

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 17-03**

Protocols for Juvenile Arraignments (New Referrals)

WHEREAS, the law in the District of Columbia recognizes that each youth is entitled to the appropriate elements of due process of law; and

WHEREAS, the efficient and timely processing of youth held pending arraignment in delinquency cases is consistent with fairness and with due process; and

WHEREAS, a working group convened in Superior Court consisting of representatives from the Family Court, Office of the Attorney General for the District of Columbia, Public Defender Service for the District of Columbia, Georgetown University Juvenile Justice Clinic, Family Court Trial Lawyers Association, United States Marshals Service, Metropolitan Police Department, Pretrial Services Agency, Court Social Services Division, and Department of Youth Rehabilitation Services has evaluated the operations of the juvenile arraignment process and coordination between the agencies involved;


NOW, THEREFORE, IT IS HEREBY,

ORDERED, that the protocols for juvenile arraignments attached to this Administrative Order represent the best practices to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable delay; and it is further

ORDERED, that these protocols become effective immediately.

SO ORDERED.

BY THE COURT



Robert E. Morin, Chief Judge

Date: January 24, 2017

Copies to:

Judicial Officers
Executive Officer
Clerk of the Court
Division Directors
Attorney General for the District of Columbia
Director, Public Defender Service
GULC Juvenile Justice Clinic
President, Family Court Trial Lawyers Association
Chief, Metropolitan Police Department

Marshal for the Superior Court
Director, Pretrial Service Agency
Director, Court Social Services Division
Director, Department of Youth Rehabilitation Services
Librarian
Daily Washington Law Reporter
DC Bar Webmaster

PROTOCOLS FOR NEW REFERRALS

The following protocols shall be followed in JM-15 (New Referrals) to promote and ensure compliance with the law, and the efficient administration of justice.

General Provisions

Coordination and consistent communication are necessary for efficient and predictable JM-15 operations that preserve Due Process rights for all juveniles. Coordination and communication regarding transport, notification about the papering status of cases, drug screening results and the status of each youth are critical to the efficient and effective operation of the New Referrals process.

All agencies involved in New Referrals shall participate in these communications via email or, when necessary, via telephone to provide information regarding any operational issues – including delays that affect the New Referrals process.

I) Juvenile Lockup List:

- A) The Metropolitan Police Department (MPD) shall maintain a daily Juvenile Lockup List that shall be provided electronically to the Court, the Office of the Attorney General for the District of Columbia (OAG), the Department of Youth Rehabilitation Services (DYRS), and Court Social Services (CSS). The Juvenile Lockup List shall be provided to Defender Services Office (DSO) staff to facilitate the timely appointment of counsel.

- B) The Juvenile Lockup List is populated as each respondent is processed through the MPD Juvenile Processing Center. The Juvenile Lockup List is transmitted via email on an hourly basis to the JM-15 Operations Working Group.

- C) All respondents who arrive at JPC by noon (10:30 a.m. on holidays and emergency schedule) shall be included on the lock up list. These cutoff times are established to ensure that respondents are presented in JM-15 as early as possible each day. Any respondent who is on the Juvenile Lockup List by the cutoff time is expected to be seen in JM-15 the same day.

II) Central Intake Center (CIC):

- A) CIC will take no action when cases are no papered or when respondents are identified as “released.”

- B) After receiving email notification from OAG, CIC will (1) open court jackets for cases that are papered, (2) open case jackets for cases marked as “No Papered for Diversion” on the date the case comes to Court, and (3) open court jackets for cases where a five-day hold is requested. *See § IV.A.4, infra.*

III) Transport to Superior Court:

- A) The Department of Youth Rehabilitation Services shall transport respondents from the Youth Services Center to Superior Court between 9:30 a.m. and 10 a.m. for hearings in JM-15.
- B) MPD shall transport respondents who were not processed through the Juvenile Processing Center by 9 a.m.
- C) Respondents who are on the Juvenile Lockup List or respondents who are picked up on custody orders must arrive at the Courthouse by 3 p.m. Monday through Friday; 2:30 p.m. on Saturdays, and 10:30 a.m. on holidays or when the Court is operating on an emergency schedule.
- D) DYRS and MPD shall communicate with the JM-15 Operations group via e-mail if there are circumstances that would prevent a respondent from being brought to Court by the applicable arrival times. The communication shall indicate that the respondent will not arrive and the reason why. Respondents who do not arrive by the arrival deadline shall be placed on the next day’s Juvenile Lockup List.
- E) A respondent may be ordered brought to Court forthwith if the respondent is not hospitalized and continuing the case to the next day’s calendar would result in the Initial Hearing being held more than 48 hours after the respondent’s arrest.

IV) No Papered Cases:

A) In General

- 1) Cases that are not papered and do not have a case number will not be called in JM-15.

- 2) Respondents whose cases are not papered shall be released as soon as the decision is made not to proceed with the case and a responsible adult is available to receive the youth. A Juvenile No Paper slip prepared by the Office of the Attorney General shall be provided to each respondent. *See § IV.B, infra.*
- 3) When the Office of the Attorney General decides not to paper a case, Court Social Services will notify the family of the no paper decision in both community release and detained cases. *See § IV.B.2, infra.*
- 4) When a five-day hold case is not papered, Office of the Attorney General will file a “No Paper Slip” with the Court and disseminate its decision on the lock up list. *See §§II.B supra; IV.B, infra.*
- 5) When a respondent is detained on a five-day hold that the Office of the Attorney General decides not to paper before the return court date, Defender Services will notify the assigned defense attorney of the no paper decision. *See § IV.B, infra.*
- 6) When a respondent is detained on a five-day hold that the Office of the Attorney General decides not to paper before the return court date, the Courtroom Clerk Services will notify the judge assigned to JM-15 for the Court to sign the paperwork needed for release.

B) No Paper Slips

- 1) Respondents whose cases are not papered before the Court session begins or after the Court session ends, and who were not brought to Court shall be released after the Office of the Attorney General emails the Juvenile No Paper Slip to the Juvenile Processing Center or the Youth Services Center, and all other requirements for release to an appropriate custodian are met.
- 2) Court Social Services shall provide the Juvenile No Paper Slip to respondents who were brought to Court but whose cases are not papered. *See § IV.A.3, supra.*

- 3) Court Social Services shall provide the Juvenile No Paper Slip to respondents when Community Release cases are not papered. *See* § IV.A.3, *supra*.
- 4) Information on Sealing Arrest Records shall be provided to all respondents or their parent/guardian at the time the case is no papered and the No Paper slip is given to the respondent and the parent/guardian. The information sheet shall be available at all locations where the No Paper Slip may be provided to the respondent and the parent/guardian.

V) Respondents Who Are Not Brought to Court

- A) The Court, through the Courtroom clerk, will inquire whether there are any respondents who are on the lockup list but who have not arrived at the Courthouse by 11:15 a.m., which is the start of the daily New Referral calendar. *See* New Referrals § II.A, at pp. 7-9, *infra*.
- B) The Court shall call the cases of those respondents whose cases are papered but who did not arrive by 3 p.m. The Office of the Attorney General shall make representations regarding where the respondent is located and the reason the respondent did not arrive. The case shall be placed on the JM-15 calendar, and the respondent noted in the lock up list, for the next day. *See* New Referrals § II.C, at p. 9, *infra*.
- C) If a respondent is not hospitalized and continuing the case would result in the Initial Hearing being held more than 48 hours after the respondent's arrest, the respondent may be ordered brought to Court forthwith for the Initial Hearing.
- D) The Court, through the Courtroom clerk, shall inquire whether there are any respondents who did not arrive at the end of the court session as well. *See* New Referrals § II.C, at p. 9, *infra*.
- E) The Courtroom clerk will notify the Court when cases are no-papered for detained respondents who were added to the lock up list after twelve noon. The Court will sign paperwork necessary to release the respondents in the no-

papered case only. *See* General Provisions, §§ IV.A, B (1, 2), at pp. 2-3, *supra*.

VI) Hospital Cases:

- A) Before the end of the Court session, the Office of the Attorney General with the assistance of MPD, Court Social Services or the Department of Youth Rehabilitative Services shall confirm the status of each respondent who did not appear because the respondent was hospitalized.
- B) The following information shall be placed on the record:
 - (1) The name of the hospital.
 - (2) The date and time that the respondent was hospitalized.
 - (3) Any other information that will be useful to the Court and to the parties.
- C) If detention is not recommended or requested, Court Social Services shall recommend whether the respondent should be treated as a community release case and, if so, notice of the Initial Hearing date shall be provided to the respondent and the parent/guardian before the respondent is released from the hospital.
- D) If detention is recommended or requested, a Probable Cause Hearing shall be held and the Court shall also determine whether there are sufficient social factors to warrant detention pending the respondent's release from the hospital. The case shall be scheduled for arraignment during a Further Initial Hearing in JM-15, which shall be calendared day-by-day or until an estimated hospital discharge date is provided. At the Further Initial Hearing, the Court shall reopen the Detention and Probable Cause Hearing at the respondents. The request to reopen the Probable Cause Hearing shall be made as soon as practicable but no later than the business day prior to the hearing.

VII) Pretrial Services:

- A) Pretrial Services Agency of the District of Columbia shall be notified of all respondents expected to appear in JM-15 via e-mail through the JM-15 Operations Working Group distribution list. The Pretrial Services Agency shall begin drug screens in the juvenile cell block as soon as the respondents

arrive from DYRS or from MPD. The results shall be available before the Court hearing in each respondent's case.

- B) Pretrial Services Agency representatives shall monitor the e-mail notifications of the status of arrested youth and the estimated time of arrival at the Courthouse to ensure testing is completed for all respondents whose cases are papered.

VIII) Supervision of Respondents:

- A) Supervision of respondents who are in custody shall be consistent with Administrative Order 16-08 on the Use of Restraints, Administrative Order 15-11 on the Guidelines for Placement of Respondents in the At Risk Room and the implementation of D.C. Code §16-2310.01.

IX) Medical Alerts:

- A) A medical alert form shall be completed for each detained respondent who appears to have or has a medical or psychological condition that requires continued treatment or evaluation for treatment. The medical alert form shall be signed by defense counsel and the presiding judge in JM-15. The completed medical alert form shall be provided to DYRS.

X) Medical Emergencies:

- A) To ensure privacy and facilitate access by emergency personnel, JM-15 shall be cleared during a medical emergency in the Courtroom. The session shall resume as soon as the medical emergency has been addressed by the appropriate medical professionals.

Order of the New Referrals Calendar

I) In General:

- A) Cases shall be called when they are deemed ready. A case is in "ready" status when the Office of the Attorney General has papered the case or requested a five-day hold, the respondent's history and social factors are

available through Court Social Services, defense counsel has met with the respondent, and, where applicable, the case has been electronically filed.

B) Office of the Attorney General:

Seventy (70) to 80 percent of the cases each day shall be ready before the JM-15 calendar begins. An attorney from the Office of the Attorney General for the District of Columbia's Juvenile Section shall be present at the start of the New Referrals Calendar.

C) Court Social Services:

- 1) Seventy (70) to 80 percent of cases shall be ready before the JM-15 calendar begins. A representative from Court Social Services shall be present and prepared to present social factors and any delinquency history for each case that is ready.
- 2) Court Social Services shall provide the Court history for each respondent via email to the Court, the Office of the Attorney General, and the Office of Defender Services as early as practical before the start of the JM-15 calendar.

D) Defense Counsel:

- 1) All attorneys shall interview their clients before the start of the JM-15 calendar. Interviews shall occur in the areas designated for interviews in the Courthouse including, but not limited, to the Juvenile Cell Block, the At-risk Room, the holding cell behind JM-15, or elsewhere when the respondent is not detained. No interviews shall occur in the Courtroom.
- 2) Attorneys shall submit *praecipes* for their cases at least 15 minutes before the JM-15 Session begins. *Praecipes* for cases assigned after the start of the Court session shall be submitted as soon as practicable, but no later than when the case is called. If an attorney must leave JM-15 to appear in another Courtroom, the attorney shall inform the Courtroom clerk as to where the attorney will be and the estimated time that the attorney will return to JM-15.

- 3) JM-15 stand-in counsel shall handle cases when respondents have pending cases and the respondent's attorney of record in the pending case is not available to appear for the Initial Hearing in the new case.

II) New Referrals Calendar Call:

The New Referrals Calendar shall begin each day at 11:15 a.m.

A) Setting JM-15 Calendar Order

- 1) Because the Office of the Attorney General and Court Social Services continue to prepare papered cases throughout the day, the New Referrals judge shall begin the calendar by setting the order in which cases will be called. The calendar call shall occur at 11:15 a.m. daily. The calendar call may be earlier on Saturdays, holidays and during emergencies. The calendar call shall be on the record. Representatives from the Office of the Attorney General, Court Social Services, and defense counsel or Defender Services shall participate. Representatives from the Office of the Attorney General and Court Social Services may participate by speakerphone.
- 2) All parties shall be prepared to indicate the time that each case is expected to be ready for Initial Hearing. In addition, the parties shall discuss the number of respondents involved in each case, when Court Social Services will be ready to present social factors and other information in each case, whether a Probable Cause Hearing may be necessary, the projected time that the government will be ready with witnesses for each Probable Cause hearing, and the anticipated length of each Probable Cause Hearing.
- 3) The Office of the Attorney General, Court Social Services and defense counsel shall be present and prepared to begin the hearings for any cases that are deemed ready at 11:30 a.m.
- 4) On Saturdays, holidays and during emergencies, all parties shall check in with the courtroom clerk by 9:30 a.m. to ascertain the time when the calendar call will occur.

B) New Referral Hearings

Once the JM-15 calendar order has been established, the following case types shall be called immediately, whenever practicable:

- (1) No papered diversion and five-day hold cases. *See General Provisions, §§ II. B, IV.A at pp. 2-3, supra.*
- (2) Community Release Cases
- (3) Five-day Hold returns
- (4) Probable Cause Hearings as soon as they are ready
- (5) Any Initial Hearings deemed ready
- (6) Fugitive Returns
- (7) Fugitive cases
- (8) Pre-petition custody orders

C) Respondents Who Did Not Arrive for Court

- (1) The Court shall address the status of respondents who were not transported for Court before the conclusion of each day's calendar, and ensure that those respondents are added to the JM-15 Calendar to appear on the next business day, unless a different date is set after consultation with counsel. *See General Provisions, §V.B, at p. 4, supra.*

III) Traffic Cases:

When a respondent is charged with a juvenile offense and an adult Traffic offense, the Office of the Attorney General shall forward the Criminal Information for the Traffic Case to the Central Intake Center via email so that the Court file for the Traffic offense can be created.

IV) Title 16 Cases:

The following procedures have been established by the United States Attorney, the Office of the Attorney General, Metropolitan Police and the Department of Corrections for respondents who are subject to transfer under Title 16:

- A) The United States Attorney's Office notifies the Office of the Attorney General that a Juvenile will be charged under Title 16.
- B) Once Central Cell Block is notified, the arrest should be noted as a Title 16 case. The juveniles name is then added to the adult lockup list so the case can

be called in C-10. The addition of the respondent's name to the adult lockup list serves to notify the U.S. Marshals Service, Pretrial Services Agency, the Court and all other interested parties that the respondent will need to be presented in Courtroom C-10. The procedure applies in all cases where the respondent has arrived at the Courthouse before the Title 16 decision is made even if the respondent's arrival is after the adult lockup list cutoff time.

- C) CCB staff forwards all paperwork to the Court Liaison Division for presentment at Court.
- D) CCB staff forwards a copy of the required paperwork immediately to AFIS to link the juvenile record and the new adult arrest number.
- E) When the United States Attorney's Office files its case, the United States Marshals Service brings the respondent to Courtroom C-10 for presentment.
- F) The detention location before and after a Title 16 decision is made shall be based upon protocols established between the United States Marshals Service and the Department of Youth Rehabilitation Services.

Appendix A

Cases will be called in JM-15 when a respondent is both (1) placed on the lock up list and (2) transported to the cell block by the times set forth below.

	Weekdays	Saturdays	Holidays/Emergency
On the lock-up list by ...	Noon	Noon	10:30 a.m.
In the courthouse lock-up by ...	3:00 p.m.	2:30 p.m.	10:30 a.m.

Note:

On holidays and emergency days, the judge assigned to JM-15 has discretion to hear cases for respondents who reach the courthouse lock-up later than 10:30 a.m. in consultation with all relevant parties.