

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	
	:	
FIFTH EXTENSION OF	:	STANDING ORDER
ADJUSTMENTS TO COURT	:	
OPERATIONS DUE TO THE	:	
EXIGENT CIRCUMSTANCES	:	
CREATED BY COVID-19	:	

This Order is issued in furtherance of the Court’s prior Standing Orders issued on March 13, 2020, March 18, 2020, April 10, 2020, May 29, 2020, June 30, 2020, and July 31, 2020, which implemented and extended certain adjustments to Court operations due to the exigent circumstances created by the ongoing coronavirus disease 2019 (COVID-19) pandemic and in the interest of public health and safety. This Order addresses civil and criminal jury selections and jury trials, as well as grand jury selections, all of which were previously continued through August 31, 2020. It also addresses Central Violations Bureau proceedings, which were previously continued pending further Court order.

The COVID-19 pandemic continues to significantly impact Court operations in this district, as outlined in the Court’s prior Standing Orders. The national emergency declared by the President under the National Emergencies Act, 50 U.S.C. § 1601 et seq., with respect to COVID-19 remains ongoing. The finding by the Judicial Conference of the United States that emergency conditions due to the COVID-19 national emergency have materially affected and will materially affect the functioning of the federal courts generally also remains in effect.

Within the Commonwealth of Pennsylvania, the Governor has extended his declaration of a disaster emergency due to the COVID-19 pandemic. There have been more than 137,000 cases of COVID-19 in Pennsylvania to date, including more than 89,000 cases in this district. In the

past few months, the Commonwealth has undertaken a phased reopening pursuant to the Governor's Process to Reopen Pennsylvania. As part of this process, the stay-at-home orders previously in place in the counties in this district have been lifted, and some of the other restrictions previously in effect have been eased as the counties in this district have transitioned to the "yellow" and "green" phases of the Governor's plan. As the virus continues to circulate, however, many restrictions remain, and new mitigation measures have been implemented. Even in the "green" phase, masks or face coverings must be worn in public settings, six-foot physical distancing must be maintained, and indoor gatherings of more than 25 persons are prohibited. Businesses are required to conduct their operations through individual teleworking whenever possible and, if conducting in-person operations, must comply with all applicable guidance issued by the Governor, the Department of Health, and the Centers for Disease Control and Prevention (CDC). In addition, individuals who travel to areas with a high number of COVID-19 cases are advised to quarantine for 14 days upon their return to Pennsylvania.

The CDC and State and local public health authorities continue to emphasize the need for precautions to avoid exposure to the virus and prevent its spread. Recommended precautions include maintaining six feet of physical distance from others, wearing masks or face coverings in public, limiting nonessential travel, avoiding public transportation when possible, working from home, avoiding large gatherings, limiting the number and duration of in-person interactions, and regularly cleaning and disinfecting frequently touched surfaces.

With the lifting of the stay-at-home orders in the counties in this district in June 2020, this Court also began the process of reopening pursuant to the Federal Judiciary COVID-19 Recovery Guidelines issued by the Administrative Office of the U.S. Courts. The Court is committed to reopening gradually and cautiously to protect the health and safety of Court employees and all

those entering Court facilities and to mitigate the risk of a resurgence of new COVID-19 cases. To that end, the Court has continued to carefully monitor the COVID-19 data for this district and the available guidance from government officials and public health authorities to ensure that any increases in on-site activity can be accomplished safely.

In the initial phase of reopening, the Court began bringing additional employees into the courthouse on a rotating basis and resumed holding a limited number of essential in-person proceedings in a limited number of designated courtrooms to ensure that the courtrooms in use could be adequately cleaned and disinfected between proceedings. During this phase, criminal proceedings and shorter proceedings with fewer participants have been prioritized.

The Court has also been carefully planning for the resumption of jury trials, which pose additional challenges during the pandemic due to their longer duration and the large number of people involved, including jurors who often must travel significant distances to participate. The Court has been developing guidelines for the reinstatement of jury trials in this district with the goal of allowing jury trials to proceed safely and in accordance with public health guidance. The guidelines include a number of health and safety precautions, and trials conducted pursuant to the guidelines will require more staff and space than would be required in ordinary circumstances. For example, to limit the number of people in one room at a time and to ensure adequate space for physical distancing, jury selection for each trial will require the use of four courtrooms as well as the jury assembly room. Once a jury is selected, two courtrooms will be used for each trial, and an additional courtroom will be used to allow the public to observe the proceedings. To limit the number of jurors in the courthouse at one time and to ensure adequate staffing and the availability of sufficient space for jury selection and trial, only one trial will be conducted at a time, at least initially. Thus, while the Court anticipates that jury trials may resume on a limited basis in mid-

September, due to the health and safety considerations outlined above, it will be possible to convene only a small number of jury trials in September and October.

As jury trials resume on this limited basis, criminal cases will be prioritized. The Court has worked with representatives of the U.S. Attorney's Office and the Federal Community Defender Office in this district to identify those cases that are ready to proceed to trial and to prioritize the cases suitable to proceed in the initial round of jury trials. All other trials will be continued in the interest of health and safety due to the ongoing public health emergency and its impact on Court operations. It is therefore ORDERED as follows:

1. All civil jury selections and jury trials scheduled to begin before November 2, 2020, before any district or magistrate judge in any courthouse or Court location in this district are CONTINUED pending further Court order.

2. With the exception of the limited number of cases designated for trial in September or October pursuant to the procedure described above, all criminal jury selections and jury trials scheduled to begin before November 2, 2020, before any district or magistrate judge in any courthouse or Court location in this district are CONTINUED pending further Court order.

3. All jury selections and jury trials impacted by this Standing Order will be rescheduled by the presiding judge. Aside from ordering a jury trial, individual judges presiding over criminal proceedings may take such actions consistent with this Standing Order as may be lawful and appropriate to ensure the fairness of the proceedings and preserve the rights of the parties.

4. With respect to criminal trials continued by this Standing Order, the Court is cognizant of the right of criminal defendants to a speedy and public trial under the Sixth Amendment and the particular application of that right in cases involving defendants who are

detained pending trial. In light of the circumstances regarding the COVID-19 pandemic and its impact on Court operations outlined above and in the Court's prior Standing Orders, the Court finds the ends of justice served by granting a continuance outweigh the best interest of the public and each defendant in a speedy trial. For trials continued by this Standing Order, given the current circumstances regarding COVID-19 in this district and the precautions necessary to protect health and safety during a jury trial, failure to postpone these jury trials through November 2, 2020, would be likely to make the continuation of such trials impossible or result in a miscarriage of justice. Accordingly, the additional time period from August 31, 2020, through November 2, 2020, shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), for all criminal cases impacted by this trial continuance. This period of exclusion is in addition to the period of exclusion previously granted for the time period from March 13, 2020, through August 31, 2020. The Court may extend the period of exclusion by further order as circumstances may warrant, and the presiding judge in any criminal case for which trial is continued under this Standing Order may make any additional findings and exclude additional time, as necessary and appropriate, regarding the scheduling of any new date for trial. Any motion by a criminal defendant seeking an exception to this Standing Order for the purpose of exercising the defendant's speedy trial rights shall be referred to the Chief Judge.

5. Grand jury selections may resume in September 2020, if conditions allow and with appropriate health and safety precautions in place. Because grand jury selections will involve the same precautions as petit jury selections, grand jury selections will not be held on days when petit jury selections are occurring.

6. Central Violations Bureau proceedings may resume in September 2020, if conditions allow and with appropriate health and safety precautions in place.

Except as modified herein, the May 29, 2020, June 30, 2020, and July 31, 2020, Standing Orders remain in effect.

IT IS SO ORDERED.

/s/ Juan R. Sánchez
Juan R. Sánchez
Chief Judge

Date: August 31, 2020