

**SUPERIOR COURT OF
THE STATE OF WASHINGTON FOR CLARK COUNTY**
PO BOX 5000
VANCOUVER, WA 98666-5000



MEMORANDUM

FROM: John Fairgrieve, Chief Criminal Judge

TO: Criminal practitioners

DATE: April 9, 2020

SUBJECT: Video / telephonic change of plea and sentencing procedures in superior court

1. In Amended Order No. 25700-B-607 filed on March 20, 2020 the Washington Supreme Court indicated that the trial courts must allow telephonic or video appearances for all scheduled criminal hearings between then and April 24, 2020 unless impossible. In late March the superior court began to conduct first appearance hearings using a combination of video and telephonic means.
2. On March 23 representatives of the superior court, defense bar, prosecuting attorney's office, clerk's office and sheriff's office met to discuss how to conduct change of plea hearings using video and telephonic means. Based on that meeting we have been conducting afternoon change of plea dockets Monday through Friday from 1:30 to 4:30. All hearings will be held in courtroom G-1. We are using the following procedures to conduct video / telephonic COP hearings in superior court:
 - a. Once a criminal defendant has decided to plead guilty defense counsel will prepare a statement of defendant on plea of guilty and send it to the jail electronically at the following e-mail address: chris.wolfe@clark.wa.gov. The statement must have a copy of the plea offer attached. Custody staff will print one copy of the statement of defendant on plea of guilty and give it to the defendant. The defendant will call defense counsel and defense counsel will go over the statement of defendant on plea of guilty telephonically with the defendant. When the defendant is ready to sign the document custody staff will give him or her a second copy for signature. The defendant will only touch the signature page. Custody staff will take the document to the clerk's office. A member of the clerk's office will scan the document and send it to the defense attorney via e-mail. Defense counsel must assure the clerk's office has an accurate e-mail address for this purpose.
 - b. Defense counsel will sign the statement of defendant on plea of guilty, scan it, and e-mail it to the prosecuting attorney's office for review and signature. If defense counsel does not have scanning capability they will need to print off the statement of defendant on plea of guilty, sign it, and deliver it to the prosecuting attorney's office. Defense counsel must

contact the PA's office to arrange how to drop of the statement of defendant on plea of guilty.

- c. Defense counsel will fill out a request for change of plea hearing and e-mail it to the judicial assistant for Department 6, Donelle Wade (donelle.wade@clark.wa.gov). Ms. Wade will notify the parties of the COP date and time which will be no earlier than two days after the request is received from defense counsel. The PA's office will review the statement of defendant on plea of guilty, notify the victim(s) and prepare sentencing paperwork. The PA's office will send a copy of the sentencing paperwork to defense counsel prior to the COP hearing for review. Defense counsel and the PA's office will receive a Webex invitation to participate in the COP hearing.
 - d. On the day of the hearing defense counsel and the PA's office will call in for the Webex meeting. The case will be called and the defendant will appear on video from jail. Defense counsel and the deputy prosecuting attorney will participate via telephone. The court will review the statement of defendant on plea of guilty with the defendant over video link. Victim impact statements will either be done in writing (preferred) or over the telephone. The defendant will be given the opportunity to exercise his or her right of allocution. The court will sentence the defendant. The PA will send the sentencing paperwork to the court. The court will review and sign the sentencing paperwork.
 - e. The sentencing paperwork will be scanned and e-mailed to the jail. Two copies of the sentencing paperwork will be printed. The defendant will sign one copy and be fingerprinted. A deputy clerk will either witness and sign certifying that he or she witnessed the taking of the defendant's fingerprints or the custody officer will display the judgment and sentence with the defendant's fingerprints to the camera so the deputy clerk in court can later certify that the fingerprints are the defendant's. Sentencing paperwork will be taken to the clerk's office. The clerk will scan the sentencing paperwork and send it to defense counsel via e-mail. Defense counsel will review the sentencing paperwork and notify the clerk's office of any problems. If there are no problems or once the problems are resolved defense counsel will sign the signature pages, scan them, and send them back to the clerk's office. The clerk's office will print the sentencing documents and file them.
3. The goal is to handle time sensitive cases first, i.e. credit for time served offers and prison sentences, to continue to decrease the number of inmates in the jail. That is why the cases are being screened by me initially.
 4. I anticipate this process will be improved and modified as time goes on. Please contact my judicial assistant at donelle.wade@clark.wa.gov or (564) 397-2005 if you have any comments or suggestions. Thanks for your assistance.