

3. The United States Marshal, his Deputies, the Court Security Officers, or a designated contractor, will enforce the terms of Paragraphs 1 and 2.
4. The Clerk of Court will provide for an alternative location within the courthouse where members of the public can watch or listen to the proceedings.
5. For cases that have their initial appearances after the entry of this order, the following provisions will apply:
 - a. Initial appearances will take place via videoconference or teleconference, if videoconference technology is not reasonably available, from the location where the defendant is being held. If the facility where the defendant is being held does not have the capability for videoconference or teleconference, the defendant shall be brought to a United States Marshal facility. The court will discuss the defendant's option to have an in-person proceeding at the conclusion of the initial appearance.
 - b. Detention hearings, preliminary hearings, and identity hearings also will be scheduled to take place by videoconference.
 - i. No later than noon on the day before the scheduled hearing, defense counsel must, after consulting with their client, inform the case manager whether the defendant has consented to go forward with these proceedings by videoconference. If defense counsel has been unable to consult with their client by this deadline, they should alert the case manager of that fact.
 1. The Clerk of Court will enter a text order on the docket reminding counsel of this obligation after the initial appearance.
 2. If the case is referred out to a panel attorney, the Federal Public Defender will inform the appointed panel counsel of this obligation at the time of their appointment.
 - ii. If defense counsel does not notify the court by the deadline that the defendant wishes to have an in-person hearing, the defendant may not be brought to the courthouse if there are videoconference capabilities where the defendant is being held.
 - iii. The United States must present evidence and information by written or oral proffer. But the court will permit the United States to call live witnesses when it can show that exceptional circumstances require it. In addition to an overview of the evidence supporting the charges against the defendant, the United States is encouraged to provide the following information that is frequently requested by defense counsel:
 1. Whether there is any audio or video recordings of the alleged offense and whether the defendant can be seen or heard in the recording.

2. Whether any informants, sources, or cooperating defendants received or were promised any benefits in return for providing information.
 3. Whether any controlled substances that underlie a charge have been field tested or lab tested and the results.
 4. Whether any firearms have been tested for fingerprints or DNA and the results of the test.
 5. If the case involves a vehicle stop, the basis for the stop.
 6. If the case involves evidence obtained from a search, the basis of the search.
 7. If the case involves statements made by the defendant, the nature of the statement and whether the defendant received his *Miranda* warnings and waived his right to remain silent prior to making the statement. If an exception to *Miranda* applies (such as a spontaneous statement), that information should be part of the proffer as well.
- iv. Defendants are strongly encouraged to present evidence and information by proffer. But, as required by 18 U.S.C. § 3142(f), during a detention hearing Judge Numbers will allow the defendant to testify, present witnesses, and cross-examine witnesses who appear at the hearing.
- v. If defense counsel wishes to present a third-party custodian by proffer, the proffer should include the information listed below. A fillable affidavit will be available on the court's website that can be used in lieu of a proffer.
1. The proposed third-party custodian's relationship to the defendant.
 2. How long the proposed third-party custodian has known the defendant.
 3. The proposed third-party custodian's address.
 4. How often the proposed third-party custodian has interacted with the defendant over the last several months.
 5. A confirmation that the proposed third-party custodian is aware of the nature of the charges against the defendant.
 6. A confirmation that the proposed third-party custodian is generally aware of the defendant's prior criminal history.

7. A confirmation that the proposed third-party custodian is aware of their responsibilities as a third-party custodian.
 8. The proposed third-party custodian's criminal history.
 9. The number, identity, and age of all people who will live in the proposed third-party custodian's home with the defendant.
 10. The proposed third-party custodian's work schedule.
 11. Whether there are firearms in the proposed third-party custodian's home and whether they are willing to remove them from the home.
 12. Whether there are narcotics or controlled substances in the proposed third-party custodian's home and whether they are willing to remove or secure them.
 13. Whether the proposed third-party custodian has a land-line telephone in the home or is willing to have one installed.
- vi. Regardless of how their information will be presented, the proposed-third-party custodian should attend the detention hearing in person. But if the proposed-third-party custodian's health conditions make personal attendance unwise, they may attend by video or telephone (if video is unavailable). Defense counsel should notify the Clerk of Court and the attorney for the United States as soon as possible if the proposed-third-party custodian will appear by video or telephone.
- c. If a defendant wishes to waive their detention hearing, preliminary hearing, or identity hearing, Judge Numbers will accept a waiver form that is signed only by defense counsel. A copy of an acceptable waiver form will be found the court's website.
 - d. Judge Numbers will accept financial affidavits that are signed by defense counsel on the defendant's behalf.
6. This order shall remain in effect until one of the following events occurs:
- a. It is terminated by a subsequent order;
 - b. The court terminates all standing orders authorizing the use of videoconference and teleconference technology during preliminary criminal proceedings due to COVID-19-related concerns. *See, e.g.*, Standing Orders 20-SO-7 & 20-SO-9;
 - c. The Judicial Conference finds that the emergency conditions based on the national emergency declared by the President no longer materially affect the functioning of this court or the functioning of the courts generally; or

- d. 30 days have passed since the termination of the President's national emergency declaration under National Emergencies Act with respect to COVID-19.
7. If any aspect of this order conflicts with a Standing Order issued by the court or an order entered by a district judge presiding over a case, the provisions of those orders will control.
8. The court reminds persons granted remote access to proceedings of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may lead to sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.

Dated: December 11, 2020



Robert T. Numbers, II
United States Magistrate Judge