

CRIMINAL STANDING ORDER of APRIL 26, 2021

ORDER ESTABLISHING PROTOCOLS, EFFECTIVE IMMEDIATELY, FOR HEARINGS SET IN COURTROOM 116-R, 312-R and 313-R (FULLY REMOTE COURTROOMS)

WHEREAS, Courtroom 116-R is dedicated to hearings in non-detained misdemeanor cases, Courtroom 312-R is dedicated to citation arraignment and diversion hearings in cases prosecuted by the United States Attorney's Office, and Courtroom 313-R is dedicated to citation arraignment and diversion hearings in cases prosecuted by the Office of the Attorney General (OAG); and

WHEREAS, these cases have been continued since March 15, 2020 pursuant to the Chief Judge's original order reducing D.C. Superior Court operations due to the COVID-19 public health emergency; and

WHEREAS, pursuant to the temporary amendments to Superior Court of Criminal Procedure 43, a defendant may consent to appear by telephone or videoconference in misdemeanor cases, including for arraignment, plea and sentencing; and

WHEREAS, the D.C. Superior Court continues to operate primarily remotely; and

WHEREAS, thousands of misdemeanor cases are currently pending; and

WHEREAS, failure to comply with the following directives will only result in further delay of these cases;

IT IS HEREBY ORDERED that, prior to the first hearing in Courtroom 116-R, 312-R and 313-R, parties must comply with the following directives:

At the earliest possible opportunity and no later than 30 days prior to the scheduled hearing date; **GOVERNMENT COUNSEL** shall:

- 1) provide defense counsel 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 given the passage of time and intervening events.

At the earliest possible opportunity and no later than 15 days 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 provide remote log in information; if a defendant is unable to appear remotely, counsel should refer them to one of the DC Courts remote access hearing sites: <https://www.dccourts.gov/sites/default/files/Remote-Hearing-Sites-Tip-Sheet-3.pdf>;
- 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.

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 either party is seeking to address the motion or report at an upcoming hearing in Courtroom 116-R, 312-R or 313-R, a courtesy copy of the filing must be emailed to the corresponding email address¹ 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]; and it is

FURTHER ORDERED that if the parties anticipate a disposition at the hearing set in Courtroom 116-R, 312-R or 313-R, disposition paperwork, including Deferred Prosecution, Deferred Sentencing, STET, and Plea Agreements, and sentencing materials must be emailed to the corresponding email address² 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]; and it is

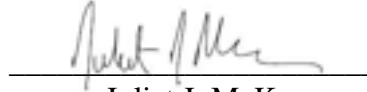
FURTHER ORDERED that parties should make every effort to submit fully executed disposition paperwork. However, if one or more parties are unable to sign the disposition paperwork for any reason, parties shall submit the unexecuted documents and the Court shall obtain remote authorization from each party to record their electronic signature on the paperwork

¹ Misdemeanor Courtroom 116-R: COMMCOURTJUDGE@DCSC.GOV
USAO Citation Courtroom 312-R: USAOCITATIONJUDGE@DCSC.GOV
OAG Citation Courtroom 313-R: OAGCITATIONJUDGE@DCSC.GOV

² See above.

The court expresses its appreciation to counsel in advance for compliance with this order and cooperation during these challenging times.

SO ORDERED, this 26th day of April 2021.



Juliet J. McKenna
Presiding Judge, Criminal Division



Danya A. Dayson
Deputy Presiding Judge, Criminal Division