



# MARICOPA COUNTY SUPERIOR COURT: CRIMINAL DEPARTMENT


## Modified Criminal Department Operation during COVID-19 Pandemic

The Criminal Department of Maricopa County Superior Court is modifying appearance policies on a temporary basis to reduce the potential of exposure to COVID-19 of staff, the Court, to lawyers, parties and members of the public. Therapeutic and compliance courts will also be suspended. Effective Tuesday, March 17, 2020, the following temporary policies will be implemented for a period of 60 days, with additional extensions to be made if needed.

### 1 IPTCs, CPTCs, CCMCs and Status Conferences

- a. **Non-Appearance Hearings.** Absent Court order to the contrary, each of the hearings is converted to a non-appearance hearing at which none of the parties is required to appear.
- b. **Written Statements.** In lieu of personal appearances, the parties and/or counsel are ordered to confer either verbally or in writing for the purpose of preparing and filing the written statements by close of business on the hearing date(s) for the following types of hearings. The Court will make Word templates of each of these statements available on-line at <https://superiorcourt.maricopa.gov/criminal/>. Failure to timely file the required statement may result in the Court setting an Order to Show Cause Hearing for failure to comply with the Court's orders. To the extent that any written statement might contain sensitive information that a party would typically provide at a bench conference and would prefer not to have filed into the Court's docket, that sensitive information may be provided in a separate Sensitive Information document with a Motion to File Under Seal and a Proposed Form of Order. Please remember not to e-file the Sensitive Information document. The Court will liberally grant motions to seal sensitive information for the duration of the COVID-19 crisis. The parties must provide a courtesy copy of the Motion to File Under Seal and Proposed Form of Order to the case management judge's division, and provide the original of the Sensitive Information document to the case management judge's division. The parties must also file an original of the Motion to File Under Seal and Proposed Form of Order with the Clerk of Court (i.e., e-filing).

- 1 **Initial Pretrial Conference (IPTC).** The parties shall file a Joint Initial Pretrial Conference Statement, providing confirmation that the parties have complied with Rules 15.1 and 15.2.
- 2 **Comprehensive Pretrial Conference (CPTC).** The parties shall file a Joint Comprehensive Pretrial Conference Statement, providing the information required in the Court's minute entry order setting the CPTC.
- 3 **Scheduling Conference for Complex Case.** The parties shall file a Joint Case Management Plan, providing the information required in the Complex Case Designation and Case Management Order and Administrative Order No. 2010-090
- 4 **Complex Case Management Conference (CCMC).** The parties shall file a Joint Case Management Report, providing the information required in the Court's minute entry order designating the matter as complex and Administrative Order No. 2010-090



**5 Status Conference.** Each party shall file a separate Status Conference Report addressing the specific issues for which the Status Conference was set.

- Settlement on Demand is suspended for the next 60 days.
- Judicial officers have been asked to vacate all out-of-custody defendant settlement conferences currently set, and not to schedule any for the next 60 days. For the time being, in-custody defendant settlement conferences may still be scheduled and conducted. Social distancing rules should be observed with no more than 10 people in the courtroom.


**c. Converting Non-Appearance Hearing to an Appearance Hearing.** For good cause, a party may request to convert any of these hearings to an appearance hearing by notifying the case management division no less than 3 business days prior to the hearing start time. The Court retains discretion to deny an appearance hearing, as the Court deems appropriate. A party may appear at any of these hearings in person, by telephone, or by other virtual communications. Any party seeking to appear virtually will need to coordinate the virtual appearance with the opposing party so that the parties can contact the division together. If an appearance hearing is granted, the case management division will set it as a TIME CERTAIN hearing, most likely during the usual morning calendar times.

**d. Presence of Defendants.** If a non-appearance hearing is converted to an appearance hearing, a Defendant's presence may be waived. The Court is working on possibilities for in custody Defendants including video conferencing. In the interim, a Defendant's presence may be waived if defense counsel can confirm the Defendant does not object and waives time. Any request to continue and/or exclude time needs to confirm a Defendant's position regarding exclusion of time under Rule 8.2

**e. Motions to Continue.** Any party requesting a continuance of any of the above hearings and/or trial date must file a written Motion to Continue. To the extent that a party seeks to continue the trial date, the motion should include the Defendant's position on excluding time from the Rule 8.2 time limitations. Any time the hearing and/or trial dates are continued or changed, defense counsel must file an affidavit confirming that the Defendant has been made aware of all future court dates (regardless of whether Defendant is in or out of custody). The division will take into account any input from victims.

**2 FTMCs.** FTMCs will all be appearance hearings, i.e., all parties are required to participate in any FTMC, but may do so by telephonic or other virtual means and a Defendant's presence may be waived under the same procedures outlined above. Any Motion to Continue Trial must list all extraordinary circumstances on which the parties will rely to argue that the Court should find that a delay is indispensable to the interests of justice.

**3 Sentencings.** Any sentencing may be reset for 30 days by written request of the parties, in advance of the sentencing, which must include confirmation that the Defendant waives the requirement under the Arizona Rules of Criminal Procedure that he/she be sentenced within 30-60 days. The sentencing division will take into account any input from victims regarding the length of a continuance.



**4 Seating/Spectators.** The Court reserves the right to limit the number of persons in the courtroom to comply with CDC guidance regarding the use of social distancing to control the spread of COVID-19. The Court may enforce this guidance by prohibiting people from sitting in specified seats to maintain appropriate distance between people. To the extent that the number of persons in the room may exceed CDC guidance, the Court will grant priority to victims and persons participating in the hearing being held by the Court. The Court may request that other persons wait in the lobby pending completion of the hearing. The Court encourages the State and/or victims' advocates to alert victims they may appear by telephone by prior arrangement with division staff. The Court further encourages the parties to give the Court as much advance notice as possible if they expect a particular hearing will be well attended so that the Court can attempt to locate a larger courtroom in which to hold the hearing and/or reset the hearing to a future date.

**5 Jury Trials.**

**a. Suspension of Jury Trials.** The Arizona Supreme Court and/or Maricopa County Superior Court Administration may suspend jury operations for a period of time. Any suspension of jury operations would mean no new jury trials will be started. To the extent jury service is suspended, any pending FTMC / Trial dates will be extended for a commensurate period of time with Rule 8.2 time excluded. For example, if new jury trials are suspended for a period of 14 days, the Court will *sua sponte* issue a minute entry extending the FTMC / Trial dates by 14 days.

**b. Seating Jurors.** For any jury trials, the Court plans to bring in small amount of jurors (about 20-25) at a time and release any jurors who have scheduling or other conflicts for which we know they will be dismissed. We will then blend remaining jurors and have a goal of maintaining at least 6 feet between jurors in the courtroom.

**6 Changes of Plea.** Parties are encouraged to resolve their matters. Settlement on Demand will continue for the time being. However, if parties requested a settlement conference and wish to vacate, we will do so no questions asked. Plea on Demand will continue.

**7 Bench Conferences.** Please do not ask for bench conferences at this time. If either party has something it wants to relay to the Court, please consider placing it in writing.

**8 Specialty Courts.** The following court calendars will be suspended for 60 days, with additional extensions as needed: Mental Health Court, Veterans' Court, Domestic Violence Court, Drug Court, post-sentencing DUI Court (Commissioner Guyton's calendar), Spanish DUI Court, Restitution Court, JTOP, and Bond Forfeiture. Petitions to revoke filed in these cases will be heard in Probation Violation Court.

Thank you for your attention to the above. This is a period of uncertainty and the Criminal Department cares very much for the lawyers, parties, families, victims and staff and wants to ensure safety to the extent possible. Please **DO NOT** enter the courthouse if you have any symptoms or anyone in your immediate household has symptoms. The Court will work with you to reschedule hearings or allow you to appear virtually. Please also use common-sense practices to protect all participants in court hearings such as social distancing (i.e., no handshakes), handwashing, use of personal hand sanitizer, etc.

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