



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT

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ALAN G. DAVIS
CHIEF MAGISTRATE

POLICY DIRECTIVE 97-163 (7th Revision)

**TO: ALL JUSTICES OF THE PEACE
ALL JUSTICE OF THE PEACE CRIMINAL COURT LOCATIONS**

**FROM: ALAN G. DAVIS
CHIEF MAGISTRATE** *AGD*

DATE: JULY 14, 2025

**RE: PROTOCOL FOR VIRTUAL HEARINGS IN CRIMINAL COURT
LOCATIONS**

This Policy Directive presents an updated "Justice of the Peace Court Protocol for Virtual Hearings in Criminal Court Locations". Due to ever-changing technology, the protocol's title and body reflect a modification to the use of the phrase "virtual hearing," instead of the word "videophone," and addresses all Justice of the Peace criminal court locations ("JP Court") including the Statewide Virtual Hearing Criminal Court. This protocol has also been amended in other areas in order to support and advance a "One Court with different locations" philosophy:

- 1) If a new warrant is sworn to by a judge at any Justice of the Peace Court (JP Court) location and that Court location handles the arraignment or presentment, and the defendant is found to be wanted on a capias from another JP Court location, the judge at that Court location shall handle the capias, in accordance with PD 96-161 (Revised) "Handling Justice of the Peace Court Capiases";

- 2) When any JP Court location is unable to handle a proceeding within 1&1/2 hours after acceptance and processing of the case, the clerical staff will follow the process delineated in a new Procedural Memorandum 25-030 "Case Diversion Protocol for Virtual Hearings in Criminal Court Locations";
- 3) A judge may accept a guilty or nolo contendere plea via a virtual hearing when the defendant is unrepresented by counsel, only on a charge for which the statutory penalty is only a fine or a fine with points assessed by the Delaware Division of Motor Vehicles (DMV) to the defendant's driving record.¹ Guilty or nolo contendere pleas on any charge for which incarceration is a statutory possibility or on any charge for which a license suspension or revocation or a mandatory driving behavior modification class through the DMV is a statutory possibility, should never be accepted during a virtual hearing by the judge when the defendant is unrepresented by counsel. A plea may be accepted for any misdemeanor or traffic offense when counsel is present and both counsel and the defendant agree to the taking of the plea via a virtual hearing;
- 4) If the defendant states during a virtual hearing that he/she would like to enter a guilty or nolo contendere plea, but the circumstances discussed above do not permit the judge to accept the plea, the judge should schedule an appearance for the defendant to enter the plea within 5 days at the Court location with jurisdiction and set an own recognizance or unsecured bond. If the judge finds that a secured or cash bond is reasonable in order to guarantee the defendant's next appearance and this is the defendant's first appearance on the charges, the case shall be **immediately** transferred to Ct. 20, the current Statewide Bail Review Court for a Bail Review Hearing in accordance with PD 00-182(4th Revision) "Scheduling Trials/Hearings for Other Justice of the Peace Court Locations"; and
- 5) Similarly, if the case is to remain in JP Court for arraignment or trial, this is the defendant's first appearance on the charges, **and** the judge orders secured or cash bail, the Court will **immediately** transfer the case to Ct. 20 for a Bail Review Hearing. Ct. 20 is the Statewide Bail Review Court for a Bail Review Hearing in accordance with PD 00-182(4th Revision) "Scheduling Trials/Harings for Other Justice of the Peace Court Locations";

****AN ORDER TO OVERRIDE SHALL ACCOMPANY THE CASE PAPERWORK TO CT. 20. THE ATTORNEY GENERAL'S OFFICE AND THE OFFICE OF**

¹ The judge may, due to time constraints, schedule the defendant to appear at the court location with jurisdiction to enter the plea, instead of accepting the plea during a virtual hearing.

DEFENSE SERVICES WILL NEED AN UNDERSTANDING AS TO THE JUDGE REASONING FOR REQUIRING SECURED OR CASH BAIL IN ORDER TO CONSCIENTIOUSLY PROVIDE THEIR RECOMMENDATIONS TO THE JUDGE IN CT. 20.**

- 6) **If there are no new charges requiring arraignment/presentment**, capiases are handled by the court location that issued the capias, if open. If the defendant has multiple capiases from different JP Court locations, the agency with custody of the defendant may contact any Court location in the state that issued at least one of the capiases. That Court location will handle all of the capiases presented. If all Court locations that issued capiases are closed, the procedure will be handled by the 16-hour or 24-hour Court location in the county with jurisdiction over at least one of the capiases;
- 7) If requested by a judge, the officer may email a signed copy of a search warrant prior to the administration of the oath. Until search warrant submissions are automated in the DELJIS queue, for any hand-pre-signed warrant (not electronically signed), the judge **shall** cross out the words "subscribed to" and hand-write the words "*signature acknowledged*" in their place, in order to adhere to notary requirements mandated by 29 Del. C. Chapter 43 and discussed in PD 94-151 (Revised) "Administration of Oath or Affirmation by Justice of the Peace Court Personnel and Notaries Public";
- 8) The Court should schedule the arraignment, police prosecution, capias presentment etc. for the defendant at the appropriate JP Court location, in accordance with Policy Directive 00-182(4th Revision) "Scheduling Trials/hearings for Other Justice of the Peace Court Locations"; and
- 9) If the defendant requests a trial, the arraigning judge shall confirm the defendant's current address. The bond shall indicate that the Court location with jurisdiction will notify the defendant of the date and time for trial, in accordance with Policy Directive 00-182 (4th Revision) "Scheduling Trials/hearings for Other Justice of the Peace Court Locations".

These changes apply to all JP Court locations and help to ensure that the Court:

- 1) Continues to provide expeditious service to the police and corrections communities in the face of ever-expanding capabilities for virtual hearings between and among these agencies and the JP Court; and
- 2) Continues to provide professional and excellent service to all individuals who come before the Court.

The Justice of the Peace Court Protocol for Virtual Hearings in Criminal Court Locations has been amended to reflect these changes and is attached.

cc: Hon. Collins J. Seitz, Jr.
Hon. Kathaleen S. McCormick
Hon. Eric M Davis
Hon. Carl Danberg
Hon. Michael K. Newell
Alderman's Courts
Gale Lafferty, Court Administrator
Elizabeth Petrick, Justice of the Peace Court Administrator
Stephanie Parker, Justice of the Peace Deputy Court Administrator
Rebecca Trifillis, Justice of the Peace Court Staff Attorney
Nathan Kingree, Justice of the Peace Court Staff Attorney
Lauren Ellis, Operations Manager
Roger Roof, Operations Manager
Orlando Harper, Chief of Uniformed Services
Erika Shreve, Justice of the Peace Court Truancy Coordinator