

**CRIMINAL DIVISION STANDING ORDER OF OCTOBER 4, 2021, AMENDING
PRIOR ORDERS, ESTABLISHING PROTOCOLS FOR PHASE TWO OF THE
MISDEMEANOR CASE PLAN AND EXPANSION OF COMMUNITY COURT
CALENDARS**

WHEREAS, during the COVID-19 public health emergency, as first declared by the Mayor of the District of Columbia on March 11, 2020, the D.C. Courts substantially modified operations in order to ensure the safety and well-being of litigants, counsel, other members of the public and court personnel, pursuant to the March 18, 2020 Order Regarding Operation of the D.C. Courts during the Coronavirus Emergency issued by the Joint Committee on Judicial Administration, and the March 15, 2020 Order and successive orders issued by the Chief Judge regarding Superior Court operations, to include the Criminal Division; and

WHEREAS, the Criminal Division remains committed to protecting the health and safety of defendants, witnesses, victims, counsel, court personnel, jurors and other members of the public; and

WHEREAS, commencing on May 10, 2021, hearings in non-detained misdemeanor cases resumed in virtual Courtrooms 312-R and 313-R for citation arraignment and in 116-R for initial status hearings; and

WHEREAS, commencing on July 19, 2021, the Community Court calendars, to include the 1D, 2D/4D, 3D/5D, and 6D/7D, resumed on a bi-weekly schedule, and the D.C. OAG calendar resumed on a weekly schedule, for detained nonjury trials and both in-person and remote hearings; and

WHEREAS, the D.C. Superior Court Criminal Division Misdemeanor Calendars resumed full operation on September 7, 2021 with parties appearing before the assigned calendar judge in the physical courtroom or, with the permission of the court and the defendant's consent, remotely or with the defendant's presence waived; and

WHEREAS, pursuant to Superior Court Rules of Criminal Procedure 62(d), currently in effect until November 21, 2021, and which may be extended, a defendant may orally consent to appear by telephone or videoconference in misdemeanor cases, including for arraignment, plea and sentencing; and

WHEREAS, pursuant to Superior Court Rules of Criminal Procedure 43(b)(2), a defendant may consent in writing to appear by videoconference in misdemeanor cases, including for arraignment, plea and sentencing; and

WHEREAS, unless otherwise ordered by the Court, all deadlines and time limits in statutes, court rules, and standing and other orders issued by the Court that would otherwise expire are suspended, tolled and extended during the period pending further order of the Court. This includes, but is not limited to, timelines for detention and preliminary hearings pursuant to Rule 5.1 and D.C. Code §§ 23-1322(a) and (b), as well as indictment deadlines and trial deadlines, including deadlines pursuant to Rule 48(c)(1), D.C. Code §§ 23-102, 23-1322(h), 24-801, and 24-531.01 et. seq.; and

WHEREAS, thousands of misdemeanor cases, both detained and non-detained, are currently pending, far exceeding the number of pending cases prior to the COVID-19 pandemic; and

WHEREAS, it is necessary to set forth expectations for both **GOVERNMENT** and **DEFENSE COUNSEL** in order to provide for the just and timely determination of every criminal proceeding and reduce further unjustifiable delay;

IT IS HEREBY ORDERED that Phase Two of the Misdemeanor Case Plan, as commenced on September 7, 2021, shall proceed as follows:

- I. Non-detained Citation Arraignments:** will proceed remotely on a combined OAG and USAO Citation/Diversion Calendar.

Cases currently scheduled in Courtroom 312-R and 313-R will be consolidated on the Citation/Diversion Calendar.

Login at: <https://dccourts.webex.com/meet/ctb313>
<https://dccourts.gov/citationus>
<https://dccourts.gov/citationoag>
or 129 311 6590¹

Individuals who are unable to appear remotely should report to one of the community based Remote Hearing Sites,² or may check in at the D.C. Superior Court Information Desk to obtain assistance in logging in remotely for their hearing from the courthouse. Alternatively, they may appear in-person on their citation arraignment date in Courtroom C-10 at 1PM.

Disposition paperwork, including Deferred Prosecution, Deferred Sentencing, STET, and Plea Agreements, and sentencing materials should be emailed to CitationDiversionJudge@dcsc.gov 72 hours in advance of the scheduled hearing with the following information in the Subject line: [Date of Hearing] [Defendant Last Name, First Name] [Case Number].

Citation Arraignment cases in which a DPA, DSA, STET or plea agreement is entered shall remain on this calendar through the end date of the agreement or imposition and completion of sentence, with the exception that if probation may be revoked to incarceration, the case shall be transferred to the appropriate community court calendar.

Citation Arraignment cases in which the defendant requests to appear in person or in which a trial date will be set shall be transferred to the appropriate community court calendar for a status or trial readiness hearing, at which time a trial date will be set by the calendar judge.

¹ Telephone users can access all remote hearings by calling: 202-860-2110 (local) or 844-992-4726 (toll free) and typing in the Meeting ID associated with that courtroom.

² <https://www.dccourts.gov/sites/default/files/Remote-Hearing-Sites-Tip-Sheet-3.pdf>

Initial competency screening returns shall remain on this calendar. If the defendant is found not to be competent, further outpatient mental observation hearings shall be set on the appropriate community court calendar.³

All misdemeanor DPA, DSA, and STET Agreement end dates shall be set on the Citation/Diversion Calendar on Mondays and Fridays.

II. All other non-detained and detained cases: will proceed on the assigned Community Court Calendar, which will operate both remotely and in-person, in the designated courtroom:

Courtroom 112-R: 1D (Judge Smith)
<https://dccourts.webex.com/meet/ctb112>
or 129 912 7159

Courtroom 314-R: 2D/4D (Judge Pittman)
<https://dccourts.webex.com/meet/ctb314>
or 179 694 1147

Courtroom 218-R: 3D/5D (Judge Wellner)
<https://dccourts.webex.com/meet/ctb218>
or 129 515 6417

Courtroom 116-R: 6D/7D- M/T/W (Judges Fisher/Nooter/TBA)⁴
<https://dccourts.webex.com/meet/ctb116>
or 179 896 0679

Courtroom 310-R: DC OAG Calendar (Magistrate Judge)
<https://dccourts.webex.com/meet/ctb310>
or 129 966 2646

Courtroom 316-R: DC OAG Calendar M/T/W (Magistrate Judge)
<https://dccourts.webex.com/meet/ctb316>
or 129 547 9121

Community Court cases will remain on the designated calendar through case closure, with the exception that DPA, DSA, and STET Agreement end dates shall be set on the Citation/Diversion Calendar on Mondays and Fridays.

III. Mental Health Court Admissions: Cases approved for and seeking admission into Mental Health Court shall be scheduled in 111-R on Tuesday or Thursday for a remote admission hearing into Mental Health Court.

³ Inpatient mental observation hearings for defendants at St. Elizabeths Hospital will be set on the DBH Inpatient Calendar and heard by the calendar judge; see “Cases involving defendants at St. Elizabeths Hospital” below.

⁴ 6D: unassigned; pleadings and reports should be filed with Judge Fisher; 7D: unassigned; pleadings and reports should be filed with Judge Nooter.

IV. Drug Court Admissions: Cases approved for and seeking admission into SCDIP shall be set in 111-R on Wednesday at 2pm for a remote hearing, pending the defendant's final acceptance into the program.

IT IS FURTHER ORDERED that the parties shall make best efforts to comply with the following expectations in advance of all detention hearings, citation arraignment, initial status and community court calendar hearings:

Five days following the scheduling of a detention hearing, or three days prior to the detention hearing, whichever is earlier, **GOVERNMENT COUNSEL** shall provide defense counsel with all *Jencks* material and any exhibits it plans to rely upon at the hearing, as well as the terms of any pre-detention hearing plea if one is to be offered.

At the earliest possible opportunity, and no later than two weeks following the initial order of detention or two weeks prior to the scheduled hearing date in non-detained cases, **GOVERNMENT COUNSEL** shall:

- 1) except as otherwise ordered by the assigned judge based upon a showing of good cause, upon a defendant's request, provide all available discovery to which they will be entitled pursuant to Superior Court of Criminal Procedure 16 and any additional disclosures required pursuant to *Brady*, regardless of whether the defendant has yet to be arraigned;
- 2) if in its discretion it determines that a plea or diversion offer is to be extended, provide the terms of such offer to defense counsel;
- 3) if the case was previously set for sentencing and continued due to the declaration of judicial emergency, or upon notification that the defendant will be accepting the plea offer, prepare for sentencing, including making best efforts to satisfy any obligation pursuant to D.C. Code § 23-1902 *Notice to crime victims* and 18 U.S.C. § 3771.

In addition to the foregoing, the **GOVERNMENT** is strongly encouraged to review each case in advance of the scheduled hearing and reevaluate the viability of the continued prosecution.

At the earliest possible opportunity and no later than one week prior to the scheduled hearing date, **DEFENSE COUNSEL** shall:

- 1) make best efforts to establish contact with the defendant to inform them of their upcoming court date and, for defendants on release who will be appearing remotely, provide remote log in information and information about community based Remote Hearing Sites (see FN 2). If counsel does not have contact information for the defendant, they should contact Pretrial Services Agency to determine if it has a current telephone number, address or email for the defendant and/or provide a phone number at which counsel can be reached;
- 2) communicate the terms of any plea or diversion offer to the defendant;
- 3) inform government counsel if additional discovery is being requested and/or whether the defendant wishes to accept the plea or diversion offer;

- 4) if the case was previously set for sentencing and continued due to the declaration of judicial emergency, or if the defendant will be accepting the plea offer, prepare for sentencing, including submitting proposed findings if sentencing under the Youth Rehabilitation Act is being sought.

If a trial is to be requested at the status hearing on the Community Court Calendar, both **GOVERNMENT and DEFENSE** shall consult with their potential witnesses in advance of the hearing. If a trial is requested at a status hearing on the Citation/Diversion or Misdemeanor Initial Status Hearing Calendar, a trial readiness date will be set on the assigned Community Court Calendar for purposes of selecting a trial date and parties shall consult with their potential witness in advance of the hearing to determine their availability to appear in-person to provide testimony.

It is **FURTHER ORDERED** that motions, pretrial reports of noncompliance and probation violation reports shall continue to be filed with the assigned case judge; and it is

FURTHER ORDERED that if parties are appearing remotely, they should make every effort to submit fully executed disposition paperwork to the calendar judge's chambers 24 hours in advance of the hearing; for pleas and DSAs to be entered on the OAG calendars a consent to plea before a Magistrate Judge must also be provided.⁵ However, if one or more parties are unable to sign the disposition paperwork for any reason, parties shall submit the unexecuted documents and the Court shall obtain remote authorization from each party to record their electronic signature on the paperwork; and it is

FURTHER ORDERED that the parties shall appear before court as follows:

Until further notice, the following calendars will proceed entirely remotely and all parties must appear by video to the extent possible and, if unable to appear by video, by telephone.

Citation Arraignment/Diversion Calendar

<https://dccourts.webex.com/meet/ctb313>

<https://dccourts.gov/citationusao>

<https://dccourts.gov/citationoag>

or 129 311 6590

Mental Health Community Court

Superior Court Drug Intervention Program (Drug Court)

<https://dccourts.webex.com/meet/ctb111>

or 129 350 4013

Individuals who are unable to appear remotely may be referred to a community based Remote Hearing Site (see FN 2) or may check in at the D.C. Superior Court Information Desk to obtain assistance in logging in remotely for their hearing from the courthouse. Counsel may also contact the judge assigned to the calendar to request that the case be transferred to the

⁵ OAG Calendars: OAGCOMMUNITYCOURT@dsc.gov; 1D: JudgeSmithChambers@dsc.gov; 2D/4D: JudgePittmanChambers@dsc.gov; 3D/5D: JudgeWellnerChambers@dsc.gov; 6D/7D: disposition paperwork: 6D/7DCOMMUNITYCOURT@dsc.gov; 6D pleadings and reports: JudgeFisherChambers@dsc.gov; 7D pleadings and reports: JudgeNooterChambers@dsc.gov.

appropriate community court calendar for an in-person hearing or other arrangements made to facilitate an in-person appearance.

Until further notice, the Community Court Calendars, to include the 1D, 2D/4D, 3D/5D, and 6D/7D and the DC OAG calendar will operate both remotely and in-person.

Cases involving defendants on release:

Unless ordered by the court to appear in-person or for a detention hearing or trial, non-detained defendants are encouraged to appear by video to the extent possible and, if unable to appear by video, by telephone.

If the defendant will be appearing remotely, counsel (both government and defense), may also appear by video.

If the defendant will be appearing in-person, counsel (both government and defense), shall also appear in-person.

Cases involving detained defendants:

Detained defendants in misdemeanor cases may continue to appear remotely from the D.C. Jail for all hearings, with the exception of detention hearings and trial, according to the remote hearing profiles established for each Community Court Calendar as set forth below and in Attachment A: SCHEDULE FOR REMOTE VIDEO HEARINGS FROM D.C. JAIL:

Community Court 2D/4D:

5 mornings/week with 3 hearing slots/day (10, 11AM and 12PM)

Community Court 1D and 3D/5D on alternating weeks:

5 days/week with 5 hearing slots/day (9:30, 10:30 and 11:30AM, 12:15 and 2PM)

Community Court 6D and 7D:

3 days/week (Monday, Tuesday, Wednesday- no hearings last Monday of month) with 5 hearing slots/day (9:30, 10:30 and 11:30AM, 12:15 and 2PM)

OAG Community Courts:

1 day/week (Friday) with 5 hearing slots/day (9:30, 10:30 and 11:30AM, 12:15 and 2PM)

If the defendant will be appearing remotely, counsel (both government and defense), may also appear by video.

If the defendant does not consent to appearing remotely and will be appearing in-person, counsel (both government and defense), shall also appear in-person.

Cases involving defendants at St. Elizabeths Hospital:

Defendants at St. Elizabeths Hospital may continue to appear remotely for all hearings, with the exception of detention hearings and trial, according to the remote hearing profile established for the DBH Inpatient Calendar.

<https://dccourts.webex.com/meet/ctbDBH>

or 179 174 2726.

If the defendant will be appearing remotely, counsel (both government and defense), may also appear by video.

If the defendant does not consent to appearing remotely and will be appearing in-person, counsel (both government and defense), shall also appear in-person.

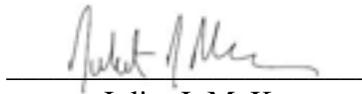
Pretrial Services and Court Services and Offender Supervision Agency representatives may appear in person, but are encouraged to continue to appear remotely by video or telephone if possible.

Victims of crime may appear in person, but are encouraged to continue to appear remotely by video or telephone if possible.

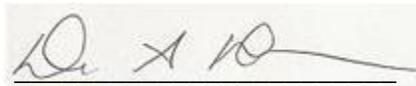
Members of the public may attend in person, subject to capacity limitations, but are encouraged to continue to observe court proceedings remotely.

The court expresses its appreciation to counsel in advance for compliance with this order and cooperation during the Criminal Division's expansion of Misdemeanor Court operations.

SO ORDERED, this 4th day of October, 2021.



Juliet J. McKenna
Presiding Judge, Criminal Division



Danya A. Dayson
Deputy Presiding Judge, Criminal Division

ATTACHMENT A

**SCHEDULE FOR REMOTE VIDEO HEARINGS FROM D.C. JAIL EFFECTIVE
SEPTEMBER 13, 2021**

1D COMMUNITY COURT CALENDAR DOC REMOTE CALENDAR WEEKS (112-R)

SEPTEMBER

September 20- 24

OCTOBER

October 4 –8

October 18- 22

NOVEMBER

November 1- 5

November 15-19

November 29-December 1 (December 2 and 3 – in service training dates)

DECEMBER

December 13—17

December 27-30 (December 31 holiday)

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
9:30 AM	9:30 AM	9:30 AM	9:30 AM	9:30 AM
10:30 AM	10:30 AM	10:30 AM	10:30 AM	10:30 AM
11:30 AM	11:30 AM	11:30 AM	11:30 AM	11:30 AM
12:15 PM	12:15 PM	12:15 PM	12:15 PM	12:15 PM
2 PM	2 PM	2 PM	2 PM	2 PM

2D/4D COMMUNITY COURT CALENDAR DOC REMOTE CALENDAR DAYS (314-R)

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM
11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM
12 PM	12 PM	12 PM	12 PM	12 PM

3D/5D COMMUNITY COURT CALENDAR DOC REMOTE CALENDAR WEEKS (218-R)

SEPTEMBER

September 13-17

September 27-October 1

OCTOBER

October 12-15 (October 11 holiday)

October 25-29

NOVEMBER

November 8-12 (November 11 holiday)

November 22-24 (November 26-27 holiday)

DECEMBER

December 6-10

December 10-23 (December 24 holiday)

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
9:30 AM	9:30 AM	9:30 AM	9:30 AM	9:30 AM
10:30 AM	10:30 AM	10:30 AM	10:30 AM	10:30 AM
11:30 AM	11:30 AM	11:30 AM	11:30 AM	11:30 AM
12:15 PM	12:15 PM	12:15 PM	12:15 PM	12:15 PM
2 PM	2 PM	2 PM	2 PM	2 PM

6D/7D COMMUNITY COURT CALENDAR DOC REMOTE CALENDAR DAYS (116-R)

MONDAY	TUESDAY	WEDNESDAY
9:30 AM	9:30 AM	9:30 AM
10:30 AM	10:30 AM	10:30 AM
11:30 AM	11:30 AM	11:30 AM
12:15 PM	12:15 PM	12:15 PM
2 PM	2 PM	2 PM

NO REMOTE DOC CALENDAR ON: Monday, September 27, Monday October 25, Monday, November 29, Monday, December 27

OAG COMMUNITY COURT CALENDAR DOC REMOTE CALENDAR DAY (316-R)

FRIDAY
9:30 AM
10:30 AM
11:30 AM
12:15 PM
2 PM