

PRACTICE DIRECTION NO 1 OF 2021
SUPREME COURT OF JUDICATURE OF JAMAICA
HOME CIRCUIT SUPERIOR CRIMINAL COURTS OF TRIAL

This Practice Direction is issued by the Honourable Chief Justice and applies to the
Home Circuit Superior Criminal Courts of Trial

GENERAL

1. This Practice Direction comes into effect on Thursday, January 7, 2021 and will continue in effect until revoked or amended.
2. Practice Direction (No 9) of 2020 dated September 14, 2020 is revoked and superseded by this Practice Direction which is to be referred to as Practice Direction (No 1) of 2021.
3. The Home Circuit Superior Criminal Courts of Trial ('HCSCCT') comprises the Supreme Court of Judicature (Criminal Division), the Circuit Court Division of the Gun Court, and the High Court Division of the Gun Court sitting at the Supreme Court of Judicature, Public Building East, King Street, Kingston.
4. The 'Health Guidelines Governing Access to all the Courts of Jamaica' dated May 27, 2020 except paragraph 10 continues to apply.
5. There will not be any ceremonial opening of the HCSCCT for the Hilary Term 2021.

DEFINITIONS

6. "Recipients" means counsel for the sentencing judge, the Crown, and the defence.

7. “Remote hearing” means proceedings taking place by means of telephone conference call, video-conferencing or any other form of electronic communication.
8. “Remote location” means any place other than inside the courtroom or chambers where a trial or hearing is taking place.
9. The expression “virtual hearing” in Practice Direction (No 12) of 2020 is deleted where it appears and is replaced with the term “remote hearing” as defined in paragraph 6 above.

CASE MANAGEMENT

10. Practice Direction (No 6) of 2020 dated the 30th day of May 2020 applies to all case management hearings. Counsel for the Crown and defence must be prepared accordingly.
11. Unless the judge of the case management court orders otherwise defendants in custody are not to be taken to court and the case management hearing will be conducted remotely.
12. Where the hearing is being conducted remotely Practice Direction (No 12) of 2020 dated the 17th day of September 2020 applies.
13. Where the defendant is in custody and the Crown intends to offer no evidence against the defendant, the defendant need not be present in open court and such a hearing may be conducted by remote hearing.
14. Where the Crown intends to offer no evidence against a defendant who is on bail the defendant must appear in person in open court.

- 15.**Any defendant in custody who wishes to enter a plea of guilty shall have his matter accommodated regardless of the date the matter has been set for trial or any other type of hearing and such plea of guilty may be entered by way of remote hearing.
- 16.**Any defendant on bail who wishes to enter a plea of guilty must appear in person in open court.
- 17.**At all times during the case management hearing the Judge must be present in open court and where the hearing is to be held remotely then the parties are to be connected to the court in which the Judge is present.
- 18.**Where a plea is to be entered regardless of whether the person is on bail or in custody, counsel for both the Crown and defence must be present in open court.

TRIALS

- 19.**Jury trials at the HCSCCT will resume on February 12, 2021.
- 20.**Jury trials will take place in courtrooms so designated from time to time by the Registrar.
- 21.**Paragraphs 15 and 16 apply to persons in custody or on bail who are listed for trial as the case may be.
- 22.**Counsel for the Crown and defence are required to appear in person for trial.
- 23.**Other than the sentencing phase of a trial, the general rule is that defendants are to be present in court.
- 24.**Judge must be present in open court.

SENTENCING

- 25.** Subject to paragraphs 32, 33 and 34 the general rule is that the judge, counsel for the Crown, counsel for the defendant, the defendant, and the court reporter are to be present in open court at the sentencing hearing.
- 26.** Notwithstanding paragraph 25 sentencing of persons in custody may take place by remote hearing where it is convenient and just to do so.
- 27.** Any Social Enquiry Report (SER) requested by the court will be in the short form unless the judge specifically requests the long form of the report.
- 28.** Any SER requested is to be sent by electronic mail to the following email addresses of the Criminal Registry or Gun Court Registry as the case may be:
- criminalregistry@supremecourt.gov.jm
guncourtregistry@supremecourt.gov.jm
- 29.** The SER should be sent by the probation officer at least five days before the sentencing date.
- 30.** On receipt of the SER the registry is to send the report to the recipients as well as the court reporter.
- 31.** Unless the recipients indicate that the probation officer is needed to answer questions in court then the SER will form part of the record of the trial.
- 32.** Where probation officers are needed in court their appearance is to be by remote hearing unless the Judge orders otherwise.
- 33.** Counsel for the Crown and the defence may appear remotely at the sentencing hearing.

34. Where a defendant has been convicted of any criminal offence at any court to which this Practice Direction applies and has not yet been sentenced, and the judge is no longer presiding at the court where the defendant was convicted, the judge may proceed to pass sentence by live video link, provided the following conditions are met:

- a.** the judge is present in court either in-person or remotely where the sentencing hearing is to take place;
- b.** the defendant is present in the court either in-person or remotely;
- c.** the court reporter is present in court either in-person or remotely;
- d.** the live video link facilitates two-way communication between the judge, counsel for the defendant, counsel for the Crown and any other person whose participation is necessary;
- e.** in the event that the defendant, the judge, counsel for the Crown or defence, court reporter or any of them are unable to be physically present in a courtroom the sentencing hearing can proceed provided all parties can be connected to a specified courtroom remotely.

35.In respect of paragraph 34, it is the duty of the Judge and the Registrar to ensure that all relevant documents to be signed by the Judge are signed within seventy-two (72) hours of sentencing the defendant.

DATED THIS 5TH DAY OF JANUARY 2021



BRYAN SYKES OJ, CD

CHIEF JUSTICE