiday schedule in subparagraph 4 or 5, below, applies:
 - a. Monday 8:30 a.m.: Private Attorney/Regional Counsel
(Defendant last name A-L)
 - b. Tuesday 8:30 a.m.: Private Attorney/Regional Counsel
(Defendant last name M-Z)
 - c. Wednesday 8:30 a.m.: Public Defender
(Defendant last name A-L)
 - d. Thursday 8:30 a.m.: Public Defender
(Defendant last name M-Z)
3. Pretrial Conferences for persons released from custody shall be scheduled as follows, unless the court holiday schedule in subparagraph 4 or 5, below, applies:
 - a. Monday 1:00 p.m.: Private Attorney/Regional Counsel
(Defendant last name A-L)
 - b. Tuesday 1:00 p.m.: Private Attorney/Regional Counsel
(Defendant last name M-Z)
 - c. Wednesday 1:00 p.m.: Public Defender
(Defendant last name A-L)

- d. Thursday 1:00 p.m.: Public Defender
(Defendant last name M-Z)

4. Court Holidays

Pretrial Conferences falling during the week of May 31, 2021 (Memorial Day Week), shall be scheduled as follows:

- a. Tuesday 1:00 p.m.: Private Attorney/Regional Counsel
(Defendant last name A-L)
- b. Wednesday 1:00 p.m.: Private Attorney/Regional Counsel
(Defendant last name M-Z)
- c. Thursday 1:00 p.m.: Public Defender
(Defendant last name A-L)
- d. Friday 1:00 p.m.: Public Defender
(Defendant last name M-Z)

A. Calendaring of Mandatory Docketings and Jury Proceedings

1. The calendaring and scheduling of Jury Proceedings in Division F9 shall be determined by the judge assigned by administrative order to preside in said division.
2. Cases which are set for jury trial in Divisions F1 through F6 shall first be set for Mandatory Docketing. Unless the court holiday schedule in subparagraph 3 below applies, Mandatory Docketings shall be scheduled at 8:29 a.m. on the Wednesday (except during the week of March 29, 2021 during which Mandatory Docketings shall be scheduled at 8:29 a.m. on Tuesday) preceding the trial week according to the master calendar then existing, unless another date is ordered by the Court.
3. Following Mandatory Docketing, the Court will monitor cases in which the parties announce “ready for trial.” By noon on the last business day prior to the week of trial, the Court will post a list of cases selected to proceed to trial the following week. The list will indicate the date, time, courtroom location for jury selection and trial, and presiding judge.

4. The list will also include “back-up” cases which shall proceed to trial in the event the primary case is continued or disposed of.
5. The parties, whether participating in a primary or back-up trial, shall appear timely on the day of jury selection with all exhibits, and other materials necessary for trial and be prepared to proceed at the appointed time. Unless another time is authorized by the presiding judge, all witnesses shall be present prior to jury selection commencing.
6. Jury proceedings shall be conducted consistent with all administrative orders of the Florida Supreme Court and the Tenth Judicial Circuit related to the COVID-19 public health emergency.

E. Scheduling of Felony Proceedings Other Than Arraignments, Mandatory Docketings, and Jury Proceedings (All Divisions)

The scheduling of all hearings, other than Arraignments, Mandatory Docketings, and Jury Proceedings, shall be determined by the judge assigned by administrative to preside in the division to which the underlying case is assigned according to availability reflected on the master calendar then existing.

III. PROCEDURES FOR REMOTE, IN-PERSON OR PARTIALLY IN-PERSON PROCEEDINGS

A. Division F9

The procedures for remote, in-person and partially in-person plea proceedings scheduled in Division F9 shall be determined by the judge assigned by administrative order to preside in said division.

B. Procedures for Out-of-Custody Pleas (Divisions F1-F6)

1. When an out-of-custody defendant scheduled for a hearing in which the Defendant intends to enter a plea, the plea shall, whenever possible, be taken with all persons appearing remotely unless authorized herein or

approved in advance by the judge scheduled to take the plea. Defendants entering pleas remotely must appear using videoconference technology or, with the permission of the presiding judge, by telephone if in the presence of a notary who participates in the remote court session.

2. An out-of-custody defendant may appear partially in person for a plea hearing when:
 - a. The taking of the defendant's fingerprints will be required;
 - b. The defendant will be remanded into custody; and/or
 - c. Counsel for the defendant represents in good faith that the defendant does not have the means to appear remotely with the ability to simultaneously engage in private communications with his or her counsel.
3. When a partial in-person appearance is permitted, the following procedures shall be observed:
 - a. **Entry of a Plea with Notice in Advance of Arraignment, Pretrial Conference, or Mandatory Docketing**
 - i. When the parties have advance notice that the defendant will enter a plea at an Arraignment, Pretrial Conference, or Mandatory Docketing in which the Defendant's partial in-person appearance is permitted, the Office of the State Attorney shall be responsible for ensuring, to the best of its ability, that no more than ten (10) defendants per hour report to any physical location designated by the Court for in person appearances. The State Attorney shall notify counsel for the defendant of the time at which the defendant is to report.
 - ii. The State Attorney shall be responsible for notifying the Court and the Court Security Section of the Polk County Sheriff's Office of the names of defendants reporting in person to enter a plea, along with the date and times they have been scheduled to report. Notice may be sent to the Court by email to the email addresses listed in

Section III.B.2. or III.C.2. below according to docket type. Such emails shall be copied to Court Security at courtholding@polksheriff.org.

- iii. Counsel for a defendant reporting in person for entry of a plea shall be responsible for notifying the defendant to report at the time indicated by the State Attorney. Counsel for the defendant shall instruct the defendant to report to the Polk County Virtual Court Complex (VCC), located at 455 North Broadway, Bartow, Florida. Entry is located on the northwest side of the building on Boulevard Street.
- iv. Defendants appearing in person at the VCC will, if necessary, be provided a means to communicate privately with his or her counsel who has appeared remotely.
- v. Counsel for the defendant shall not be required to appear in person with the defendant. However, unless the Court receives notice that counsel for the defendant has tested positive for COVID-19, counsel shall not be prohibited from appearing in person with the defendant.
- vi. No other persons shall be permitted in the VCC at the time of the plea other than the defendant, defendant's counsel, the bailiff, and a juvenile defendant's parents or guardians, unless otherwise authorized by the presiding judge.
- vii. Appropriate safety precautions will be taken for persons entering the VCC. Persons meeting any established criteria for denial of admission to court facilities due to the COVID-19 public health emergency will not be permitted to enter the VCC.

b. Plea Agreements with No Notice in Advance of Scheduled Arraignment, Pretrial Conference, or Mandatory Docketing

- i. If the parties reach an agreement for the entry of a plea which requires fingerprints and/or remand into custody, but there was insufficient time within which to notify the Court and Court

Security, the defendant shall not be instructed to report to the VCC.

- ii. In such cases, upon request in open court, the plea will be rescheduled for another date certain to take place at the VCC.

IV. SUBMISSION OF PAPERWORK TO THE COURT

A. Submission of Paperwork for Proceedings in F9

The procedures for submission of paperwork to the Court for proceedings taking place in Division F9 shall be determined by the judge assigned by administrative order to preside in said Division.

B. Submission of Paperwork for Felony Arraignments in Hearing Division A2 (Divisions F1-F6)

1. All paperwork that would normally be provided to the Court in advance of or in open court for a felony Arraignment must be submitted electronically. Submission of paperwork to the Court via service through the E-Filing Portal is not permitted.
2. Paperwork must be submitted as an attachment to an email and delivered to the general email account as identified below for the day of the week on which the corresponding case is scheduled for hearing:
 - Monday MondayPolkA2@jud10.flcourts.org
 - Tuesday TuesdayPolkA2@jud10.flcourts.org
 - Wednesday WednesdayPolkA2@jud10.flcourts.org

Example: A courtesy copy of a plea form for a case scheduled on any Wednesday is submitted to WednesdayPolkA2@jud10.flcourts.org.

3. At a minimum, all transmittal emails must identify in the subject line:
 - a. Defendant's name and at least one case number on the docket associated with the individual defendant; and

- b. The specific calendar date of the scheduled hearing (month, day, year in any format).

Failure to submit appropriate identifying information in the subject line may result in the submission being returned for correction.

C. Submission of Paperwork for Felony Pretrial Conferences and Mandatory Docketings (Divisions F1 – F6)

1. All paperwork that would normally be provided to the Court in advance of or in open court for a Felony Pretrial Conference or Mandatory Docketing, must be submitted electronically. Submission of paperwork to the Court via service through the E-Filing Portal is not permitted.
2. Paperwork must be submitted as an attachment to an email and delivered to the general email account for the division to which the case is assigned as follows:

- F1 PolkF1@jud10.flcourts.org
- F2 PolkF2@jud10.flcourts.org
- F3 PolkF3@jud10.flcourts.org
- F4 PolkF4@jud10.flcourts.org
- F5 PolkF5@jud10.flcourts.org
- F6 PolkF6@jud10.flcourts.org

Example: A scoresheet for a Division 5 Mandatory Docketing is submitted to PolkF5@jud10.flcourts.org.

3. At a minimum, all transmittal emails must identify in the subject line the Defendant's name and at least one case number on the docket associated with the individual defendant.

D. Submission of Paperwork for All Other Proceedings Scheduled in Divisions F1-F6, and VP

The procedures for submission of paperwork to the Court for proceedings taking place in Division VP and for all other proceedings not identified above in Divisions F1-F6 shall be determined by the judges assigned by administrative order to preside in said divisions.

V. RECOMMENDATIONS AND ADVISEMENTS

A. Recommendations to All Counsel Regarding Requests for Hearing Time and Cancellation of Hearings

1. Given the current public health emergency, hearing time is limited; therefore all counsel should make efforts to report hearing time required as accurately as possible and to be diligent in providing notice of cancellations to the Court.
2. Counsel for the State of Florida and all defense counsel are strongly encouraged to consult in earnest with opposing counsel before reserving hearing time in an effort to, as accurately as possible, report to the judge or judicial assistant the necessary time to be allotted on the appropriate docket. Counsel should ask opposing counsel, among other things, whether he or she intends to call witnesses, present evidence, or make extensive argument. (For example, counsel should not assume that a motion to set bail is “routine” and that the opposing party will not call witnesses.)
3. The failure of counsel to engage in earnest consultation with opposing counsel may, in the reasonable discretion of the presiding judge, result in interruption of the proceeding and an order continuing the remainder of the hearing to another day.
4. Counsel should use due diligence in notifying the Court of cancellations as soon as possible.

B. Recommendations to All Persons Regarding Remote Appearance and Participation

1. The Polk Felony Divisions are equipped to conduct proceedings remotely through the Microsoft Teams platform.
2. Persons appearing and participating remotely in felony proceedings may appear by videoconference or integrated teleconference call within the Microsoft Teams platform.
3. Persons who wish to appear and participate by videoconference technology must have a computer or smartphone equipped with a reliable

- internet connection, microphone, camera and email account. No software purchase is necessary.
4. Videoconference links, teleconference numbers and conference IDs will be published on the Tenth Judicial Circuit's website at <http://www.jud10.flcourts.org/>.
 5. Persons appearing and participating in remote proceedings, whether through videoconference or teleconference technology should do so from an indoor location free from excessive background noise.
 6. Persons appearing and participating in remote proceedings should mute their microphones prior to entering the virtual courtroom. During hearings, participants should keep their microphones muted when not speaking.
 7. Persons appearing and participating in remote proceedings through Microsoft Teams may be required to wait in a virtual "lobby" for their cases to be called. Such persons should be patient. If, after being called up for hearing, a case is "passed" on the docket, participants may be asked to disconnect from the session and reconnect when the matter causing the case to be passed has been resolved. Such participants may again be required to wait in a virtual "lobby."
 8. Persons appearing by telephone may be asked to provide the telephone number for the device through which the participant will be calling for the purpose of alerting the Court to the participant's "arrival" during the remote Court session. Persons providing telephone numbers should provide the main telephone number that would appear on another's caller ID display if calling from an extension of that main telephone number.
 9. Any person engaging in conduct that disrupts remote proceedings, interferes with the administration of justice, or otherwise engages in conduct constituting contempt of court will be removed from the remote proceeding and prevented from rejoining the remote court session. Such a person may be subject to an order of contempt being entered against him or her if legally authorized under the circumstances of the remote proceeding.

10. Persons needing technical assistance related to remote court proceedings should send requests to 10thVirtualCourtSupport@jud10.flcourts.org.

VI. CONSOLIDATING AND SUPERSEDING EFFECT

The directives of the Administrative Judge of the Polk Felony Division of Court contained herein consolidate and supersede all previous related directives.