



NCAOC TEMPORARY AUDIO VIDEO POLICY

March 13, 2020

NCAOC has received several inquiries from court officials about the ability to conduct court proceedings through audio video procedures in order to minimize in-person proceedings, and thereby, reduce the risk of transmission of COVID-19. Various General Statutes authorize conducting certain court proceedings via audio video transmission. With limited exceptions, each statute requires prior NCAOC approval for both the procedures and equipment. However, the time required for these approvals is impractical in the current situation.

In response to these concerns, we are providing a temporary pre-approval for the use of audio video procedures, when authorized by statute, in lieu of requiring each county to submit an individual request for approval. This pre-approval for the use of audio video procedures applies if both of the following two conditions are satisfied:

- 1) There is a statute authorizing the use of audio video procedures to conduct the hearing in question. Audio video procedures currently are authorized by the following statutes:
 - G.S. 7B-1906(h) (continued custody review hearing)
 - G.S. 15A-245(a)(3) (search warrant)
 - G.S. 15A-304(d)(3) (arrest warrant)
 - G.S. 15A-511(a1) (initial appearance)
 - G.S. 15A-532(b) & (c) (release conditions)
 - G.S. 15A-601(a1) & (a2) (first appearance)
 - G.S. 15A-941(b) & (c) (arraignment)
 - G.S. 50B-2(e) (ex parte domestic violence protective order)
 - G.S. 50C-6(e) (ex parte civil no-contact order)
 - G.S. 122C-268(g) (inpatient commitment)

- 2) The equipment and procedures satisfy the following minimum basic requirements:
 - The parties to the proceeding must be able to see and hear each other;
 - The defendant / respondent must be able to communicate fully and confidentially with counsel, if the defendant / respondent has counsel;
 - If the proceeding is confidential (e., juvenile or inpatient commitment), the procedures must be reasonably secure to preserve the confidentiality of the proceeding; and
 - If the hearing must be recorded, the procedures must have recording capability.



Please note that this pre-approval does not authorize remote testimony for dispositive proceedings, *e.g.*, trials; those are case-by-case determinations and are allowed only where authorized by the North Carolina General Statutes. See G.S. 15A-1225.1, et seq.

Until further notice, we will not be approving individual requests for audio video procedures. We encourage court officials to follow this temporary policy in determining whether to use audio video procedures for a court proceeding. However, once the public health concerns have passed, we will return to the traditional approval process, which may require retroactive approval of any audio video equipment and procedures implemented during this temporary pre-approval period.

Thank you for your dedicated service to our great state.

