

IN THE MUNICIPAL COURT FOR THE CITY OF SUNNYSIDE, COUNTY OF YAKIMA,  
STATE OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE ) ADMINISTRATIVE  
BY WASHINGTON STATE COURTS TO THE ) ORDER  
COVID-19 PUBLIC HEALTH EMERGENCY ) NO. 2020-3

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WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and on March 13, 2020, President Trump declared a national emergency due to the novel coronavirus disease (COVID-19) outbreak across the United States; and

WHEREAS, during this state of emergency, the Centers for Disease Control and Prevention and the Washington State Department of Health have recommended increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces; and

WHEREAS, consistent with these recommendations, Governor Inslee has barred gatherings of more than fifty people and ordered all schools, businesses, faith-based organizations, and other public venues to close during the ongoing public health emergency, and the CDC has recommended restricting gatherings to no more than 10 people; and

WHEREAS, many court facilities in Washington are ill-equipped to effectively comply with social distancing and other public health requirements and therefore continued in-person court appearances jeopardize the health and safety of litigants, attorneys, judges, court staff, and members of the public; and

WHEREAS, pursuant to this Court's March 4, 2020 order, many Washington courts have already taken important steps to protect public health while ensuring continued access to justice and essential court services; however,

the crisis is increasing daily and it may become necessary for courts to close, suspend in-building operations or otherwise significantly modify their operations, and

WHEREAS, the increasingly aggressive spread of COVID-19 across Washington requires a uniform, coordinated response from Washington courts to prevent further outbreak and to maintain consistent and equitable access to justice; and

WHEREAS, this Court's consultation with trial court judges, justice partners and coordinate branches of government confirms the need for further direction from this Court; and

WHEREAS, the presiding judges across Washington need direction and authority to effectively administer their courts in response to this state of emergency, including authority to adopt, modify, and suspend court rules and orders as warranted to address the emergency conditions.

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of court personnel, litigants, and the public,

IT IS HEREBY ORDERED THAT EFFECTIVE MARCH 19, 2020, UNTIL RESCINDED:

1. All jury trials shall be suspended until after January 15th, 2021.
2. All emergency criminal matters that must be heard before January 1<sup>st</sup>, 2021, will occur by telephone, video, or other means, that does not require in-person attendance, unless impossible. Where court matters must be heard in person, social distancing and other public health measures must be strictly observed. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.
3. All **out of custody** criminal matters already pending shall be continued until after January 1st, 2021. Arraignment on **out of custody** cases not involving DUI, DV related crimes Stalking, Harassment and Protection Order Violations, filed between today's date and January 1<sup>st</sup>, 2021 or the first appearance in court after that date shall be deferred until a date 45 days after the filing of charges. Good cause exists under CrR 4.1 and CrRLJ 4.1 and JuCR 7.6 to extend the arraignment dates. The new arraignment date shall be considered the "initial commencement date" for purposes of establishing the time for trial under CrR 3.3(c)(1), CrRLJ 3.3(c)(1) and JuCR 7.8(c)(1). Crimes involving DUI, DV related crimes Stalking, Harassment and Protection Order Violations shall continue to be set within 14 days. A telephonic no contact order may be issued with an expiration date of one year beginning the date the telephonic NCO was issued.

4. Courts may issue a telephonic no contact order pursuant to RCW 10.99.040, RCW 10.99.045, RCW 10.14.040, RCW 7.90.150, RCW 9A.46.085, and/or RCW 9A.46.040, when an information, citation, or complaint is filed with the court and the court finds that probable cause is present for a sex offense, domestic violence offense, stalking offense, or harassment offense. Good cause exists for courts to extend ex parte orders beyond the initial period until a hearing can be held.
5. All **in custody** criminal matters shall be continued until after November 1st, with the following exceptions:
  - a. Scheduling and hearing of first appearances, arraignments, plea hearings, criminal motions, and sentencing hearings.
  - b. Courts retain discretion in the scheduling of these matters, except that the following matters shall take priority:
    - i. Pretrial release and bail modification motions.
    - ii. Plea hearings and sentencing hearings that result in the anticipated release of the defendant from pretrial detention within 30 days of the hearing.
    - iii. Parties are not required to file motions to shorten time in scheduling any of these matters.
7. A continuance of these criminal hearings and trials is required in the administration of justice. Based upon the court's finding that the serious danger posed by COVID-19 is good cause to continue criminal jury trials, and constitutes an unavoidable circumstance under CrR 3.3(e)(8), CrRLJ 3.3(e)(8), and JuCR 7.8(e)(7), the time between the date of this order and the date of the next scheduled trial date are EXCLUDED when calculating time for trial. CrR 3.3(e)(3), CrRLJ 3.3(e)(3), JuCr 7.8(e)(3).
8. The Court finds that obtaining signatures from defendants for orders continuing existing matters places significant burdens on attorneys, particularly public defenders, and all attorneys who must enter correctional facilities to obtain signatures in person. Therefore, for all matters covered in Sections 1 and 2, this Order serves to continue those matters without need for further written orders. Additionally:
  - a. Defense counsel is not required to obtain signatures from defendants on orders to continue criminal matters through January 1<sup>st</sup>, 2021.

b. Defense counsel and the court will collaborate to provide notice to defendants of new court dates.

9. Bench warrants may issue for violations of conditions of release from now through January 1<sup>st</sup>, 2021. However, courts should not issue bench warrants for failure to appear in-person for court hearings and pretrial supervision meetings unless necessary for the immediate preservation of public or individual safety.
10. Courts shall hear motions for pretrial release on an expedited basis without requiring a motion to shorten time, but only if victims or witnesses can participate on an expedited basis. Const. Art. 1 (section 35).
11. The Court finds that for those identified as part of a vulnerable or at-risk population by the Centers for Disease Control, COVID-19 is presumed to be a material change in circumstances, and the parties do not need to supply additional briefing on COVID-19 to the court. For all other cases, the COVID-19 crisis may constitute a “material change in circumstances” under CrR/CrRLJ 3.2(k)(1) and “new information” allowing amendment of a previous bail order or providing different conditions of release under CrR or CrRL or J 3.2(k)(1), but a finding of changed circumstances in any given case is left to the sound discretion of the trial court.
12. Parties may present agreed orders for release of in-custody defendants, which should be signed expeditiously.
13. If a hearing is required for a vulnerable or at-risk person as identified above, the court shall schedule such hearing within five days. The court is strongly encouraged to expedite hearings on other cases with due consideration of the rights of witnesses and victims to participate.
14. Courts must allow telephonic or video appearances for all scheduled criminal hearings between now and through January 1<sup>st</sup>, 2021 unless impossible. For all hearings that involve a critical stage of the proceedings, courts shall provide a means for the defendant to have the opportunity for private and continual discussion with his or her attorney. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.
15. The courtroom will be open for Sunnyside Municipal Court staff and other authorized individuals. Court proceedings will be closed off to the general public.
16. The Sunnyside Municipal Court remains operational with minimal direct contact. Payments may be made by phone, online, mail or the court box

located in the lobby. Information requested and records requests may also be submitted utilizing the court box and coordinated accordingly for pick up. Informational slips are all located in the lobby.

17. The Court recognizes that there are procedural issue in involuntary commitment, and other matters that may not be encompassed in this Order. Nothing in this Order limits other interested parties in submitting similar orders tailored to the unique circumstances of those matters and any other matters not contemplated by this Order; however, parties are strongly encouraged to contemplate the issues addressed in this order.
18. Nothing in this order limits the authority of courts to adopt measures to protect health and safety that are more restrictive than this order, as circumstances warrant, including by extending as necessary the time frames in this order.
20. The Sunnyside Municipal Court will re-evaluate matters accordingly for necessary amendments.

DATED the 29<sup>th</sup> day of October, 2020.

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Steven Michels, Presiding Judge