

COURTS OF JAMAICA REMOTE HEARING GUIDELINES

INTRODUCTION

The year 2020 saw a global pandemic in the form of the COVID – 19 disease, which has severely impacted the operations of organizations across all sectors. The rapid spread and ease of transmission of this disease, coupled with the severe health and high fatality risks, necessitated the curtailment of operations of all the courts across Jamaica, since the country’s first reported Covid-19 case in March 2020. Notwithstanding, the Jamaican Judiciary recognizes that continuity of its operations during this unprecedented global health crisis, is critical for the preservation of our democracy, the rule of law and the protection of human rights. In highlighting the need for judiciaries to remain operational during the pandemic, the Inter-American Commission on Human Rights (IACHR), stated that:

“...access to justice is a fundamental pillar of democracy, the exercise and functioning of which cannot be suspended or limited. This implies that the current emergency cannot be used as a reason to suspend judicial proceedings that guarantee the exercise of rights and freedoms, particularly those that seek to oversee or check the actions of authorities during this time. It is therefore essential that states ensure there are suitable, flexible means available for filing appeals that seek to oversee and keep check on provisions and rulings that are issued during emergency situations. In this regard, all public institutions must be able to oversee and keep check on each of the temporary measures adopted that suspend or restrict rights. States must also adopt measures to protect judicial personnel and ensure judicial services continue to operate.”¹

The Judiciary is cognizant that, in the execution of its imperative duty to safeguard the principles of democracy and the rule of law during this pandemic, a balance must be achieved in ensuring the protection of the health and well-being of judicial personnel, court staff, lawyers, defendants, litigants, witnesses, police and all other stakeholders involved in court proceedings. As part of the

¹ See [IACHR Calls for Guarantees for Democracy and the Rule of Law during the COVID-19 Pandemic](#) 10 June 2020

Judiciary's effort to discharge this duty, the use of technology will be widely employed where possible and appropriate, in accordance with the prescribed protocols contained in this guide.

APPLICATION

1. These guidelines apply to all remote hearings conducted in open court or chambers in any court of the island of Jamaica as defined under paragraph 7.

GENERAL PROVISIONS

2. These guidelines come into effect immediately, and will continue in effect until amended or revoked by the Chief Justice.
3. These guidelines are designed to provide a technological arrangement for the conduct of remote hearings in all courts, so as to ensure consistency and uniformity in proceedings.
4. The Judge shall ensure that hearings are conducted in a manner that ensures all parties are able to fully participate and that their rights to procedural and substantive fairness are observed.
5. The method by which all court proceedings or hearings are conducted, remains a matter for the Judge of the respective court, subject to and in accordance with applicable laws, Rules and Practice Directions.
6. All hearings to which these guidelines apply are formal court hearings and all formalities apply as if the hearings were conducted in-person.

DEFINITIONS

7. Unless the context otherwise requires -

“Authorized Officer” means the Registrar or Deputy Registrar of the Court of Appeal, Registrar or Deputy Registrar of the Supreme Court of Judicature of Jamaica, Registrar of the Revenue Court, Clerks of the Courts, Deputy Clerks of the Court, Court Administrator of any Court, and any member of staff designated by any of the previously named persons;

“Court” means any court of law in Jamaica, and includes the Court of Appeal, the Special Coroners Court and any Parish Court where a Judge of the Parish Court exercises jurisdiction under the Coroners Act;

“Host” means the primary operator of the technology platform on which the remote hearing is being facilitated and includes the assigned court/chamber clerk or registrar in such hearings;

“Judge” means Presiding Judge of a panel sitting in the Court of Appeal, Judge of Appeal, Judge of the Supreme Court of Judicature of Jamaica, the Revenue Court, the High Court Division of the Gun Court, the Circuit Court Division of the Gun Court, the Parish Court Division of the Gun Court, the Parish Court, the Family Court, the Coroner’s Court, the Children’s Court, the Traffic Court and the Drug Court; Masters-in Chambers, Registrar of the Court of Appeal, and Registrar of the Supreme Court;

“Participant” includes attorneys, defendants, witnesses, court reporters, litigants, police officers, correctional officers, probation officers, or any other person who appears before the Court in a remote hearing with the permission of the Judge;

“Practice Direction” means prescribed protocols issued by the Honourable Chief Justice or the President of the Court of Appeal to guide the procedure and practice in Court proceedings conducted remotely;

“Remote hearing”, means Court proceedings taking place by means of telephone conference call, video conferencing or other form of electronic communication;

“Remote location” means any place other than inside a court room or chambers where a trial or hearing is taking place;

REMOTE HEARINGS CONDUCTED IN THE COURT OF APPEAL.

8. These guidelines shall apply to remote hearings conducted in the Court of Appeal.
9. These guidelines must be read in conjunction with the relevant Practice Directions in force that are issued by the President of the Court of Appeal. These are accessible on the Court’s website at www.courtsofappeal.gov.jm.

LEGISLATIVE FRAMEWORK, RULES, PRACTICE DIRECTIONS AND ORDERS – CIVIL PROCEEDINGS.

10. Where relevant, the following may be applicable to remote hearings conducted in the Civil and Commercial Division of the Supreme Court of Judicature of Jamaica and the Revenue Court:
 - i. The Evidence (Special Measures) Act, 2012.
 - ii. Rule 29.3 of the Civil Procedure Rules, 2002.
 - iii. Practice Direction (No. 8) of 2020: Filing of Bundles for Applications in Chambers, dated 2nd September 2020, until amended or revoked.
 - iv. Practice Direction No. 16 of 2021 dated 9th September 2021.

- v. Practice Direction No 4 of 2021: Chamber Hearings in Civil Cases, dated 5th January 2021, until amended or revoked.
- vi. Practice Direction No 5 of 2021: Open Court Hearings in Civil Cases, dated 5th January 2021, until amended or revoked.
- vii. Any other Practice Directions issued by the Chief Justice that are in force and relevant to civil proceedings in the Court specified.
- viii. Any order made by a Judge pursuant to applications under Part II of the Evidence (Special Measures) Act, 2012.
- ix. Any order or direction given by a Judge in relation to how a remote hearing should be conducted.

**LEGISLATIVE FRAMEWORK, PRACTICE DIRECTIONS, RULES AND ORDERS –
CRIMINAL AND OTHER PROCEEDINGS.**

11. Where relevant, the following may be applicable to remote hearings conducted in criminal or any other proceedings conducted in the Supreme Court, the Circuit Court Division of the Gun Court, the High Court Division of the Gun Court, the Parish Court, the Parish Court Division of the Gun Court, the Family Court, the Coroner's Court, the Special Coroner's Court, the Children's Court, the Traffic Court or the Drug Court:
- a. The Evidence (Special Measures) Act, 2012.
 - b. The Evidence (Special Measures Criminal Jurisdiction) Judicature Supreme Court Rules 2016
 - c. Section 13 of The Gun Court Act.
 - d. Practice Direction (No. 6) (Criminal), 2020, Criminal Case Management dated 30th May 2020, until amended or revoked.
 - e. Practice Direction No. 17 of 2021: Conduct of Proceedings in the Rural Circuit Superior Criminal Courts of Trial, dated 14th September 2021, until amended or revoked.

- f. Practice Direction No. 18 of 2021: Conduct of Proceedings in the Home Circuit Superior Criminal Courts of Trial, dated 14th September 2021, until amended or revoked.
- g. Any other Practice Directions issued by the Chief Justice that are in force and relevant to criminal proceedings in the Court specified.
- h. Any Order made by a Judge pursuant to applications under Part II of the Evidence (Special Measures) Act, 2012.
- i. Any order or direction given by a Judge in relation to how a remote hearing should be conducted.

PRE-HEARING PROTOCOLS

12. All participants in a remote hearing [conducted via video conference] must have the following:

- a. a desktop computer, laptop, tablet or smart phone equipped with a camera and microphone. A headset with a microphone is highly recommended as it enhances audio quality and reduces background noise;
- b. a high-speed internet connection with reliable connectivity and coverage;
- c. access to Zoom or any other technology platform prescribed by the Court. The Zoom application may be downloaded to a desktop or laptop computer or accessed directly from the web browser. If a smartphone or tablet is being used, the Zoom or other applicable app must be downloaded; mobile app for iOS (Apple devices only) or Android.

13. All participants ought to be familiar with the platform and the device(s) they intend to use during the hearing or have assistance readily available should such assistance be

- required. For example, all parties must know how to enable and disable the mute function and how to turn on and disable video function.
14. Each participant shall provide a valid email address and telephone number to the authorized officer of the Court in which the proceedings will take place, by submitting the details via electronic mail to the relevant email address listed at paragraph 64.
 15. Participants should indicate to an authorized officer whether they will require a test call prior to the hearing and the authorized officer shall make the necessary arrangements to facilitate the request.
 16. Participants are to ensure their devices are fully charged and fully functional.
 17. Where mobile phones will be used for teleconferences, participants must ensure they are located in an area where they will receive sufficient network coverage from their service provider.
 18. Attorneys should indicate to the authorized officer ahead of the scheduled hearing date, whether they will require a virtual meeting room to consult with client(s) during the hearing and the authorized officer shall make the arrangements before the start of the hearing for this to be facilitated.
 19. The authorized officer shall indicate to participants whether the remote hearing will be in the form of video conference or teleconference and the date and time the hearings are scheduled to commence and end.
 20. Authorized officers shall ensure that all requests for support are submitted via email to the ICT Unit Court Administration Division at least 48 hours before the scheduled hearing and indicate whether any specific equipment will be required.
 21. The ICT Unit shall ensure that all the Court's equipment are functional in all courtrooms, chambers or hearing rooms, and that all the necessary arrangements are in place to facilitate or support remote hearings as requested by an authorized officer.

PROTOCOLS – VIDEO CONFERENCE IN OPEN COURT AND CHAMBERS CIVIL AND CRIMINAL

22. All remote hearings conducted in the form of video conference will be via the Zoom platform, unless the Court orders otherwise.
23. All participants are to connect to the Zoom platform with the video feature turned on, at least thirty (30) minutes before the scheduled commencement of the hearing.
24. All participants must be stationary and fully engaged during the video conference.
25. The Judge shall control the pace and the flow of all remote hearings and shall do all that is necessary to ensure there is a smooth and efficient flow of the proceedings.
26. Video conference hearings will be password protected.
27. An authorized officer shall provide the access codes or protected link to participants who are expected to join the proceedings. The access codes or link must not be disclosed to non-participants.
28. Participants must identify himself/herself to the primary host of the Zoom platform (or other platform specified by the court) once connected and state the matter and courtroom or chamber in which their matter will be heard. The host should ensure that participants are placed in the correct courtroom or chamber.
29. The video feature should be turned on for the Judge and each participant in a video conference and must remain on for the duration of the proceedings; the faces of the Judge and each participant must be clearly visible at the start of and throughout the entire hearing. This rule does not apply to cases where three or more judges are sitting together *en banc* in open court. These judges shall observe all health protocols and are to wear masks alone, or masks as well as face shields.

30. Participants shall ensure there is adequate lighting at the remote location from which they appear and that any picture or setting displayed as a screen background is of a sober and professional nature. The lighting must illuminate the face of the participant.
31. The Judge shall indicate when he/she is ready to proceed and shall ask each participant appearing remotely to identify himself/herself.
32. Participants should avoid having a light source behind them, as that will cause their faces to be in shadow.
33. The general rule is that each participant shall identify himself/herself by name, indicate their specific geographical location and state the nature of their role in the proceedings.
34. The application of paragraph 33 is subject to any order of the Court and shall not apply in criminal proceedings where the Court determines that it is in the interest of justice for the geographic location of a participant to remain undisclosed.
35. The Judge and participants are to be identifiable on screen by their names given at birth or changed by deed poll and designated role as follows:
 - a. Judge - *“The Honourable Mr./Ms./Mrs. Justice A.B or Master AB or Registrar AB, Courtroom 1/ Hearing Room 1/Chamber 1”*, *“His/Her Honour, Mr./Ms. AB”*, as the case may be.
 - b. Participants - *“John Brown, Claimant”*, *“Jane Brown, Claimant’s Counsel”*, *“John Wayne, First Defendant”*, *“Mary George, Witness for the Claimant”*, *“Peter Paul, Probation Officer”* or *“Susan Jane, Crown Counsel”*, *“Tom Jones, Clerk of the Courts”* or *“Don John, Student, NMLS”*.
 - c. Institution - *“Tower Street Adult Correctional Centre”*, *“Constant Spring Police Station”*.

36. Remote hearings will involve multiple participants. Only one participant should speak at any given time. The other participants are to minimize interruptions and speak only when acknowledged by the judge to do so. Participants are to place their microphones on mute when not addressing the Court or Judge.
37. The clerk/registrar or staff of the court assigned in a video conference hearing shall be granted hosting privileges and has the duty to ensure that all participants' microphones are muted and that they are only unmuted where permission to speak is granted by the Judge.
38. No participant is to address the Judge unless the Judge acknowledges that participant and grants permission to speak.
39. Each participant must speak loudly and clearly into the microphone when addressing the Judge.
40. The clerk/registrar shall monitor whether all participants remain connected throughout the hearing and should indicate promptly to the Judge if a participant is disconnected.
41. All participants are required to give verbal responses in remote hearings to enable the court reporter to keep an accurate and full record of the proceedings.
42. Participants shall not leave the hearing without the permission of the Judge.
43. The Judge shall indicate to the participants when the hearing is at an end.

PROTOCOLS -TELECONFERENCE IN OPEN COURT AND CHAMBERS

44. The host for teleconferences must ensure that all the participants are connected at least three (3) minutes before the scheduled commencement of the hearing and shall only connect the Judge after all participants are connected.
45. When the Judge joins the call, he or she is to proceed to identify himself/herself and shall thereafter indicate when the formal hearing commences.
46. Only one participant is to speak at any given time. The other participants are to minimize interruptions and speak when acknowledged by the Judge to do so. Each participant must identify himself/herself each time he/she begins to speak.
47. No participant is to address the Judge unless the Judge acknowledges that participant and grants permission to speak.

OATHS AND AFFIRMATIONS

48. All oaths or affirmations shall be administered to witnesses by the clerk or registrar who is present in the courtroom or chambers.
49. A physical copy of the Holy Bible or any other holy book must be present at the remote location.
50. A clerk or registrar present at a remote location, shall provide support to a witness only as directed or approved by the Judge.

DECORUM AND DRESS

51. The Judge shall make every effort to maintain the same standard of decorum as if all participants were present in the courtroom.

52. Judges and participants are to dress appropriately, as if the hearing were in a physical courtroom or chambers. Where the video conference is in open court, Judges and attorneys-at-law must be robed.

53. The Practice Direction governing the dress for attorneys-at-law applies.

CONFIDENTIALITY – REMOTE HEARINGS

54. There shall not be any video recording, audio recording, photographing, publishing, copying, screenshotting, screen recording, live streaming, broadcasting, re-broadcasting, or any other form of recording and/or distribution of any part of the proceedings;

55. Any violation of the rule at paragraph 54 is a contempt of court punishable by fine and/or imprisonment.

56. Participants are to ensure that the remote location is a quiet space that allows for privacy and is free of noise, distractions and interruptions.

MISCELLANEOUS MATTERS – CRIMINAL PROCEEDINGS

57. Where the prosecution intends to discontinue proceedings against a defendant who is in custody, the prosecution shall notify an authorized officer of the relevant Court and upon receiving such notice, the authorized officer shall cause to be issued, the relevant process required to have the defendant attend the hearing in person or remotely depending on the circumstances of the case.

58. Where the prosecution was not able to give the notice required under paragraph 57 or where the notice was given but the defendant did not attend the hearing in person, the authorized officer of the relevant Court shall ensure that the document(s) required for the release of the defendant is issued forthwith to the facility where the defendant is being held in custody.

59. Where necessary, an authorized officer in any rural Court may seek the assistance of an authorized officer of the Supreme Court, the Circuit Court Division of the Gun Court, the High Court Division of the Gun Court sitting in Kingston or the Corporate Area Parish Court (Criminal Division), to give effect to the directive at paragraph 58.

ACCESS TO THE MEDIA AND THE PUBLIC TO OBSERVE REMOTE HEARINGS

60. Media managers must apply to the Court's Media Liaison Officer in accordance with the Media Protocol for the Judiciary of Jamaica.

61. Members of the public are required to give at least two (2) days' notice in writing to an authorized officer of the Court for which they desire to observe a hearing. The notice may be submitted via email to relevant Court at the email address listed at paragraph 64.

62. In general, access by the media and the public is subject to the legislative framework, rules, practice directions and orders referred to in paragraphs 9 and 10.

GENERAL

63. For further information or access to other resources, visit the Judiciary's websites at:

www.courtsofappeal.gov.jm

www.supremecourt.gov.jm

www.parishcourt.gov.jm

www.cad.gov.jm

64. For assistance or enquiries, the relevant Court may be contacted via electronic mail at the following email addresses:

a. The Court of Appeal

info@courtsofappeal.gov.jm

b. The Supreme Court of Judicature of Jamaica

info@supremecourt.gov.jm

Civil Registry – civilregistry@supremecourt.gov.jm

Commercial Registry – commercialregistry@supremecourt.gov.jm

Criminal Registry (includes cases triable or tried in the Circuit Court

Division of the Gun Court) – criminalregistry@supremecourt.gov.jm

c. Gun Court (High Court Division, Kingston)

guncourtregistry@supremecourt.gov.jm

d. Revenue Court

revenuecourt@supremecourt.gov.jm

Parish Courts (Corporate Area) and Specialized Courts

Criminal Division – corporatearea.criminalcourt@rmc.gov.jm

Civil Division – corporatearea.civilcourt@rmc.gov.jm

Traffic Division – corporatearea.trafficcourt@rmc.gov.jm

Kingston & St. Andrew Family Court – kingston.familycourt@rmc.gov.jm

Special Coroner's Court – specialcoroners@rmc.gov.jm

Other Parish Courts and Specialized Courts

St. Catherine Parish Court – stcatherine.rmc@rmc.gov.jm

Clarendon Parish Court – clarendon@rmc.gov.jm

Manchester Parish Court – manchester@rmc.gov.jm

St. Elizabeth Parish Court – stelizabeth.rmc@rmc.gov.jm

Westmoreland Parish Court – westmoreland@rmc.gov.jm

Hanover Parish Court – hanover.rmc@rmc.gov.jm

St. James Parish Court – stjames@rmc.gov.jm

Trelawny Parish Court – trelawny.rmc@rmc.gov.jm

St. Ann Parish Court – stann@rmc.gov.jm

St. Mary Parish Court – st.mary.rmc@rmc.gov.jm

Portland Parish Court – portland@rmc.gov.jm

St. Thomas Parish Court – stthomas.rmc@rmc.gov.jm

Family Courts

St. James – stjames.familycourt@rmc.gov.jm

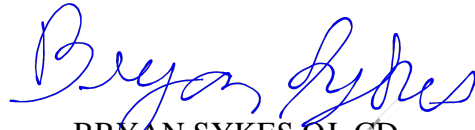
Hanover – hanover.familycourt@rmc.gov.jm

Westmoreland – westmoreland.family@rmc.gov.jm

Clarendon – clarendon.family@rmc.gov.jm

Trelawny – trelawny.family@rmc.gov.jm

DATED THIS 14th DAY OF SEPTEMBER 2021



BRYAN SYKES OJ, CD

CHIEF JUSTICE

