

# Updated Operating Protocols

## Town and Village Courts

### Effective June 30, 2021

#### District 8

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. With the expiration of the Declaration of Emergency, additional in-person appearances are both required and warranted. The court system remains nimble and ready to quickly adapt operations as conditions warrant.

This Plan supersedes the Updated Operating Protocols Effective April 16, 2021. Commencing June 30, 2021, all Town & Village Court operations in the 8th Judicial District of the State of New York 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 to the provisions and procedures contained herein. **The provisions of the prior Administrative Order stating anyone who asks for assigned counsel is presumptively eligible is rescinded.**

#### I. Court Facility Operations/Safety Protocols.

- A. Occupancy of all public areas of the court facility is limited to 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 50% of the posted room occupancy per code or the number of people that can safely socially distance in the courtroom.
- B. Courts are encouraged to use the notification system in the Courtroom Program provided it would allow for a text 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 minimum distance of six feet must be kept between all individuals at all times.

#### II. Court Proceedings.

- A. Trials: Criminal and Civil Bench trials and evidentiary hearings must proceed in-person but must be scheduled so there is strict compliance with the room occupancy limits in all courtrooms and public areas. Jury trials may be conducted after September 1, 2021 upon submission of a written statement, from the Judge conducting the jury trial, that all social distancing and room occupancy limits will be followed for all aspects of the trial, including but not limited to: jury selection, testimony and jury deliberation. This written confirmation must be received by the Administrative Judge at the time a jury trial is scheduled.
- B. All arraignments and preliminary hearings in criminal matters must be handled in person.
- C. Judges are encouraged to robustly conference traffic matters virtually/telephonically and if acceptable disposition is reached, plea affidavits are strongly encouraged. Please work with your ADA and defense counsel on procedure. If necessary, traffic matters may be heard in person. Traffic appearances need to be staggered and limited so as to not exceed the maximum limit of one half room capacity or infringe on the necessary six feet of social distancing.
- 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.

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

### III. CAP Parts.

- A. Centralized Arraignment Parts shall continue in Chautauqua, Niagara and Orleans counties as previously authorized and as noted in the memo dated June 24, 2021.
- B. Virtual arraignment parts may continue in Erie and Cattaraugus counties as authorized by Criminal Procedure Law Sec. 182.