UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

IN RE: COURT OPERATION PROTOCOLS UNDER THE EXIGENT CIRCUMSTANCES CREATED BY THE COVID-19 PANDEMIC	))))	G.O. 20-5

ORDER

This General Order is being issued considering the pandemic outbreak of Coronavirus Disease 2019 (COVID-19) and pursuant to the recommendations of federal agencies as to how to appropriately respond to the rapidly unfolding situation. Although for many this disease appears to cause only mild symptoms, for others it can pose a risk of serious illness or death.

On March 11, 2020, the World Health Organization officially declared the COVID-19 outbreak a pandemic, citing to more than 118,000 cases in 114 countries and 4,291 deaths. *See WHO Director-General's Opening Remarks*, WORLD HEALTH ORG. (Mar. 11, 2020), https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020. The Centers for Disease Control and Prevention (CDC) has, as of the date of this Order, reported a total of 1,629 cases in the United States across 47 jurisdictions, including Oklahoma.[1] *See Coronavirus Disease 2019*

[1] As of today, of the thirty-six people that have been tested in Oklahoma, three have returned positive results and thirty-seven results are pending. The situation is such, however, that Dr. Anthony Fauci, director of the National Institute of Allergy and Infectious Disease and member of the White House Coronavirus Task Force noted during a White House briefing that "it doesn't matter if you are in a state that has no cases or one case," daily procedures must change. *See White House Briefing,* CNN (Mar. 11, 2020), https://www.cnn.com/videos/health/2020/03/10/anthony-fauci-americans-sot-wh-coronavirus-briefing-vpx.cnn.

(COVID-19) in the United States, CDC (Mar. 11, 2020), https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html.

In February of this year, the CDC issued an Interim Guidance recommending that all employers consider how to best decrease the spread of COVID-19, including the review of guidance from state and local health officials. Given the projected number of cases of COVID-19 affecting all regions of the United States and the speed at which the situation is unfolding, the Court adopts the protocols detailed in the attached Addendum for implementation as dictated by prevailing circumstances.

This General Order will remain in effect until further Order of the Court.

IT IS SO ORDERED this 13th day of March, 2020.

TIMOTHY D. DeGIUSTI
CHIEF UNITED STATES DISTRICT JUDGE

SCOTT L. PALK
UNITED STATES DISTRICT JUDGE

CHARLES B. GOODWIN
UNITED STATES DISTRICT JUDGE

PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

JODI W. DISHMAN
UNITED STATES DISTRICT JUDGE

BERNARD M. JONES
UNITED STATES DISTRICT JUDGE

Addendum

I. Phase I: Enhanced Prevention Protocol

For Immediate Implementation

To plan, prepare, and respond to the outbreak of Coronavirus Disease 2019 (COVID-19), the Chief Judge, Court staff, and related agencies, have implemented the following proactive steps intended to slow or prevent the spread of the virus and help protect the health of our Court family and the community at large:

A. Enhanced Cleaning Procedures & Safety Precautions

Disinfectant wipes and surface disinfectant sprays have been distributed to all offices. The nightly cleaning crew has been instructed to implement enhanced cleaning procedures. Nevertheless, employees have been encouraged to individually take precautions and use the supplies provided. Instructions have been circulated,[2] reminding employees to avoid close contact with people who are sick, avoid touching their eyes, nose, and mouth, routinely clean commonly touched surfaces such as keyboards, mice, and phones, and engage in frequent hand washing.

If employees are sick, they are instructed to stay home. Symptoms of COVID-19 infection include fever $\geq$100.4 degrees Fahrenheit, cough, difficulty breathing/shortness of breath. Employees must inform their supervisor immediately if they are experiencing symptoms and stay home until they are symptom-free for twenty-four (24) hours.

If employees begin to feel sick at work, they are to go home. The Clerk's Office has

[2] There instructions are available on the Court's internal website, under the COVID-19 Preparedness tab.

two instant-read thermometers to check temperatures as needed. If an employee has a fever, they will be given a mask to wear as they exit the building, and their workstation will be sanitized.

B. Additional Screenings & United States Marshals Service (USMS) Special Protocol

Given the daily transfer of persons in custody through Oklahoma City via the Justice Prisoner Alien Transportation System, the fact that persons in custody live in close quarters without the ability to practice social distancing, and that many persons in custody are a particularly vulnerable population, pursuant to G.O. 20-4, the Court has directed the USMS to institute the following protocol to mitigate exposure to COVID-19 by court staff, interpreters, counsel, USMS personnel, and the general public:

All in-custody persons who are transported to the Courthouse shall be screened upon arrival by a representative of the USMS, to include determining whether the person has a fever. A fever is defined for screening purposes as a temperature greater than or equal to 100.4 degrees Fahrenheit. If a person responds yes to any of a series of screening questions and/or has a fever, the USMS shall isolate that person.

Such persons shall be considered presumptively contagious. The USMS is directed to return all presumptively contagious persons to the detention facility from which they came for further screening and treatment, as appropriate, and to immediately notify the presiding Judge and the Clerk of Court that a presumptively contagious person has been

returned to a detention facility. *See* G.O. 20-4 for further details.[3]

C. Teleworking Training & Practice

Training was offered several times a day for a week on the POWR (Practice of Working Remotely) policy. Those who need additional training should contact IT support staff as soon as possible. Anyone wanting to simulate a POWR scenario, can do so from the Court's training room using the Guest WiFi network with the added benefit of onsite help.

All judges are encouraged to practice having their entire chambers staff work remotely to identify any issues that might arise should the practice need to be implemented during a Phase II/Phase III response. Chambers staff are encouraged to meet following the practice session to discuss and develop chambers-specific protocols to be implemented during a Phase II/Phase III response, during which staff will be required to telework as much as possible, stagger schedules, and maintain only a limited crew in all offices.

D. People at Risk for Serious Illness from COVID-19

Should there be any evidence of community spread in central Oklahoma, out of an abundance of caution, any employee who is at higher risk is encouraged to seek authorization to telework.[4] People at risk for serious illness from COVID-19 include anyone:

- Over 60 years of age
- With an underlying health condition, including heart disease, lung disease,

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[3] G.O. 20-4 is available on the Court's internal website under the COVID-19 Preparedness tab.

[4] Determinations are left to the discretion of individual supervisors and are to be made on a case-by-case basis.

or diabetes

- With a weakened immune system
- Who is pregnant
- Who cares for an at-risk family member(s)

Those at risk for serious illness should follow the CDC recommendations in the event of a COVID-19 outbreak in our community. These recommendations are available on the Court's internal website, under the COVID-19 Preparedness tab.

For those not at risk for serious illness, liberal leave and liberal telework authorization will be in effect during an outbreak. In the event you or a family member needs to be quarantined or your child's school/daycare is closed due to an outbreak, you will be allowed to work remotely. If you fall ill during this period, sick leave should be used.

II. Phase II: Limiting Exposure

Triggering Considerations: The following factors will be relevant to a consideration as to when Phase II should be implemented—the State of Oklahoma's declaration of an emergency, widespread school closings, and the prevailing local conditions.

Should there be either (1) the declaration of an emergency by the State of Oklahoma; (2) widespread school closings, which the Chief Judge determines are causing a severe hardship on a significant portion of the Court's employees; or (3) should the Chief Judge find that given the significant number of identified and projected cases of COVID-19 in the Western District of Oklahoma the severity of the risk posed to the public is such that it outweighs the need to continue operations under Phase I, the following Phase II protocol will take effect, with enhanced cleaning procedures still in place:

A. Protocol for Bankruptcy and District Court Clerks' Offices

The Clerks' Offices are to function using a minimal crew, consisting of at least four people to satisfy the separation of duties requirements. Any designated minimal crew appearing in person at the Courthouse will be required to pass a health check consisting of a non-invasive temperature reading and an oral confirmation of the absence of symptoms upon arrival. The minimal crew will rotate once every two weeks, unless a minimal crew member becomes ill and/or exhibits symptoms consistent with COVID-19, at which point a new minimal crew will begin their rotation. The remaining Clerks' office employees will telework during this time at the direction of their respective Clerk of Court and following the Court's teleworking policy.

B. Protocol for Chambers

Except for staff required to appear in person for scheduled proceedings, chambers staff shall telework to the greatest extent possible. The staff required to appear at proceedings should be minimal and will be left to the discretion of presiding judges. This protocol applies equally to all Courtroom Deputy Clerks.

- **Status Conferences**

Routine, in-person status conferences shall be suspended during this time, and scheduling orders shall be issued based on submitted joint status reports or telephonic status conferences, at the discretion of the presiding judge.

- **Civil Matters Scheduled for In-Court Appearances**

Presiding judges retain discretion to determine on a case-by-case basis whether civil matters (including appearances before any district, magistrate, or bankruptcy judge, or a

U.S. Trustee) should proceed as scheduled or be continued. Any matters that can be resolved without oral argument or presentations of evidence are to proceed as usual, and the conduct of discovery in civil matters shall proceed absent contrary directions by the presiding judge. The use of telephonic, or videoconference hearings is encouraged.

- **Magistrate Judge Rotation**

The rotation established for the magistrate judges is to remain in effect.

- **Pretrial Criminal Proceedings**

Criminal pretrial proceedings, to the extent possible, are to be handled by videoconference if the arrestee consents, subject to the provisions of G.O. 20-4. Any in-custody persons transported into the Courthouse shall be screened and treated in accordance with G.O. 20-4.

C. Protocol for U.S. Probation Office

U.S. Probation Office is encouraged to minimize on-site staff as much as reasonably practicable and as consistent with its core duties, and to liberally utilize teleworking, as consistent with its telework policy.

III. Phase III: Court Closing

Triggering Considerations: The following factors will be relevant to a consideration as to when Phase III should be implemented—a mandate by the Administrative Office of U.S. Courts, recommendations by the CDC, and the prevailing local conditions.

Should a Court closure be mandated, or should the Chief Judge find that given the significant number of identified and projected cases of COVID-19 in the Western District of Oklahoma the severity of the risk posed to the public is such that it outweighs the need

for the Courthouse to remain open, the following protocol shall take effect:

- All civil trial settings within the ensuing thirty (30) days and related deadlines will be stricken to be reset by the presiding judge.
- All grand jury proceedings will be continued pending further Order of the Court.
- All criminal trial settings within the ensuing thirty (30) days and related deadlines will be stricken to be reset by the presiding judge. As to such matters, all continuances shall be implemented by General Order, issued pursuant to conditions triggering a Phase III response. Such General Order shall address findings under the Speedy Trial Act, 18 U.S.C. § 3163 (h)(7)(A).
- Case-by-case exceptions to the continuances provided may be ordered for non-jury matters at the discretion of the presiding judge, and—to the extent possible and legally permissible—will be held via videoconferencing or by telephone.

The Court will review the need for continuation of procedures related to a Phase III response at least every fourteen (14) days, and will provide guidance to Court employees, members of the bar, and the public regarding the duration of any or all such procedures.