

# **NINTH JUDICIAL DISTRICT VIRTUAL COURTROOM PROCEDURES**

In response to the Governor's Chief Judge's and Chief Administrative Judge's mandate to reduce the density of court users in response to the unprecedented COVID-19 public health crisis, the Ninth District has designed the following plan to create a "virtual court" effective Monday, April 6, 2020, in all of the courts in the Ninth Judicial District for essential court proceedings. In all Essential court proceedings, all parties, Judges, court reporters, interpreters, etc. will participate by videoconferencing using Skype for Business (Skype).

## **I. GENERAL PROVISIONS**

1. The Central Courthouse shall be open from 9:00 a.m. until 5:00 p.m., Monday through Friday.
2. The Central Courthouse shall be staffed with the minimum number of employees to ensure the ability to intake papers, operate Skype equipment, process orders, keep the court record, answer telephone inquiries, process the mail and maintain essential court functions.
3. Security shall be maintained at the entrance to the Courthouse and throughout the facilities, including courtrooms when in session.
4. Signs shall be posted at the entrance to every Central Courthouse notifying the public of the existence of the video appearance protocol and indicating that the court proceedings remain open to the public (with the understanding that social distancing shall be maintained at all times).
5. The Designated Judge, court reporter (where used), and Spanish interpreter, if needed, shall participate in the Skype call from remote locations. The District IT Department shall test all computer connections with the Designated Judge at least 3 days before the Judge sits. All court reporters have remotely tested their connections.
6. The Court Clerk shall be present in the courtroom. If the proceeding involves a defendant/self-represented litigant not in custody, the Court Clerk at the courthouse will establish the Skype call in the courtroom and the defendant/self-represented litigant shall appear via Skype from the courtroom. If possible, the defendant/self-represented litigant shall be encouraged to

appear by Skype video remotely. Each courtroom shall have a dedicated phone as backup.

7. The press/public shall be permitted in a designated location in the Courthouse and have access to video and audio of the proceeding. Press inquiries shall be directed in writing to the Administrative/Supervising Judge prior to the proceeding. The presiding judge shall have the ultimate determination as to whether cameras will be allowed in the virtual courtroom, applying existing laws and rules.
8. If the defendant/litigant requires the use of an interpreter, the Clerk shall contact the Language Line for languages other than Spanish.
9. If there is a need for an exception to these Virtual Courtroom Procedures, application shall be made by the Chief Clerk or Designated Judge to the Supervising Judge or to the Administrative Judge. The Supervising Judge shall consult with the Administrative Judge to determine if an exception shall be made.
10. If the County Clerk receives a filing that requires immediate action by the Court, the County Clerk shall contact the Supreme Court Clerk (or his/her designee).

## **II. ADULT CRIMINAL ESSENTIAL APPEARANCES<sup>1</sup>**

Essential proceedings are limited to Arraignments, Returns on Warrants and Bail Review proceedings. No other proceeding may be calendared without the express approval of the Supervising Judges of the Superior Criminal or City Courts.

### **1. Arraignments/Returns on Warrants**

- (a) The arresting agency shall contact the District Attorney's Office (DAO) and provide copies of applicable paperwork to the DAO.
- (b) The DAO shall provide electronic copies of applicable paperwork to the Chief Clerk or his/her designee and provide the Clerk with contact information for the arresting agency.
- (c) The Chief Clerk or his/her designee shall contact the Public Defender/Legal Aid Society or in the event of a conflict or multiple defendant case, assign an

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<sup>1</sup> The within protocol is in effect during business hours from Monday through Saturday. After-hours proceedings are not affected by this protocol as the 9<sup>th</sup> JD does not have evening or Sunday arraignments in County or City Courts.

- attorney from the 18-b panel. The Clerk shall provide counsel with electronic copies of the relevant paperwork as well as telephone contact information for the arresting agency.
- (d) Defense counsel shall contact the arresting agency and be given an opportunity for private telephonic or other electronic communication with his/her client. Upon completion of same, defense counsel shall contact the clerk and advise that the defense is ready for the arraignment.
  - (e) The clerk shall send a pre-established Skype link to the DAO, the Designated Judge, defense counsel and the arresting agency to permit the remote court appearance.
  - (f) A record of the proceeding will be made via a remote court reporter, by Liberty Recorder on a court computer or other recording device.
  - (g) An interpreter shall be available to serve remotely or via approved language line.
  - (h) At the conclusion of the proceeding, the Designated Judge will communicate with the Court Clerk concerning completion of necessary paperwork and will authorize him/her to conform signatures to be affixed where appropriate. The Clerk shall be responsible to electronically forward all documents including but not limited to Temporary Orders of Protection and Jail Commitments to the required agencies.
  - (i) Skype contact information and cell phone numbers for necessary parties have been provided to the clerk of the Court for each county.

## **2. Bail Review Proceedings**

- (a) Defense counsel shall contact the District Attorney's Office (DAO) to request a Bail Review Proceeding. Defense counsel shall advise the DAO as to whether the client's appearance is requested remotely or whether counsel will be waiving same for purposes of the remote proceeding.
- (b) The DAO shall notify the Chief Clerk or his/her designee of the application and electronically provide any relevant documents.
- (c) The clerk shall contact the jail to request the presence of the defendant at the remote court proceeding. Jails will utilize pre-established Skype link or telephonic link to permit an in-custody defendant to participate in the proceeding.

- (d) Once all parties have been notified, the Clerk will send a pre-established Skype link to the DAO, the Designated Judge, defense counsel and the jail to permit the remote court appearance.
- (e) A record of the proceeding will be made via a remote court reporter, by Liberty Recorder on a court computer or other recording device.
- (f) An interpreter shall be available to serve remotely or via approved language line.
- (g) At the conclusion of the proceeding, the Designated Judge will communicate with the Court Clerk concerning completion of necessary paperwork and will authorize him/her to conform signatures to be affixed where appropriate. The Clerk shall be responsible to electronically forward and/or upload all required paperwork.

**3. Juvenile Offender and Adolescent Offender Matters**

All proceedings involving JOs and AOs shall be handled by the designated judge of the Family Court judge according to the procedures set forth regarding Family Court procedures.

**III. MENTAL HEALTH PROCEEDINGS INCLUDING HOSPITALIZED ADULTS**

1. Upon the filing of an Essential Proceeding pertaining to a hospitalized adult (including but not limited to a proceeding pursuant to Article 9 of the Mental Hygiene Law, Article 33 of the Mental Hygiene Law, or Article 81 of the Mental Hygiene Law), the lawyer instituting the proceeding shall provide a phone number and email address to the Chief Clerk, or his/her designee, for himself or herself and for a representative at the hospital, and any other interested party. The lawyer instituting the proceeding shall be responsible to facilitate their appearance by Skype.

2. The Chief Clerk (or his/her designee) in each county shall be responsible for sending out the Skype invitation/link to the Judge, the attorney for the hospitalized party, Mental Hygiene Legal Services (MHLS), and the representatives at the healthcare facility.

3. The Chief Clerk's office shall be responsible for ensuring the video equipment is in the courtroom and establishing the Skype connection.

4. At every appearance, best efforts shall be used to obtain the Respondent's consent to appearing by video, but the Designated Judge may permit the

proceeding to continue via video without the Respondent's consent pursuant to Administrative Order 72 issued by Chief Administrative Judge Lawrence Marks on March 20, 2020.

5. At every appearance, the Designated Judge shall ensure that the Respondent and his/her counsel have an opportunity to consult privately.

6. If a video appearance cannot be facilitated via Skype for Business, the appearance shall be telephonic.

7. At the conclusion of the proceeding, the Designated Judge will communicate with the Chief Clerk (or his/her designee) regarding the completion of necessary paperwork and will authorize his/her conformed signature to be used where appropriate.

8. In the Westchester County Guardianship Part, mental health proceedings may proceed by VIDYO pursuant to the videoconferencing pilot program ("TeleCourt"), previously authorized by Administrative Order (AO/056/19) and extended by Chief Administrative Judge Lawrence Marks.

#### **IV. FAMILY COURT**

Essential Family Court Proceedings are limited to Article 10 removal applications, Article 3 Juvenile Delinquency Pre-Petition Detention Applications, Article 8 Temporary Orders of Protection (TOP) Applications, Juvenile Offender or Adolescent Offender (JO/AO) proceedings in the Youth Part, or OTSC/Stipulations on Submission. No other proceeding may be calendared without the express approval of the Supervising Judge and the Administrative Judge.

1. Upon the filing of a petition, the lawyer instituting the proceeding shall provide a phone number and email address for himself or herself, and for a representative at the facility where the youth is located, if applicable, who will be responsible to facilitate the appearance by Skype.
2. Upon receipt of the papers, the attorney for the Respondent shall provide the Chief Clerk (or his/her designee) with his or her email address and phone number.
3. The Chief Clerk (or his/her designee) in each County shall be responsible for sending out a Skype invitation/link to the Judge, the attorney for the Respondent, other counsel, if applicable any parent or guardian, and the representative at the Residential Facility, if applicable.
4. The Chief Clerk (or his/her designee) shall be responsible for receiving court papers and distributing digitally to the Designated Judge.

5. The Chief Clerk (or his/her designee) shall be responsible for ensuring the video equipment is in the courtroom and establishing the Skype connection.
6. At every appearance, the Designated Judge shall ensure that the attorney(s) and his/her client have an opportunity to consult privately by cell phone or otherwise.
7. If a video appearance cannot be facilitated via Skype for Business, the appearance shall be telephonic.
8. At the conclusion of the proceeding, the Designated Judge will communicate with the Chief Clerk (or his/her designee) regarding the completion of necessary paperwork and will authorize him/her to conform signatures to be affixed where appropriate. The Court clerk shall be responsible for electronically forwarding all documents included but not limited to Temporary Orders of Protection and Securing Orders to the required agencies.
- 9. Adolescent Offender/Juvenile Offender Proceedings During Regular Business Hours**
  - a. The Designated Family Court Judge presiding over essential matters shall preside over Youth Part proceedings.
  - b. The arresting agency shall contact the District Attorney's Office (DAO) and provide copies of applicable paperwork to the DAO.
  - c. The DAO shall provide electronic copies of applicable paperwork to the Chief Clerk or his/her designee and provide the Clerk with contact information for the arresting agency.
  - d. The Chief Clerk or his/her designee shall contact the Public Defender/Legal Aid Society or in the event of a conflict or multiple defendant case, assign an attorney from the 18-b panel. The Clerk shall provide counsel with electronic copies of the relevant paperwork as well as telephone contact information for the arresting agency.
  - e. Defense counsel shall contact the arresting agency and be given an opportunity for private telephonic or other electronic communication with his/her client. Upon completion of same, defense counsel shall contact the clerk and advise that the defense is ready for the arraignment.
  - f. The clerk shall contact the Judge and the Legal Aid Society to alert them there will be an arraignment.

- g. The RTA matter shall proceed as in Section IV.

## **10. After-hours Adolescent/Juvenile Offender Arraignments**

### **Westchester County**

- a. Virtual AO and JO arraignments will take place after hours on weekday evenings from 8pm to midnight, and on weekends and holidays from 9am to 1pm and 8pm to midnight at the Westchester County Centralized Part in White Plains.
- b. For AOs and JOs that are arrested in the cities of White Plains, Yonkers, Mount Vernon, New Rochelle, Rye and Peekskill, the arresting agency shall contact Woodfield Cottage to notify that an arraignment is needed.
- c. Woodfield Cottage staff will obtain the phone number for the arresting agency.
- d. Woodfield Cottage staff will contact the designated Court Clerk on call to appear at the centralized location located at the Westchester County Centralized Part in White Plains, and provide the Court Clerk with the phone number for the arresting agency.
- e. The court clerk on call will contact the arresting agency, the Accessible Magistrate on call, and Public Defender/Legal Aid Society to make the necessary arrangements for the virtual arraignment as arranged by the Westchester County Centralized Part in White Plains.
- f. The Court Clerk and the Accessible Magistrate shall follow the procedure delineated above in Section IV.

### **Dutchess County**

- a. The police departments in the cities of Poughkeepsie and Beacon shall contact the Accessible Magistrate on call and alert him/her of the need for an AO or JO arraignment.
- b. The Accessible Magistrate shall assume the duties of the court clerk as delineated above in Section IV.

### **Orange County**

- a. Virtual AO and JO arraignments will take place on the weekends and holidays from 10am to noon and 8pm to 10pm at the Orange County Centralized Part in Goshen.
- b. The arresting agency will contact the Accessible Magistrate on call.
- c. For arraignments on Saturdays from 10 a.m. to noon, the court clerk at the centralized location shall follow the procedure as delineated above in Section IV.
- d. At all other times for the after-hours arraignments, the Accessible Magistrate shall assume the duties of the clerk as delineated above in Section IV

### **Putnam & Rockland County**

After-hours AO and JO arraignments for Putnam and Rockland Counties will continue to be heard in the Town and Village Courts until such time as a Virtual Court Plan goes into effect for the Town and Village Courts.

## **11. Article 3**

- a. Upon the filing of an Article 3 Essential matter, the clerk shall immediately assign an attorney for the child and notify the duty Judge of the filing of the Essential matter.
- b. The clerk shall follow the procedure delineated above in Section IV.

## **12. Article 10 Removal Applications**

- a. Upon the filing of a petition, the clerk will assign an attorney for the child.
- b. The Clerk will notify all attorneys of the hearing time and arrange for Skype.
- c. Department of Social Services or the County Attorney is responsible for notifying parents and their client(s) and obtain contact information for use when the case is called.
- d. The Clerk shall prepare the order in accordance with the judge's findings and follow procedures for processing as mentioned above.

## **V. TOWN AND VILLAGE COURTS**

- a. All Town and Village Courts Essential matters are being heard in the Centralized Courthouse in each County from 9 AM to 5 PM.
- b. All after-hour proceedings will continue to be heard, including the AO/JO arraignments, in the Town and Village Courts until such time as they go virtual.

## **VI. ALL ESSENTIAL MATTERS NOT COVERED HEREIN**

- a. The Designated Judge shall determine the feasibility of either Video or Telephonic Appearance by the parties and their attorneys or, in the case of a Family Offense Petition or a Quarantine Application, whether the matter can be resolved on the papers alone.
- b. The Chief Clerk or designee shall be responsible for the receiving court papers and distributing to the parties and/or their attorneys.
- c. The Chief Clerk or designee shall forward papers electronically to parties and counsel, if represented.
- d. The Chief Clerk or designee shall be responsible for ensuring the video equipment is in the courtroom and establish the Skype connection. The proceeding shall be recorded by FTR or remote court reporter.
- e. At every appearance, best efforts shall be used to obtain the parties' consent (or Petitioner's consent in the case of a Family Offense application for a Temporary Order of Protection) to appearing by video, but the Designated Judge may permit the proceeding to continue via video without the party/parties consent.
- f. At every appearance, the Designated Judge shall ensure that the parties and his/her counsel have an opportunity to consult privately.
- g. If a video appearance cannot be facilitated via Skype for Business, the appearance shall be telephonic.
- h. At the conclusion of the proceeding, the Designated Judge will communicate with the Chief Clerk (or his/her designee) regarding the completion of necessary paperwork and will authorize him/her to conform signatures to be affixed where appropriate.

## VII. TECHNOLOGY

The Ninth JD Technology Department, under the leadership of Principal LAN Coordinator, Valerie Buzzell, is developing a remote access plan for all courts in the Ninth JD as follows:

1. **General mailboxes:** One general mailbox will be established for each of the Courts in the Ninth JD. For example, any mail/applications to be filed in Westchester County Family Court would be e-mailed to [VirtualWestchesterFamilyCourt@nycourts.gov](mailto:VirtualWestchesterFamilyCourt@nycourts.gov). A similar e-mail will be set up for the Supreme, County and City Courts. The only exception will be in Putnam County, which is a relatively smaller multi-hat court. Putnam County will have one general mailbox for all matters ([VirtualPutnamMultiCourt@nycourts.gov](mailto:VirtualPutnamMultiCourt@nycourts.gov)).
2. **Skype for Business:** The technology department is also working on making sure that all duty judges have access to Skype for Business. This will be made available to all parties involved in an essential case either by access to a skype link and/or phone number to be distributed by the clerks.

TECHNOLOGY DEPARTMENT

HELP DESK LINE (ALL 5 COUNTIES)  
TECH SUPPORT EMAIL

914-824-5151  
[9th-JD-SUPPORT-CENTER@nycourts.gov](mailto:9th-JD-SUPPORT-CENTER@nycourts.gov)

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Rye Lt. Scott Craig	Local Police Dept.	<a href="mailto:Scraig@ryepd.ryeny.gov">Scraig@ryepd.ryeny.gov</a>	914-967-1234 ext. 2010
White Plains Tour Commander (rotate)	Local Police Dept.	<a href="mailto:Tourcommander@whitepalinsny.gov">Tourcommander@whitepalinsny.gov</a>	914-422-6006
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ROCKLAND COUNTY

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