



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

JUSTICE OF THE PEACE COURT
PROTOCOL FOR VIRTUAL HEARINGS IN CRIMINAL
COURT LOCATIONS

REVISED JULY 14, 2025

THE STATEWIDE VIRTUAL HEARING CRIMINAL COURT
MONDAYS-FRIDAYS
8:00 AM – 11:30 PM
EMAIL BOX: JPVideoCourt@delaware.gov (not case-specific)

***FOR HOLIDAYS AND WEEKENDS, OFFICERS MUST EMAIL THE JP COURT LOCATION THAT IS OPEN IN THEIR COUNTY:**

JP Court 3: JPCOURT03@DELAWARE.GOV

JP Court 7: JPCOURT07@DELAWARE.GOV

JP Court 11: JPCOURT11@DELAWARE.GOV

Background

This protocol is a guide for virtual hearings between Justice of the Peace Court criminal court locations, including the Statewide Virtual Hearing Criminal Court, police, corrections, and others who use virtual equipment to conduct court proceedings without requiring the physical presence of the defendant and the police officer in the Courthouse. In implementing the protocol, it is important to be mindful of the goals to ensure speedy and fair processing of court proceedings and to be flexible in accomplishing these goals.

Justice of the Peace Court Criminal Rule 4(g) provides, in pertinent part, that a Justice of the Peace may issue a warrant in conjunction with an audiovisual appearance. Criminal Rule 10(b)(2) provides that “[I]nitial appearances and arraignments may be conducted by audiovisual device in the same manner as if the appearance were in person” and that “documents may be transmitted ... electronically.”

Proceedings Eligible for Virtual Hearing Processing:

Arraignments/Initial Presentments/Capias Presentments/Warrant Approvals

A) General:

- 1) The virtual hearing process is the default process to conduct arraignments, initial presentments, capias presentments, and warrant approvals for eligible cases. If exceptional circumstances exist, the judge may request that the defendant be physically brought to the Court location. For example, exceptional circumstances could include, among others:
 - a) If it appears to the judge, through the defendant's words or actions, that the defendant may not comprehend the nature of the proceedings; or
 - b) If it appears to the judge that there are specific indications that the use of the virtual process for the proceeding will affect the fairness of the proceeding.

- 2) When any JP Court location, including the Statewide Virtual Hearing Criminal Court, is unable to handle a proceeding within 1&1/2 hours after acceptance and processing of a 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".

B) Types of Cases with Adult or Juvenile Defendants:

- 1) All traffic offenses;
- 2) All criminal offenses (violations, misdemeanors, and felonies);
- 3) All civil offenses;
- 4) Capiases; and
- 5) Weapons Relinquishments.

C) Types of Court Actions:

- 1) Review of arrest warrants, search warrants, and weapons relinquishment requests;

- 2) Not guilty pleas with the release of the defendant on own recognizance or unsecured bonds;

- 3) Not guilty pleas with the commitment of the defendant or the release of the defendant after posting money bail or with the satisfaction of any bail condition which may be holding the defendant;
- 4) Guilty or nolo contendere pleas for misdemeanors or traffic offenses under the jurisdiction of the Justice of the Peace Court (JP Court) if the defendant is represented by counsel, counsel is present at the proceeding, and both the defendant and counsel consent to the taking of the guilty plea via a virtual hearing;
- 5) Guilty or nolo contendere pleas when counsel is not present or the defendant is unrepresented by counsel may be accepted by the judge via a virtual hearing, 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 by the judge during a virtual hearing when the defendant is unrepresented by counsel; and
- 6) 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 at the court location with jurisdiction within 5 days 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 the Statewide Bail Review Court (Ct. 20) for a bail review hearing in accordance with PD 00-182 (4th Revision) "Scheduling Trials/Hearings for Other Justice of the Peace Court Locations."

****AN ORDER TO OVERRIDE SHALL ACCOMPANY THE CASE PAPERWORK TO THE STATEWIDE BAIL REVIEW COURT. THE ATTORNEY GENERAL'S OFFICE AND THE OFFICE OF DEFENSE SERVICES WILL NEED AN UNDERSTANDING AS TO THE JUDGE'S REASONING FOR REQUIRING SECURED OR CASH BAIL IN ORDER TO CONSCIENTIOUSLY PROVIDE THEIR RECOMMENDATIONS TO THE JUDGE IN THE STATEWIDE BAIL REVIEW COURT.****

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.

Exceptions to Eligible Proceedings in the Statewide Virtual Hearing Criminal Court

- A) Arraignments/ initial presentments involving felony offenses charged by the Wilmington Police Department. These cases will be handled by the 24-hour court location in New Castle County (Ct. 11);
- B) Arrest warrants or a combination of arrest warrants for a single individual that include more than thirty (30) charges, and search warrants with probable cause affidavits exceeding five (5) pages, due to time constraints. Police should submit these arrest warrants to another JP Court location via the virtual queue. Police may email, or make a personal appearance in a court location in the county with jurisdiction in order to swear to lengthy search warrants;
- C) Juvenile arraignments. The Statewide Virtual Hearing Criminal Court will handle any juvenile arrest warrant submission; however, due to time constraints, the Statewide Virtual Hearing Criminal Court **will not** handle juvenile arraignments;
- D) Capiases issued by another JP Court location and there are no new charges requiring arraignment/presentment. If the originating court location is open, the procedure shall be handled by that location. If the defendant has multiple capiases from different 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 shall 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 a county with jurisdiction over at least one of the capiases; and
- E) Cases requiring the services of an interpreter. Agencies holding the defendant should submit the case to a court location in the county with jurisdiction.

Conducting Virtual Hearings

A) General:

- 1) Clerks will process the requests in the order in which they are received and judges will initiate the virtual hearings in like manner;
- 2) Police must provide a phone number by which the presenting officer may be reached;
- 3) Police must provide the name and contact information for the defendant's attorney if present for the virtual hearing;

- 4) If any court location is unable to handle the proceeding within 1&1/2 hours, the clerical staff will follow the process delineated in Procedural Memorandum 25-030 “Case Diversion Protocol for Virtual Hearings in Criminal Court Locations”;
- 5) When a judge at any JP Court location swears an officer to a warrant and that same location handles the arraignment or presentment, and the defendant is found to be wanted on a capias from another JP Court location, the judge shall handle the capias, in accordance with PD 96-161(Revised) “Handling Justice of the Peace Court Capiases;
- 6) Police and Probation and Parole agencies are strongly encouraged to notify the JP Court location with jurisdiction and the Statewide Virtual Hearing Criminal Court when they will be conducting operations that are likely to result in a significant increase in virtual hearing activity over a short period of time (ex: prostitution sting, drug sweep, etc.). JP Court requests an advance notice of at least three (3) days to properly staff the court locations for the extra caseload. The Court does not require the details of the operation, only the likely magnitude of increased activity.

B) When the Statewide Virtual Hearing Criminal Court is Available:

- 1) Police should **not** contact a JP Court location other than the Statewide Virtual Hearing Criminal Court at JPVideoCourt@delaware.gov to conduct a virtual hearing when the Statewide Virtual Hearing Criminal Court is available unless the case is an exception as described in “Exceptions to Eligible Proceedings in the Statewide Virtual Hearing Criminal Court (above).”

C) When the Statewide Virtual Hearing Criminal Court is not available:

- 1) Any agency wishing to conduct a virtual hearing with a JP Court location should first contact a court location that is open in their county. If that court location is unable to handle the proceeding within 1&1/2 hours, the clerical staff will follow the process delineated in Procedural Memorandum 25-030 “Case Diversion Protocol for Virtual Hearings in Criminal Court Locations”.

Operational Procedures

A) Arrest Warrants

- 1) Officers shall submit arrest warrants using LEISS;
- 2) The judge should review warrants in the order they are posted in the automated queue, unless there is an appropriate reason not to do so;

- 3) The judge shall advise the officer of the decision to approve or deny the warrant via the drop-down box or by phone at the number provided;
- 4) If approved, the judge will swear the officer to the warrant and approve the warrant using the virtual process provided; and
- 5) The clerk will process the approved warrant and prepare the case for arraignment/presentation as soon as the police agency has submitted the Fully Executed Arrest Warrant, the completed Defendant History form, and the Initial Presentment Information Form **via email**.

B) Search Warrants

- 1) Officers shall submit search warrants to the Court via email;
- 2) The judge should review warrants in the order they are received, unless there is an appropriate reason not to do so;
- 3) The judge shall advise the officer of the decision to approve or deny the request at the phone number provided;
- 4) If approved, the judge will swear the officer to the warrant, then sign and seal the document;
- 5) If requested by the judge, the officer may email a signed copy of the warrant prior to the administration of the oath. 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 Affirmations by Justice of the Peace Court Personnel and Notaries Public;” and
- 6) The signed and sealed warrant will be returned to the officer via email.

The Court expects that in the future, search warrant requests will be automated using the same technology and processes used for arrest warrants.

C) Arraignments/Initial Presentments/Capias Presentments

- 1) The arresting officer or agency “turnkey” will email the Court to advise that an arraignment, presentment, and/or capias presentment is requested;

- 2) The officer will email the approved warrant/charging document to the court, along with the completed Defendant History form and the Initial Presentment Information Form. Police must include the arrest number on the warrant/charging document and provide a contact number for the officer presenting the defendant to the Court. Police must provide the name and contact information for the defendant's attorney if present for the virtual hearing;
- 3) When ready to proceed, the judge or clerk will telephone the officer/agency to inform them that the judge is ready for them to bring the defendant into the virtual hearing room. The judge will then contact the agency via the virtual equipment's calling system;
- 4) The officer should have the defendant available to conduct the hearing at the time the judge initiates the virtual call. If the officer is not ready, the judge will make one (1) attempt to reach the officer via telephone. If the judge is unable to reach the officer, or no contact information has been provided, the request will be relegated to the back of the queue of pending proceedings;
- 5) The judge will be seated in view of the defendant and the defendant and the officer will be in view of the judge;
- 6) If the defendant's attorney is physically present at the same location, the attorney shall be permitted to be seated with the defendant in view of the judge;
- 7) If the case is to remain in JP Court, the officer will advise the judge of the JP Criminal Court location that is closest to where the incident occurred (for purposes of scheduling an arraignment, police prosecution, capias return hearing, entering a guilty plea, etc.);
- 8) If the case is to remain in JP Court, is the defendant's first appearance on the charges, **and** the judge finds that a secured or cash bond is reasonable in order to guarantee the defendant's next appearance, refer to "Types of Court Actions" paragraph #5, under "Proceedings Eligible for Virtual Hearing Processing" above;
- 9) The Court should schedule arraignments, police prosecutions, capias return hearings, etc. for the defendant at the court location indicated by the officer (or at another appropriate court location), in accordance with Policy Directive 00-182 (4th Revision) "Scheduling Hearings and Trials for Other Justice of the Peace Court Locations;"
- 10) 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 Hearings and Trials for Other Justice of the Peace Court Locations;”

- 11) When the judge has finished the hearing, the clerk will email the final documents (Ex: bond, pretrial conditions of release order, commitment, etc.,) including the jurisdictional form, if applicable, to the officer for the defendant’s required signatures;
- 12) The officer is responsible for obtaining the defendant’s signatures on the documents as required and emailing the signed forms back to the Court as quickly as possible;
- 13) The officer is responsible for giving a copy of the bond and pretrial conditions order to the defendant;
- 14) Bail for commitments ordered during the virtual hearing may be posted at any open criminal JP Court location;
- 15) All information that judges write in the “Bail Notes” or “Additional Case Notes” sections on the Bail & Disposition Form shall be entered by the clerk in the automated Case or Bail Notes section in CJIS; and
- 16) Documents for cases transferred to another court location in which the defendant is scheduled next to appear shall be emailed immediately to the other court location. All original documents shall be transferred to the next court of appearance by the State Mail runner on the next business day.

Additional Items

- A) Each court location’s batch reports will include the list of cases transferred to that court by a different court location;
- B) All previously scheduled virtual hearing times between specific JP Court locations and correctional facilities remain in effect and will not be altered by this protocol (ex: Court 3 will continue to conduct virtual hearings with Sussex Correctional Institution); and
- C) If any agency has difficulties with virtual hearings conducted by any JP Court locations (such as delays in receiving service), they may contact either the manager for the court location or the Operations Manager for the court location involved. No complaints can be investigated without details such as date, time, court location, and defendant’s name and case number.