

SIXTEENTH JUDICIAL CIRCUIT
ADMINISTRATIVE ORDER – CRIMINAL DIVISION

Effective June 8, 2020

<i>Thomas M. Hartnett</i> Clerk of the Circuit Court Kane County, IL
JUN 10 2020
FILED 107 ENTERED _____

IN THE MATTER OF COVID-19)
CRIMINAL JURY TRIAL PROCEDURES)

WHEREAS, in light of the Coronavirus pandemic, and in order to protect the health and safety of the general public, circuit court judges and circuit court employees, and after consultation with the offices of the Kane County State’s Attorney, Public Defender, and representatives of the private bar, and pursuant to Illinois Supreme Court Rule 21(b) and the Court’s inherent authority; and

WHEREAS, the Supreme Court of Illinois entered Order M.R. 30370 on May 20, 2020, authorizing each Circuit Court to return to hearing court matters, whether in person or remotely, according to the schedule to be adopted for each county by the Chief Judge of each Circuit. The Order recommends that Circuit Courts shall continue, to the extent possible, to allow for appropriate social distancing; and

WHEREAS, it is in the best interests of all of the above-named parties and individuals to limit the number of people in the Kane County Judicial Center and in each of the individual courtrooms to as few as needed to accomplish critical tasks; and

WHEREAS, prior to the Coronavirus pandemic, criminal jury trials were set on Mondays and Tuesdays at 8:30 a.m. Jurors were summoned each Monday and Tuesday to appear at the Kane County Judicial Center. On most Monday and Tuesdays over one hundred jurors were summoned and appeared. These jurors were staged in the jury assembly room while waiting to be called to individual courtrooms; and

WHEREAS, a committee of Judges and judicial employees reviewed the jury assembly room and each criminal courtroom at the Kane County Judicial Center to determine whether jury trials could be held while abiding by the guidelines set forth by the Illinois and Kane County Departments of Public Health to prevent the spread and potential resurgence of the COVID 19 virus; and

WHEREAS, the same committee concluded based on health guidelines that the jury assembly room can only hold forty-six jurors; and

WHEREAS, the same committee concluded upon their review that Courtroom 201 was the only criminal courtroom at the Kane County Judicial Center where jury trials could be held; and

WHEREAS, the criminal division will be limited to holding two criminal jury trials each week with both jury trials to be held in Courtroom 201;

WHEREAS, the following changes will be implemented in all criminal jury trials until further order of the court.

IT IS HEREBY ORDERED that the following temporary procedures will apply to all cases assigned to the Criminal Division:

1. All jury trials (felony, misdemeanor, traffic) will commence on Thursdays at 1:30 p.m. After following the procedures outlined below, the jury trials that started on Thursdays will be continued over to either Monday or Wednesday of the following week. Jury selection will begin on Monday or Wednesday mornings at 8:30 a.m.
2. At 1:30 p.m. on the Thursday preceding the Monday and Wednesday trials, the Judge will ask each party if they are answering ready for trial. Before a Judge will find a case is ready for trial, both sides must provide the following information::

A. Each party must provide the Judge with a written list of the witnesses they intend to call at trial and provide a basic description of the role of each witness. This witness list should be the witnesses the party actually intends to call excluding rebuttal witnesses. An example of a witness list and the general description is contained below:

WITNESS	DESCRIPTION OF THE ROLE OF EACH WITNESS
Jane Doe	The victim of the alleged offense
John Doe	Occurrence witness to provide identification of the Defendant
Officer Gates	Arresting Officer
Bill Nextel	Witness to provide foundation for phone records
Jim Lab Tech	Expert witness to prove firearm in working condition

- B. Each party must provide the Judge with a copy of the served subpoena for all material witnesses. For the purpose of this Administrative Order, a material witness is defined as a witness needed to prove a material element of the case.
 - C. All material witnesses must personally appear in open court on Thursday at 1:30 p.m. If a material witness is unable to appear in open court the witness must appear in court remotely via Zoom or telephone.
 - D. Each party must confirm with the Judge that they have spoken to all the witnesses and confirmed that they have received their subpoena and can appear for trial on any day of the following week. It is essential that the witnesses be available on any day of the following week since the trial may start on Monday or Wednesday and continue into the rest of the week.
 - E. All Motions in Limine and any other pre-trial motions must be completed no later than Thursday at 4:30 p.m. No Motions in Limine or other pre-trial motions will be heard on Monday or Wednesday.
3. If both parties have met the requirements outlined in #2A, #2B, #2C, #2D, and #2E the Judge will consider the case ready for trial. The Judge will order that all subpoenas be continued over until Monday of the next week. The parties will not know until Friday at 9:00 a.m. if the case will be set on either Monday or Wednesday.

4. If either party is unable to meet the requirements outlined in #2A, #2B, #2C, #2D, or #2E the Judge may not consider the case to be ready for trial. A party who has not meet the requirements outlined in #2A, #2B, #2C, #2D, and #2E may ask the Court to find the case is ready for trial. The Court will make the decision whether the case is ready for trial after hearing arguments from both side.
5. All parties whose cases have been found ready for trial must provide the Judge with an email address and phone number where they can be reached.
6. Upon completion of the Thursday afternoon court calls all criminal judges will inform the Presiding Judge of the Criminal Division of the cases that have been found ready for trial. The Presiding Judge will evaluate the number of cases ready for trial and will prepare a trial schedule for the following week. The factors that will be considered by the Presiding Judge when setting the trial schedule include, but are not limited to, the following: the nature of the charge; the custodial status of the defendant; if a speedy trial demand has been made by the defendant; if the speedy trial clock is running or been tolled; the number of days remaining on the speedy trial clock calendar; special considerations based upon witness issues (limited availability, travel plans, etc), and any requests made by the parties.
7. No later than 9:00 a.m. on the Friday following the Thursday jury trial call, the Presiding Judge will issue a written order to all parties scheduling the cases for trial on either Monday or Wednesday. An example of a scheduling order is below:

JURY TRIAL SCHEDULE FOR THE WEEK OF		
TRIAL ORDER	MONDAY	WEDNESDAY
#1	P vs John Defendant 18 CF 1234	P vs. Joe Defendant, 18 CF 2345
#2	P vs. Pat Defendant 17 CF 4567	P vs. Luke Defendant 17 CF 333
#3	“”	“”
#4	“”	“”

8. No later than 3:00 p.m. on the Friday following the Thursday trial setting, if a case that has answered ready for trial has been resolved through an agreement or an event has occurred which will require a party to file a motion to continue the trial, the party must notify the Presiding Judge of the Criminal Division.

9. All parties whose trials commenced on Thursday and continued over to Monday or Wednesday must appear at 8:30 a.m. in the courtroom on the date set. The trial listed first will be the trial that will proceed. If the trial scheduled first is unable to go, the next scheduled trial will proceed. This same process will be utilized until a trial proceeds. The Court will continue all other cases set for trial that day pursuant to Supreme Court of Illinois Order M.R. 30370 signed on May 20, 2020, that states in part “The Chief Judges of each circuit may continue trials under further order of this Court. The continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in Section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)) and section 5-601 of the Juvenile Court Act (705 ILCS 405/5-601 (West 2018)). Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of this Court. **This provision also applies when a trial is delayed when the court determines proper distancing and facilities limitations prevent the trial from proceeding safely. The judge in the case must find that such limitations necessitated the delay and shall make a record thereof.**”

Entered this 10th day of June, 2020


John Barsanti

Presiding Judge, Felony Division