



**TWELFTH AMENDED ADMINISTRATIVE ORDER
SIXTH JUDICIAL DISTRICT**

Pursuant to the authority vested in me, in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System and after consultation with the Chief Administrative Judge and the Deputy Chief Administrative Judge; and

WHEREAS, New York State and the nation continue to be in the midst of an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, while a steadily increasing number of New Yorkers have received a COVID-19 vaccine and the metrics regarding the rate of infection show continued improvement across the state, there is still community concern that large gatherings of people can result in greater public exposure to possible contagion or “community spread”; and

WHEREAS, on a daily basis, in courts across the State, hundreds if not thousands of people representing a broad cross-section of the community have reason to and potentially gather to conduct business in large groups in close proximity to one another; and

WHEREAS on May 18, 2020 (May 20, 2020 for Cortland & Madison Counties) the courts in the 6th Judicial District implemented Phase I of its’ return to in-person operations plan (RIPO), on June 3, 2020 the 6th Judicial District implemented Phase II of its’ RIPO plan, on June 17, 2020 the 6th Judicial District implemented Phase III of its’ RIPO plan, on July 1, 2020 the 6th Judicial District implemented Phase IV of its’ RIPO plan, on August 10, 2020 the 6th Judicial District implemented Phase 4.1 of its’ RIPO plan, on October 19, 2020 an updated 4.1 RIPO became effective, on November 23, 2020 the 6th Judicial District adopted additional Updated Operating Protocols, which were updated and effective on December 9, 2020 and which were again updated and effective April 26, 2021 (Attachment – Highlights, Summaries and Protocols); it is hereby

ORDRED that effective immediately the following rules be put into effect in the Sixth Judicial District until rescinded.

A. General matters and matters applicable to more than one case type

1. Until further Administrative Order or Executive Order, residential eviction matters may proceed pursuant to the protocol established in the memoranda from Chief

Administrative Judge Lawrence Marks dated October 9, 2020, November 17, 2020, and December 30, 2020 and pursuant to Administrative Orders AO/231/20, AO/268/20, AO/340/20 and AO/37/21. Further reference is made to the Tenant Safe Harbor Act (Ch. 127, L. 2020), the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (Ch. 381, L. 2020), the CDC Agency Order filed on September 1, 2020, and any applicable Executive Orders issued by the Governor.

2. The Return to In-Person Operations Plan (“RIPO”) (Phase I) implemented on May 18, 2020 & May 20, 2020, the RIPO (Phase II) implemented on June 3, 2020, the RIPO (Phase III) implemented on June 17, 2020, the RIPO (Phase IV) implemented on July 1, 2020, the RIPO (Phase 4.1) implemented on August 10, 2020 with the updated 4.1 RIPO effective on October 19, 2020, the Updated Operating Protocols to be implemented on November 23, 2020, the Updated Operating Protocols to be implemented on December 9, 2020, the Updated Operating Protocols to be implemented on April 26, 2021 and any further updated operating protocols are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the protocols.
3. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
4. All Temporary Orders of Protection issued in any criminal or civil matter that has expired or is due to expire on or after March 19, 2020 “shall be extended under the same terms and conditions until the date the matter is re-calendared and heard, unless the order is sooner terminated or modified by a judge or justice of the court that issued the order” pursuant to Administrative Order AO/73/20 signed by the Chief Administrative Judge of the Courts on March 19, 2020. The terms of such orders shall be extended either through the Division of Technology or as addressed by each Court.
5. The Judges should encourage or require, to the greatest extent possible, the use of virtual technology in matters that occur off court premises (depositions, discovery, etc.). Such language should be included in any scheduling orders.

B. Supreme Civil

1. All Mental Hygiene Law proceedings in which a party is confined to a hospital or other facility shall be conducted with appearances by means of remote audiovisual technology or telephone pursuant to Administrative Order AO/72/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020.
2. Until further Administrative Order or Executive Order, foreclosure matters may proceed pursuant to the protocol established in the Memorandum from Chief Administrative Judge Lawrence Marks dated July 24, 2020 and October 22, 2020, December 31, 2020 and March 15, 2021 and pursuant to Administrative Order AO/157/20 dated July 23, 2020, AO/232/20 dated October 22, 2020, AO/341/20 dated December 31, 2020 and AO/95/21 dated March 15, 2021. Further reference is made to the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (Ch. 381, L. 2020).

3. All foreclosure auctions must adhere to the 6th Judicial District foreclosure auction plan.

C. Superior Court Criminal Cases

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders for defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that is greater than 30 days.
2. The Youth Part arraignment procedure, to the extent practicable, shall continue to follow the policies and procedures established in the virtual courtroom protocols.
3. Each County, in consultation with the Sheriff, shall develop a plan for the imposition of intermittent sentences.

D. Family Court

1. Judges should ensure that all Permanency Planning Hearings are timely scheduled and heard pursuant to existing Federal or State Law. Difficulties in scheduling the hearings should immediately be brought to the attention of the supervising judge.
2. All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge or Designated Judge, at a minimum, at least once every fourteen days.
3. No new S (PINS), F (Support), P (Paternity), or U (UIFSA) warrants may be issued unless approved by the supervising judge. All other Family Court warrants may be issued in the discretion of the Assigned Judge.

F. Surrogate's Court

1. All matters shall be calendared consistent with all Administrative Orders and Executive Orders at the discretion of the Presiding Surrogate. Virtual calendars are encouraged.

G. City Court

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders and Updated Operating Protocols effective April 26, 2021. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 90 days. For defendants in custody, there shall be no adjournment of a matter that greater than 30 days.
2. All other judicial functions not specifically referenced herein may be exercised by judges as "normal" pursuant to existing statutes.

H. Town and Village Courts

1. All matters shall be addressed by the Assigned Town or Village Judge and appropriately calendared.
2. Off-hour arraignments shall continue to be conducted virtually in those counties with a VAP. Arraignments during normal business hours in those counties with a VAP may be conducted virtually or in-person by a court of competent jurisdiction. In those counties with a Virtual CAP (Tioga, Broome, Otsego), all arraignments will continue to be conducted virtually pursuant to existing CAP plans. In Cortland County, Off-hours arraignments shall continue to be conducted virtually pursuant to the modified CAP plan in that county. Arraignments during normal business hours in Cortland County may be conducted virtually or in-person by a court of competent jurisdiction.
3. All other judicial functions not specifically referenced herein may be exercised by judges as "normal" pursuant to existing statutes.
4. Town and village court judges and clerks are permitted to return to their local court facilities to process all pending matters as well as new filings, subject to the restrictions of existing Executive Orders and Administrative Orders. Judges and clerks may return to their local court facilities only if appropriate personal protective equipment is provided by their municipalities including, but not limited to facial coverings, hand sanitizer, appropriate cleaning supplies, plexiglass partitions, etc.
5. All Town and Village proceedings, including, but not limited to in-person court proceedings, shall be conducted in accordance with the provisions of the 6th District's "return to in-person operations" (RIPO) plan and all amendments thereto. This shall include the specific Town & Village Updated Operating Protocols effective 04-26-21.
6. Town or Village Justices may conduct any matter virtually where permitted by statute, executive order, administrative order, or court protocols.

In all other respects, not inconsistent with the provisions herein, all prior Administrative Orders shall continue until rescinded by subsequent Order.

Dated: April 23, 2021
Binghamton, New York



Hon. Eugene D. Faughnan, J.S.C.
Administrative Judge
Sixth Judicial District

Distribution:
HON. VITO CARUSO, DCAJ

Attachment “A”



SIXTH JUDICIAL DISTRICT UPDATED OPERATING PROTOCOLS

EFFECTIVE APRIL 26, 2021

Throughout the COVID-19 pandemic, our courts have remained open although there have been periods of time that have required modifications to court operations based upon virus metrics. Recently, the metrics (as well as the increasing number of vaccinated New Yorkers) have once again indicated an opportunity to gradually increase in-person proceedings in the courthouses. While the “normal” remains a presumptively virtual appearance, in-person proceedings are permitted where access to justice and court operations require an in-person proceeding. The court system remains nimble and ready to quickly adapt operations as conditions warrant.

In any district, the Administrative Judge may, based upon local conditions, enact more restrictive operational protocols deemed appropriate by the Administrative Judge.

This Plan supersedes the Updated Operating Protocols effective February 22, 2021. Commencing April 26, 2021 all court operations in the Sixth Judicial District of the State of New York shall be conducted pursuant to this Plan. To the extent the provisions of this Updated Operating Protocol are inconsistent with the provisions in the Sixth Judicial District’s Eleventh Amended Administrative Order signed on December 21, 2020 and any previously issued memoranda, the provisions of this Protocol should be relied upon to guide operations.

I. Courthouse Operations

A. Scheduling

1. Calendar times shall be staggered so that different courts (e.g. Family, Criminal, etc.) in the same building start at different times.
2. Each Judge may hold in-person proceedings on two days each week. Each judge may hold in-person proceedings on a third day each week provided that the presiding Judge first consults with the Chief Clerk and is assured that adequately staffing is available. Further additional time may be granted by the Administrative Judge after the presiding judge has checked with the Chief Clerk and received an assurance that the chief clerk is able to accommodate the request. A judge presiding over any hearing or trial that continues to an additional day or days shall be granted

additional courtroom time. The scheduling shall be as coordinated by Supervising Judges and Chief Clerks to assure appropriate limiting of foot traffic.

3. In each court, there shall be a maximum of 10 cases/proceedings scheduled in-person per hour, except as stated in Sections (II)(C)(9) and (II)(C)(11).

B. Occupancy of all courtrooms shall be limited to the lesser of 30 people or ½ the posted room occupancy per code. An exception shall be granted for jury trials *or* grand juries (in those instances, occupancy shall be limited to the lesser of 40 people or ½ the posted room occupancy per code). Any exceptions that were previously granted to the occupancy limits are rescinded until further notice. The Administrative Judge may grant an exception for a specific courtroom or court proceeding.

C. The number of non-judicial staff reporting to the courthouse shall be increased or decreased in the discretion of the Administrative Judge to the number necessary to ensure safe operation. In-person staff should be deployed in a manner that limits the likelihood and adverse consequence of a positive COVID transmission in the workplace. All staff not reporting to the courthouse shall work remotely. In all circumstances, non-judicial staff reporting to the courthouse shall be between 60% to 80% of normal pre-COVID staffing. On May 24, 2021, 100% of all Judges and court staff shall report to work in their assigned offices and/or courthouses.

D. All current safety measures and protocols will continue. Court managers and PPE Compliance Coordinators shall take steps to enhance monitoring and compliance with all safety measures including social distancing at all time.

E. Each county shall have a space (kiosk or anteroom) available for use by litigants who are unable to appear virtually.

II. Court Proceedings

A. All virtual proceedings shall be conducted from the courtroom, as such courtroom is available.

B. Notwithstanding any other provision herein and except in the case of a criminal jury trial or criminal evidentiary hearing, a remote/virtual appearance of an in-custody defendant is preferred. However, such defendant may be transported if the correctional facility and the court are able to accommodate such transport.

C. Matters may be heard in-person (or a hybrid of in-person and virtual) PROVIDED THAT THE PRESIDING JUDGE FIRST FINDS:

- 1.) THAT IT IS UNLAWFUL TO CONDUCT THE PROCEEDING VIRTUALLY,
OR

2.) THAT IT IS IMPRACTICAL TO CONDUCT THE PROCEEDING VIRTUALLY,

- a. Matters as designated in Exhibit A
- b. Family Court Act Article 10 proceedings
- c. Adoptions
- d. Civil and Criminal Evidentiary Hearings and Trials. The scheduling of jury trials shall be approved by the Administrative Judge in consultation with the Deputy Chief Administrative Judge. Jury trials shall be conducted in each county pursuant to the individual plan submitted to the Administrative Judge by the S&C chief clerk and pursuant to the [district jury plan] as approved by the Deputy Chief Administrative Judge. Notwithstanding any provision of the aforementioned plans, during a jury trial, occupancy shall be limited to the lesser of 40 people or ½ the posted room occupancy per code. With regard to criminal jury trials, priority should be given to incarcerated defendants. With regard to civil jury trials, priority should be given to trials where the parties consent to a Summary Jury Trial.
- e. Pleas and Sentences
- f. Family Court evidentiary hearings.
- g. Surrogate's Court Citations
- h. Eviction proceedings as authorized by law.
- i. Treatment court and Judicial Diversion appearances. Notwithstanding the provisions of Section (I)(A)(3), there may be a maximum of 10 treatment court or Judicial Diversion cases scheduled every 15 minutes provided that the occupancy of the courtroom does not exceed the lesser of 30 people or ½ the posted room occupancy per code.
- j. Any proceeding involving a self-represented litigant(s) where the presiding judge determines that holding the proceeding via Microsoft Teams denies the self-represented litigant(s) meaningful access to the proceeding and where the presiding judge determines that the matter can be heard in-person consistent with all OCA safety protocols.
- k. Traffic violation appearances may be heard in-person upon a finding that it is impractical to conduct the appearance virtually. Notwithstanding the provisions of Section (I)(A)(3), there may be a maximum of 10 traffic violation appearances scheduled every 15 minutes provided that the occupancy of the courtroom does not exceed the lesser of 30 people or ½ the posted room occupancy per code.

D. ALL other matters MUST presumptively be heard virtually, from a courtroom as such courtrooms are available, using Microsoft Teams video conferencing (using the live courtroom as background; if not appearing from the courtroom, use other appropriate background), or telephone, including but not limited to:

1. General civil conferences particularly those with counsel only,
2. Motion arguments

3. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20)
4. ADR where both parties are represented by counsel and counsel will be present.
5. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program.
6. Small Claims Assessment Review proceedings.
7. Other routine court matters not expressly included in Paragraph II(B).

Exhibit A

A. Criminal matters

1. Arraignments
2. bail applications, reviews, and writs
3. temporary orders of protection
4. resentencing of retained and incarcerated defendants
5. essential sex offender registration act (SORA) matters

B. Family Court

1. child protection intake cases involving removal applications
2. juvenile delinquency cases involving remand placement applications, or modification thereof
3. emergency family offense petitions/temporary orders of protection
4. orders to show cause

C. Supreme Court

1. MHL applications for an assisted outpatient treatment (AOT) plan
2. emergency applications in guardianship matters
3. temporary orders of protection (including but not limited to matters involving domestic violence)
4. emergency applications related to the coronavirus
5. emergency Election Law applications
6. extreme risk protection orders (ERPO)

D. Civil/Housing matters

1. applications addressing landlord lockouts (including reductions in essential services)
2. applications addressing serious code violations
3. applications addressing serious repair orders
4. applications for post-eviction relief

E. Surrogate's Court - Any matter involving an individual who passed away due to COVID-related causes.



**SIXTH JUDICIAL DISTRICT
UPDATED OPERATING PROTOCOLS
Town & Village Courts**

EFFECTIVE APRIL 26, 2021

Throughout the COVID-19 pandemic, our courts have remained open although there have been periods of time that have required modifications to court operations based upon virus metrics. Recently, the metrics (as well as the increasing number of vaccinated New Yorkers) have once again indicated an opportunity to gradually increase in-person proceedings in the courthouses. While the “normal” remains a presumptively virtual appearance, in-person proceedings are permitted where access to justice and court operations require an in-person proceeding. The court system remains nimble and ready to quickly adapt operations as conditions warrant.

This Plan supersedes the Updated Operating Protocols effective February 22, 2021. Commencing April 26, 2021 all Town & Village Court operating in the Sixth Judicial District of the State of New York may once again conduct in-person proceedings which shall be conducted pursuant to this Plan.

Unless expressly prohibited or restricted by any law, Administrative Order or Executive Order, all matters may be heard in Town & Village Courts subject the provisions and procedures contained herein.

I. Court Facility Operations/Safety Protocols

A. Occupancy of all public areas of the court facility is limited to the lesser of 30 people or 50% of the posted room occupancy per code. Individuals will not be allowed to congregate in hallways or entry ways while awaiting entry into the courtroom. In addition, occupancy of all courtrooms is limited to the lesser of 30 people or 50% of the posted room occupancy per code.

B. Courts are encouraged to use the notification system in the Courtroom Program provided it would allow for a text message to be sent to the defendant when the case is called, allowing individuals to safely wait outside court facilities and enter the building only when their case is ready.

C. While in the court facility (other than in a closed private office), all court personnel and visitors must cover their nose and mouth with a mask or cloth face-covering.

D. A distance of a minimum of six feet must be kept between all individuals at all times.

E. Scheduling

1. Traffic infractions/violations: No more than 25 cases will be scheduled every 15 minutes.
2. Criminal matters (to include all penal law and misdemeanor traffic charges): No more than 25 cases will be scheduled every 30 minutes.
3. Trials: No more than one hearing or bench trial every 30 minutes will be scheduled.

II. Court Proceedings

A. Trials: Bench trials and evidentiary hearings may proceed in person but must be scheduled so that there is strict compliance with the room occupancy limits in all courtrooms and public areas. Jury trials may be conducted only with the approval of the Administrative Judge.

B. Judges are encouraged to more robustly conference criminal matters virtually/telephonically and if acceptable disposition is reached, plea affidavits are strongly encouraged. Please work with your ADA and defense counsel on procedure.

C. Judges are encouraged to use a mail-in plea bargaining disposition process that would allow a defendant charged with a VTL infraction to proceed without a personal appearance. Please work with your ADA and defense counsel on procedure.

D. While currently there exists no Executive Order nor statutory directive that would excuse a failure to appear or prevent a judge from suspending a motorist's license for failing to appear at a court session, Judges are encouraged to utilize their judicial discretion when considering the suspension of a motorist's license for failure to appear.

E. Virtual appearances shall be utilized to the greatest extent possible where a virtual appearance is legally permissible and logistically possible.

F. Remote/virtual appearances of in-custody defendants is preferred. However, such defendants may be transported if the correctional facility and the court are able to accommodate such transport.

G. Off-hour arraignments shall continue to be conducted virtually in those counties with a VAP. Arraignments during normal business hours in those counties with a VAP may be conducted virtually or in-person by a court of competent jurisdiction. In those counties with a Virtual CAP (Tioga, Broome, Otsego), all arraignments will continue to be

conducted virtually pursuant to existing CAP plans. In Cortland County, Off-hours arraignments shall continue to be conducted virtually pursuant to the modified CAP plan in that county. Arraignments during normal business hours in Cortland County may be conducted virtually or in-person by a court of competent jurisdiction.

H. Judges may conduct arraignments of in-custody defendants virtually or in-person in counties without a CAP at a time when the VAP is not in session.

I. Judges may conduct out of custody arraignments either virtually or in-person.

J. Pre-trial conferences for all matters may be conducted virtually or in-person.

K. All other judicial functions not specifically referenced herein may be exercised by judges as “normal” pursuant to existing statutes, executive orders, and administrative orders.