

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR BENTON AND FRANKLIN COUNTIES

IN RE THE MATTER OF)	
THE RESPONSE BY)	Nos. 20-2-00002-03 (BCSC)
BENTON & FRANKLIN)	20-2-50002-11 (FCSC)
SUPERIOR COURT TO THE COUNTIES)	
PUBLIC HEALTH EMERGENCY)	EMERGENCY ORDER
IN BENTON & FRANKLIN COUNTIES)	#05-03
AND THE STATE OF WASHINGTON)	re: Criminal Matters
)	Effective: June 15, 2020¹

The public health emergency in Washington State posed by the coronavirus 2019 (COVID-19) continues to evolve and requires modification of Emergency Order #1 (issued March 16, 2020), Emergency Order #2 (issued March 19, 2020) Emergency Order #3 (issued on April 22, 2020), and Emergency Order #4-03 & 3A & 3B (issued May 4, May 18 & June 1, 2020). The Court has in mind the factual record of these Emergency Orders and incorporates the same by reference, and on particular has in mind the following:

1. On May 29, 2020, Washington Supreme Court Chief Debra Stephens entered Order No. 25700-B-626, revising and superseding prior orders and stating as follows:

“8. Many **out of custody** criminal and juvenile offender matters have been continued until after June 1, 2020. After that date, courts should hear matters by telephone, video or other means that do not require in person attendance when appropriate. In addition, courts may hear matters that require in person attendance if those hearings strictly comply with social distancing and other public health measures.”

NOW, THEREFORE it is hereby **ORDERED**, pursuant to the authority of Washington Supreme Court Order NO. 25700-B-625 & 626, and the authority as the Presiding Judge of Benton & Franklin Counties, that the following shall be in effect:

Beginning June 15, 2020, the following temporary procedures will be in place for criminal law dockets in Benton & Franklin Counties:

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¹ To the extent that this order requires earlier action to prepare for the new docket procedures, it takes effect immediately.

I. Docket Schedule

A. Criminal Dockets:

1. Benton County:

Days: Monday – Thursday

Time: 8:30 a.m. to 4:30 p.m. (A.M./out of custody, P.M./in custody²)

Location: Benton County Courtroom B

Telephonic Appearances: Dial: (509) 222-2310, **Meeting Number:** 3234 #, **Access Code:** 3234 #

Videoconference Appearances: See instructions at www.benton-franklinsuperiorcourt.com/administration/coronavirus/temporary-docket-procedures/

2. Franklin County:

Days: Tuesday – Wednesday

Time: 8:30 a.m. to 4:30 p.m. (A.M./out of custody, P.M./in custody³)

Location: Franklin County Courtroom 1

Telephonic Appearances: Dial: (509) 545-3555, **Meeting Number:** 3845 #, **Access Code:** 3555 #

Videoconference Appearances: See instructions at www.benton-franklinsuperiorcourt.com/administration/coronavirus/temporary-docket-procedures/

B. 3.5/3.6 (Motion) Dockets:

1. Benton County:

Day: Friday

Time: 8:30 a.m. to 12:00 p.m.

Location: Benton County Courtroom B

Telephonic Appearances: Dial: (509) 222-2310, **Meeting Number:** 3234 #, **Access Code:** 3234 #

Videoconference Appearances: See instructions at www.benton-franklinsuperiorcourt.com/administration/coronavirus/temporary-docket-procedures/

2. Franklin County:

Day: Thursday

Time: 8:30 a.m. to 12:00 p.m.

² Preliminary appearances in Benton County will be addressed toward the end of the afternoon in-custody dockets on Monday through Thursday, and at 1:30 p.m. on Friday

³ Preliminary appearances in Franklin County will be addressed toward the end of the afternoon in-custody dockets on Tuesday through Thursday, and at 1:30 p.m. on Monday, Thursday, and Friday.

Location: Franklin County Courtroom 1

Telephonic Appearances: Dial: (509) 545-3555, **Meeting Number:** 3845 #, **Access Code:** 3555 #

Videoconference Appearances: See instructions at www.benton-franklinsuperiorcourt.com/administration/coronavirus/temporary-docket-procedures/

C. Criminal Emergency Docket: The Criminal Emergency Docket will cease operation after June 12, 2020 in both counties. Any matters currently noted for June 15, 2020 and later are hereby stricken, and no further matters may be noted under the prior emergency docket rules.

II. Docket Preparation

A. Criminal Docket:

1. Benton/Franklin Counties:

- a. For Benton County, the Wednesday and Thursday criminal dockets now set beginning the week of June 15, 2020, through the week of July 27, 2020 will be divided in half, by alphabetic order of the case, with the oldest cases from the Wednesday docket set on Monday, and the remainder of the Wednesday docket set on Tuesday. The Thursday docket will be similarly divided and placed on Wednesday and Thursday, respectively. The procedure will be the same: the Franklin County Tuesday criminal docket will be divided in half, by age of the case, and distributed between two days, Tuesday and Wednesday. **For both counties, the resulting provisional dockets for this seven-week period will be available to be sent to individuals who have requested to be included in e-mail docket notice from the Clerk, by 12:00 p.m. on June 9, 2020.**
- b. Individuals who have not previously asked to be included in docket notices should send their request, along with the e-mail address at which they wish to receive notice, to the respective Clerk to the e-mail addresses as follows:
clerk@co.benton.wa.us
criminalclerk@co.franklin.wa.us
Individuals shall not attempt to give their e-mail address to the Clerk over the phone.
- c. **Thereafter, on the Monday of the week prior to the following week's dockets,** each Clerk will send the provisional dockets for the following week to any Counsel or party who request notice above.

- d. **Until 4:00 p.m. Thursday, of the week prior to the following week's dockets**, notes for motion may be filed by any party for that week's dockets. **Thereafter, no additional cases will be added to any of the following week's dockets**, other than initial appearances and motions to address conditions of release (which will be placed toward the foot of the respective afternoon docket).⁴ The Court anticipates that counsel will, prior to this cutoff date and time, consolidate matters to the same dockets as appropriate and that retained counsel will, with the cooperation of the State, re-set cases within that week's dockets so that retained counsel are not double set in more than one court on a given day and time. The Court anticipates that the same courtesies will be extended to all counsel.
- e. **By 12:00 p.m., the Friday of the week prior to the following week's dockets**, Each Clerk will post on their website the provisional final dockets for the following week.
- f. **Until 12:00 p.m. of the day prior to a given docket**, cases can be stricken from a docket upon: 1) filing of a completed omnibus order accompanied by an order to strike the omnibus hearing; or 2) filing of a waiver of speedy trial signed by all parties,⁵ and an agreed order setting of dates. These orders can be presented *ex parte* for signature.
- g. Each Clerk of the Court will post to their website the final individual dockets for the following day per their normal procedure. The dockets are available at:
<https://www.co.benton.wa.us/pview.aspx?id=1756&catID=45>
<http://co.franklin.wa.us/clerk/dockets.php>

Each Correction Center's on-line inmate list will advise counsel and the Court of which matters are anticipated to be called on the afternoon in-custody docket. The list is available at:
<https://www.co.benton.wa.us/pView.aspx?id=1803&catid=45>
<http://www.co.franklin.wa.us/sheriff/corrections.php>

Each Correction Center's in-custody grouping list will be available, either as a provisional list the day before the docket, or the morning of and will be distributed to the same list of individuals who request notice from the clerk. This will be accomplished by the respective Correction Centers being included

⁴ This change in procedure is in aid of keeping the numerical order of the docket as predictable as possible.

⁵ The rules regarding the form of signatures, and signatures on behalf of a Defendant in prior emergency orders remain in effect. An affidavit of counsel shall accompany a waiver of speedy trial signed on behalf of a Defendant.

in the respective Clerks docket notice list and including the in-custody groupings as a “reply all” to the group.

- h. All cases will be called on the morning docket in the first instance. The Court will call the docket in numerical order.⁶ Any matter where the Defendant is in custody will be continued to the afternoon docket. Afternoon in-custody matters will be called in the order the jail prepares for the transport of in-custody inmates to court. In custody matters will be presumed to be addressed by video conference, however a party may ask that an in-custody defendant be brought to the courtroom for a hearing.

B. 3.5/3.6 (Motion) Dockets:

1. Benton/Franklin Counties: The procedure for noting a matter on this docket, the limitations on what matters may be noted, forms, and the procedure for the operation of this docket are available at the Court’s website. www.benton-franklinsuperiorcourt.com/information-and-forms-by-case-type/adult-criminal-case-information-and-forms/3-5-3-6-docket/

C. Bench Copies: Bench copies of all pleadings shall be submitted via eMotion, in accordance with LCrR4.5. Counsel are reminded that LCrR 4.5 requires submission “not later than nine (9:00) o’clock a.m., one (1) day prior to the scheduled hearing, proceeding or trial.” In addition to formal pleadings, *all materials* upon which either party will rely in argument shall be submitted via eMotion.

II. Docket Operation:

A. Docket Order: Dockets will be called by the Bench, in numerical order (with the exception of initial appearances and motions to address conditions of release which will be taken at the foot of the afternoon docket).⁷ Counsel must act diligently to prepare matters before the docket so that they are ready to proceed when called by the Court. If a matter is not ready to proceed when called, it will be either continued or stricken as the Court deems appropriate. In the case of a critical stage hearing where continuance would affect a fundamental right of a party or person with an interest in the matter, the Court may vary this procedure.

B. File Coverage: For each docket in each County, Counsel, with due regard for sudden illness and emergency, are expected to remain in attendance (although not

⁶ For those individuals who have multiple matters before the Court, all cases will be called together with the first case that appears numerically on the docket.

⁷ The Court recognizes that some initial appearances may appear out of custody by the time of afternoon hearing.

necessarily in person attendance) until their matters are complete, or to provide file notes that allow a colleague to address the Court.

C. Appearance By Counsel/Parties/Public: Counsel/Parties and the Public may, consistent with health and safety and consistent with the rights of others, appear in person, via videoconference, or teleconference. Prior to any hearing, counsel must communicate the manner of appearance they, their client, or a witness intends to the opposing party (if it is other than an in-person appearance). Any person may object to appearances other than in-person. If there is an objection, or if the Court has a concern, the Court will balance the interests of counsel, parties and the public and consider the current health and safety restrictions with respect to COVID-19 and other related concerns.

D. Safety: The Courtroom has been arranged for social distancing. The Court may modify the listed procedures, timeframes and other provisions of this order and may take additional actions to preserve the health and safety of those present. Interested parties should consult the Court's website: <http://www.benton-franklinsuperiorcourt.com/administration/coronavirus/temporary-docket-procedures/> for further information.

E. Prior Orders: This emergency Order supplements the prior emergency orders which remain in full force and effect to the extent that they are not inconsistent with this order.

Dated at Kennewick, Washington, this 8th day of June, 2020.


Carrie Runge, Presiding Judge
Benton & Franklin Counties Superior Court