

**IN RE: LIVE REMOTE OBSERVATION OF PROCEEDINGS AND VIRTUAL PROCEEDINGS POLICY - REVISED**

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This Order is issued subsequent to House Bill 23-1182, Chief Justice Directive 23-02 “Live Streaming Coverage of Criminal Court Proceedings in the Trial Courts,” and Chief Justice Directive 23-03 “Virtual Proceedings Policy.”

During the COVID-19 pandemic, the criminal justice system made unprecedented changes to ensure continued access to justice. Many of these changes surrounded the use of new and untested technology in courtrooms across the country. The lessons learned over the past years demonstrate that remote audio/visual access to courts will continue to have an important role going forward. Nonetheless, in-person hearings will always provide parties and the court with many important tangible and intangible benefits above what can be experienced in a phone call or video. Given present staffing and technological limitations, the Court finds it necessary to strike a balance between virtual access to court and practical operational considerations.

The Court finds that it does not have the present staffing or technological capacity to monitor and manage a full-time remote observation platform as described in HB23-1182 or CJD 23-02. Similarly, the Court does not have the capacity to maintain the necessary level of remote access contemplated by the presumptively flexible hearing types set forth in Section IV of CJD 23-03.

However, in an effort to promote public access and transparency, the Court adopts the below procedures relating to remote observation and participation in hearings.

**I. Video Hearings for In-custody Defendants and Traffic Arraignments**

Counsel representing an in-custody defendant who is appearing by audio/visual means from the jail may appear remotely without prior authorization from the Court.

Additionally, parties whose charges qualify for a virtual appearance on the traffic arraignment docket may appear remotely without prior authorization from the Court.

**II. Requesting a Remote Audio/Visual Appearance**

Except as addressed in (I.) above, all parties and counsel are expected to appear in-person for all hearings unless they request, and are granted, a remote appearance. Requests for remote hearings must be submitted either:

- In writing prior to the scheduled appearance time so that proper arrangements can be made; or
- Orally on the record at the time a matter is being scheduled.

Requests can be submitted by email to: [court@cityofwestminster.us](mailto:court@cityofwestminster.us)

The Court will **not** grant a remote hearing for the following requests:

- Preference to appear remotely when there is no other articulated good cause for a remote appearance.
- Warrant surrender on any charge defined in the Victims' Rights Act ("VRA").
- Entry of a guilty plea, admission, sentencing, or re-sentencing on any charge defined in the VRA.
- Probation or Deferred Judgement revocation settings on any charge defined in the VRA.
- Jury Status Conferences on any charge defined in the VRA.
- Any hearing where witnesses are to be sworn or evidence submitted.

If an order granting a request has not been issued before the scheduled hearing time, the requesting party is expected to appear in person.

### III. Defendant's Rights and Consent

If a plea is to be entered remotely on a criminal matter, the request must include a statement that the requesting party understands the rights contained in Colo.R.Crim.P. 43(e) and desires to proceed with a remote audio/visual hearing.

If counsel is requesting to appear remotely from a different physical location than the defendant, counsel must indicate that their client consents to such an appearance. *See*, C.R.Crim.P. 43(e)(4)(II).

### IV. Victims' Rights Act and Non-Discrimination Policy

Victims, victim's families, and supporting individuals who wish to remotely observe a hearing or provide unsworn statements need not file a formal request and may appear by audio/visual means by coordinating with the Victim Services Unit or contacting the Court Clerk, either directly or through the City Prosecutor or personal counsel.

The Westminster Municipal Court abides by the City of Westminster's Policy on Non-Discrimination. If you require an accommodation or an exception from this Order under this Policy, please contact the Court in writing or at 303-658-2250 in advance of your hearing.

### V. Accessing Remote Hearings

Parties and observers may access the Court's Lifesize system by following these steps:

1. Download a Lifesize App or go to Lifesize.com and select "join a meeting." Parties may need to set up a free Lifesize account.
2. Enter the appropriate meeting code and password:

COURTROOM A	COURTROOM B
<p style="text-align: center;"><u>Lifesize</u></p> <p>Join by Web:</p> <p><a href="https://www.lifesize.com/en/">https://www.lifesize.com/en/</a> Select: Join a Meeting Meeting extension: 7416070 Passcode: 3030</p>	<p style="text-align: center;"><u>Lifesize</u></p> <p>Join by Web:</p> <p><a href="https://www.lifesize.com/en/">https://www.lifesize.com/en/</a> Select: Join a Meeting Meeting extension: 1245422 Passcode: 3030</p>

<p>Join by link:  <a href="https://call.lifesizecloud.com/7416070">https://call.lifesizecloud.com/7416070</a></p> <p>**Another option is to appear via video with the Lifesize app, once you've downloaded the app, proceed with the meeting extension and passcode**</p> <p>Court Clerk: 303-658-2250</p>	<p>Join by link:  <a href="https://call.lifesizecloud.com/1245422">https://call.lifesizecloud.com/1245422</a></p> <p>**Another option is to appear via video with the Lifesize app, once you've downloaded the app, proceed with the meeting extension and passcode**</p> <p>Court Clerk: 303-658-2250</p>
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3. **ALL CAMERAS AND MICROPHONES MUST BE TURNED OFF *BEFORE* ENTERING THE VIRTUAL COURTROOM.**
4. When a party's case is called, they should turn on their camera and unmute their microphone when the Court requests their appearance.
5. Once a hearing is concluded, parties may disconnect.
6. Due to staffing limitations, the Lifesize system will not be left on for general court observation after a hearing has concluded.

#### **VI. Requirements and Expectations for Remote Hearings**

- The Court Clerk will turn on the Lifesize system at the time of the scheduled hearing. If a party scheduled for a remote hearing has not logged in within 15 minutes of the hearing time, it will be deemed a failure to appear and the Lifesize meeting will be closed.
- All virtual hearings will occur through the Court's Lifesize system.
- Parties shall appear by video and audio.
- Parties will need to ensure they have properly working IT equipment to appear as required. A party's technical issues and any resulting delay of the case will be attributed to the party and may be deemed a failure to appear or result in a tolling of speedy trial.
- Parties shall dress in a manner appropriate for a court appearance.
- All parties should be in a location appropriate for a virtual hearing. If there is excessive background noise, poor connectivity, or if it appears a party is actively driving or engaging in other distracting or dangerous activity the Court may reschedule the hearing or find the party has failed to appear. Any resulting delay will be attributed to the party.
- Attendance at a remote audio/visual hearing is the same as attending court in person. Inappropriate, disruptive, disrespectful, or unlawful behavior will not be accepted. Individuals who engage in such conduct may be removed from the hearing and/or be held in contempt of court.

#### **VII. Limitations**

- It is each party's responsibility to ensure they are able to access Lifesize at the time of their hearing. Clerks will not be able to assist with IT questions at the time of the hearing. Parties are encouraged to address any IT issues or test their equipment before the day of their hearing.
- The Court has no ability to assist parties with IT issues or provide system support.
- A failure to appear for a remote hearing will be treated the same as a failure to appear for an in-person hearing. If a party is experiencing IT issues such that they are unable to attend a remote hearing, they may still appear in-person during the designated docket time.

- If a party cannot access or attend a remote hearing for any reason, they must immediately contact the Court Clerk and take appropriate steps to reset the matter or address the failure to appear.


**VIII. REMOTE OBSERVATION**

- Remote observation of scheduled virtual hearings will be permitted in the discretion of the Court and in consideration of the factors contained in CJD23-02(IV)(B).
- **IT IS AN ORDER OF THE COURT THAT THERE BE NO RECORDING OF THE PROCEEDINGS WITHOUT A COURT ORDER, INCLUDING ANY SCREEN CAPTURE, PHOTOGRAPH, OR AUDIO and/or VISUAL RECORDING. VIOLATION OF THIS ORDER MAY SUBJECT THE OFFENDER TO ARREST, PROSECUTION AND PUNISHMENT FOR CONTEMPT OF COURT.**

The availability of remote court observation, and requests for remote appearances, will be evaluated by the Court in light of existing staffing and technological constraints, as well as in consideration of the factors contained in CJD23-02(IV)(B) and CJD23-03(IV).

Dated and ordered this 5<sup>th</sup> day of July, 2023.

**BY THE COURT:**

  
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Jason Lantagne, Presiding Municipal Court Judge