

Protocol for In-custody Negotiated Pleas via Webex

All pleas must be negotiated and finalized prior to the virtual open court hearing.

**THE CCSD MUST HAVE ATTORNEYS' EMAILS AND CELL PHONE NUMBERS.
A form is attached and shall accompany attorney emails to the CCSO. (Form A)**

I. PLEA PACKET CONTENTS

1. Accusation/Indictment – *To be annotated and signed by Judge to indicate that a plea was entered in open court*
2. Negotiated Plea Petition – *To be signed by Defendant, Defense Counsel, Assistant District Attorney and Judge*
AND
Final Disposition – *To be signed by Judge*
Once signed by the State and Defense Counsel, the original petition/final disposition order will be presented to the Defendant at the jail to sign ONLY on the petition. A copy will be provided to the judge at the time of the hearing.
THE PETITION/FINAL DISPOSITION IS THE ONLY DOCUMENT TO BE EMAILED TO THE JAIL. THE PETITION IS THE ONLY DOCUMENT DEFENDANT MUST SIGN. All other documents are to be retained at the courthouse for the judge's signature
3. Nolle Prosequi (if applicable) – *Signed by Assistant District Attorney and Judge*
4. Certification of Counsel – *Signed by Defense Counsel*
5. Certification of Compliance w/ 9.2 – *signed by Judge*
6. Proposed Orders - *signed by Judge*
 - a. Orders on Sentence and Release
 - b. Orders on Restriction of Records under First Offender Act
 - c. Orders on Restriction of Records under Conditional Discharge
 - d. Notice to Probate Court in Re Weapons Carry License
7. Voluntariness Certificate – *Signed by Judge only*
8. The Notice of Probation Intake will be provided by probation to the Detention Center primary deputy who will hand to the defendant at the plea hearing, said matter to be placed on the record.

II. DISTRIBUTION OF PLEA PACKET

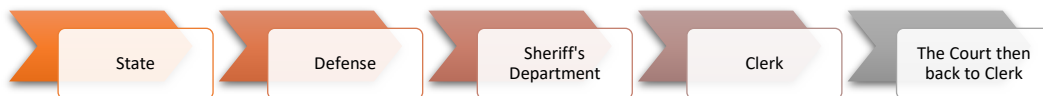
- a. The District Attorney's office will send the plea packet to the defense counsel via email.
- b. Documentation provided in the plea packet by District Attorney would include:
 - i. Negotiated Plea Petition and Final Disposition (*Signed by the State*)
 - ii. Copy of the Accusation/Indictment
 - iii. Nolle Prosequi (if applicable) (*Signed by the State*)
- c. The plea offer will be sent to the CCSO by Defense Counsel for the Defendant's review. Defense counsel will arrange with the CCSO to consult with the client (by phone, video or in person) prior to the hearing.
- d. Once the parties are agreed, Counsel will notify case management (see Appendix A) to have the case scheduled on the next available docket.
- e. Upon receiving the Webex invitation to the hearing, Defense Counsel will send the signed, negotiated plea petition/final disposition via email to the Sheriff's Department. All other contents of the Packet shall be supplied to the court prior to or at the time of the Webex hearing.
See Attachment A for the CCSD email address distribution list and other requirements.
- f. The Final Plea Petition must be sent to the Sheriff's Office distribution list at least **one business day** prior to the scheduled hearing.
- g. The Sheriff's Department will print out and deliver the negotiated plea petition/final disposition to the Defendant.

III. POST-PLEA HEARING PROCESSES

- The Sheriff's Department will return the original signed plea petition to the Clerk's Office.
- The Clerk will secure the judge's signature on any remaining documents to be signed and file.
- The Sheriff will release defendant, if eligible, together with the Probation Reporting instructions and --- if requested --- a bus pass or such other relief as allowed by the court and Sheriff. A sample release order is attached as Form B.

IV. THE FLOW OF DOCUMENTATION FOR WEBEX NEGOTIATED PLEAS

The plea packet should flow seamlessly from the State to the Defense to CCSD to the Clerk, the Court and ending with final receipt of all of the documentation by the Clerk. As depicted below.



The streamlined flow of documentation for negotiated pleas works most efficiently if:

- The District Attorney's office signs the negotiated plea petition (and nolle prosequi, if applicable) prior to sending the plea packet to the defense counsel.
- Defense counsel provides and prepares the standardized forms needed to complete the plea packet (i.e. Certification of Counsel and any Proposed Orders).
- Defense counsel follows the signature and email protocol in Attachment A to ensure receipt by CCSD
- The Sheriff's Department will deliver the signed documentation to the Clerk's Office.
- The Clerk's office receives one finalized set of plea paperwork after the judge has signed.

V. THE HEARING

THE DEFENDANT AND THE ATTORNEYS FOR STATE AND DEFENSE MUST PARTICIPATE BY VIDEO AND BE CAPABLE OF SHARING THE SCREEN FOR ANY DOCUMENTS NOT ALREADY IN THE COURT'S POSSESSION. AUDIO ONLY PARTICIPATION IS FORBIDDEN.

I. ANNOUNCEMENTS AND INTRODUCTORY REMARKS BY JUDGE

Good morning/afternoon. Please come to order. We are now in session in the Superior Court of Chatham County, State of Georgia. For the record, I am Judge _____.

We are here in open court in the State v. _____ who is present by videoconference and represented by attorney _____.

This is a remote negotiated plea hearing conducted by videoconference pursuant to Uniform Superior Court Rule 9.2. All participants should be muted at this time. There may be some audio interference that causes distortion or lags. If a participant is unable, at any point, to hear the proceedings, please unmute and let us know. RECORDING THE PROCEEDINGS IS FORBIDDEN UNLESS PERMISSION IS GRANTED BY THE COURT.

II. PUBLIC ACCESS

COURT: These proceedings are accessible to the public by video in Courtroom **XX** of the Chatham County Courthouse [OR VIA LIVESTREAM as the case may be]. The public will be able to hear and to see but shall not be seen or heard and must remain silent and behave in accordance with court rules.

III. AUDIO/VISUAL CHECK

COURT: Can each of the following see and hear the Court and each other?

Defendant? Court Reporter? Primary? Deputy Clerk? State? Counsel for Defense?

COURT: Counsel for defendant, do you have direct, private line of communication to your client if needed?

COURT: Mr./Ms. [DEFENDANT], can you see and hear your attorney?

COURT: Counsel, does your client agree to enter his/her plea by video and does he/she waive any objections on that basis?

IV. ADMINISTERING OATH

DEPUTY CLERK: **DO YOU SWEAR THAT YOU WILL GIVE TRUE ANSWERS TO THE COURT'S QUESTIONS?**

V. ADMONITIONS TO DEFENDANT

COURT: Can You See, Hear and Understand Everyone on this Video-Conference? Please Answer Loudly and Let Us Know If You Are Having Any Difficulty Hearing Or Seeing The Rest Of Us.

COURT: Do You Consent to This Plea Hearing Being Held by Video?

COURT: Do You Understand That You Have The Right to Speak to Your Attorney Privately If You Want To Do So At Any Time?

VI. FINGERPRINTS OF RECORD

COURT TO STATE/PRIMARY : Are Defendant's fingerprints are in the possession of the GCIC or the Sheriff's Department?

*NOTE: The Defendant will **not** be fingerprinted at the hearing. If no fingerprints have been taken, the Sheriff will have the Defendant fingerprinted.*

VII. FACTUAL BASIS, TERMS OF PLEA AND VOLUNTARINESS QUESTIONS [NOTE: DEFENDANT SIGNING VOLUNTARINESS TRANSCRIPT ELIMINATED]

VIII. SIGNING OF PETITION

COURT: You may sign the petition on the signature line for DEFENDANT.

COURT: DO I HAVE YOUR AUTHORITY TO ENTER YOUR GUILTY PLEA IN OPEN COURT ON THE INDICTMENT/ACCUSATION?

[S/ DEFENDANT'S NAME BY JUDGE ___ WITH EXPRESS PERMISSION DUE TO REMOTE LOCATION]

IX. CONCLUSION

COURT TO PRIMARY DEPUTY: Please give the defendant the NOTICE OF PROBATION INTAKE REPORTING DATE.

VOLUNTARINESS QUESTIONS

- Are you now under the influence of any kind of medicine, other drugs or alcohol?
- Are you a citizen of the United States?
- Do you understand that you are charged with (name offenses) and that the minimum and maximum are as set forth in the plea agreement?
- The total potential maximum sentence is _____
- Have you read the plea agreement and do you understand all the terms and conditions of the plea agreement?
- How do you plead to the charges, guilty or not guilty?
- You are pleading guilty because you are guilty?
- You have the right to plead not guilty and have a jury trial.
- By entering this plea you are giving up all these rights with respect to these charges:

The right to trial, the right to be represented by a lawyer, the right to hear the evidence, the right to confront the witnesses by cross-examination, the right to subpoena witnesses and present evidence on your behalf, the right to testify, the privilege against self-incrimination, and the presumption of innocence.

- Do you understand all of your rights?
- Do you understand that you are giving up all these rights?
- Has anyone made any threats or promises to you to get you to plead guilty?
- Have you and your attorney discussed your case, the nature of the charges, any defenses, and your decision to plead guilty **to your satisfaction**?
- Do you have a license/permit to carry a weapon? If so, from what county did you receive the license
- **FOR FIRST OFFENDERS:**
- Have you ever been convicted of a felony? Have you ever been treated as a first offender in connection with any charge?

ATTACHMENT A
SIGNATURE AND EMAIL PROTOCOLS FOR WEBEX JAIL PLEAS

SIGNATURES

The goal of this process is to end up with ONE set of plea documents that is signed by all necessary parties. The plea petition has been revised to require only one signature of the Defendant.

The ADA and Defense Counsel are encouraged to type their signatures into an editable version of the plea paperwork as follows:

/s/Meg Heap
/s/Todd Martin

Alternately, counsel may sign the documents physically and scan the signed documents for emailing. In any event, the plea petition emailed to the jail should contain both the ADA's and the defense attorney's signature (either typed or signed).

The CCSD will print the plea petition sent by defense counsel to give to the Defendant to review. If a plea agreement is reached, Defense Counsel will send the Final version for signing at the plea hearing.

The Defendant and the Judge will sign (in pen) the documents printed by CCSD.

EMAILING and EMAIL ADDRESSES

CCSOPLEASEDOCS@CHATHAMCOUNTY.ORG IS THE EMAIL ADDRESS FOR THE SHERIFF OF ALL PLEA-RELATED CORRESPONDENCE.

Defense counsel should send the final plea paperwork to the CCSO at least one business day before the scheduled hearing.

Use this subject line for emails to CCSD for PLEA OFFERS: **PLEA OFFER [Defendant's Name and Identification [DOB or DIN, etc.]]**

Use this subject line for emails to CCSD for FINAL PLEA AGREEMENT: **PLEA AGREEMENT FINAL [Defendant's Name and Identification]**

ATTORNEYS SHOULD MAKE IT A HABIT TO INCLUDE EMAIL ADDRESS AND CELL PHONE NUMBER TO SHERIFF WITH UNDERSTANDING NOT TO DISTRIBUTE. A PDF FORM HAS BEEN CREATED TO ATTACH.

FOR THE DEPARTMENT OF COMMUNITY SUPERVISION, ALL DOCKETS AND WEBEX HEARING INVITATIONS MUST BE EMAILED BY CASE MANAGEMENT TO THE DEPARTMENT OF COMMUNITY SERVICE AT

marc.alstatt@dcs.ga.gov and **beverly.lee@dcs.ga.gov**

THE DEPARTMENT OF COMMUNITY SUPERVISION SHALL INSURE THAT DEFENDANT HAS PROBATION REPORTING INSTRUCTIONS TO KEEP WITH HIM/HER. IN THE EVENT THAT REPORTING INSTRUCTIONS ARE UNAVAILABLE, THE DEFENDANT WILL BE INSTRUCTED TO REPORT ON THE FIRST WEDNESDAY FOLLOWING RELEASE EXCEPT FOR SEX OFFENDER PROBATIONERS WHO MUST REPORT THE FOLLOWING DAY.

On all plea correspondence, attorneys must show a copy to the ADA and Case Management. Email addresses of the case managers are

Jessica Easley, JVEasley@chathamcounty.org
Shana Cribbs Frye, SLCribbs@chathamcounty.org
Porche Kelley, pskelley@chathamcounty.org