

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

IN RE:	:	
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TENTH EXTENSION OF ADJUSTMENTS TO COURT OPERATIONS DUE TO THE EXIGENT CIRCUMSTANCES CREATED BY COVID-19	:	STANDING ORDER
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This Standing 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, July 31, 2020, August 31, 2020, October 5, 2020, October 30, 2020, November 25, 2020, January 15, 2021, and February 12, 2021, 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 Standing Order addresses civil and criminal jury selections and jury trials, which were previously continued through the end of February 2021 and until further Court order.

The COVID-19 pandemic continues to significantly impact Court operations in this district, as outlined below and in the Court’s prior Standing Orders. Throughout the pandemic, the Court has been closely monitoring the COVID-19 outbreak in this district and the guidance available from government officials and public health authorities at the Federal, State, and local level, and adjusting Court operations as circumstances have required in order to protect the health and safety of Court personnel and all those entering courthouses and Court locations in this district.

In September 2020, after extensive planning, the Court resumed holding criminal jury trials on a limited basis pursuant to its Initial Guidelines for the Reinstitution of Jury Trials, which include numerous precautions to allow jury trials to proceed safely and in accordance with public health guidance. As explained in prior Standing Orders, the need for these health and safety

precautions limits the Court's capacity to hold criminal jury trials, which require the summoning of large numbers of prospective jurors and the use and staffing of multiple courtrooms for each jury selection and trial in order to limit the number of people in one room at a time and to ensure adequate space for physical distancing. Following the resumption of jury trials in September 2020, the Court remained in the initial test period for jury trials, during which only one criminal jury trial could be conducted at a time.

In November 2020, conditions with regard to the COVID-19 outbreak in the Commonwealth of Pennsylvania and in this district materially worsened as daily new case counts, incidence rates, PCR testing positivity rates, and COVID-19-specific hospitalizations rapidly increased, prompting the imposition of new restrictions and mitigation measures at the State and local level. In response to the deteriorating public health situation, on November 25, 2020, the Court issued a Standing Order that, among other things, continued all civil and criminal jury selections and jury trials through January 15, 2021. Because conditions continued to worsen following issuance of the November 25 Standing Order, the Court reverted to Phase One of its COVID-19 Reopening Guidelines, effective December 17, 2020. The November 25 jury trial continuance has twice been extended, initially through February 15, 2021, and, later, through the end of February and until further Court order, pursuant to Standing Orders issued on January 15, 2021, and February 12, 2021.

Since the February 12, 2021, Standing Order was issued, the number of COVID-19 cases in Pennsylvania has increased to more than 976,000, including more than 447,000 cases in this district. While average daily new case counts and other metrics for the district as a whole have continued to decline from peak levels in mid-December, existing conditions underscore the need for continued caution as the Court proceeds with its phased reopening.

District-wide, average daily new case counts are still high as most counties in this district continue to experience substantial levels of community transmission of the virus. The 14- and 7-day averages of daily new case counts remain at levels seen in early November and are significantly higher than they were when the Court entered the initial test period for jury trials in mid-September. Although some of the restrictions that were put in place in Pennsylvania and the City of Philadelphia to address the November surge in COVID-19 cases have been eased, others remain in place. Masks must be worn in all indoor settings whenever people from more than one household are present, even if six-foot distancing can be maintained. Businesses must continue to conduct their operations through individual teleworking of their employees unless impossible and, if operating in person, are subject to occupancy restrictions and safety requirements. Indoor events and gatherings are subject to revised occupancy limits and must comply with masking requirements and six-foot physical distancing.

While the pace of COVID-19 vaccinations in Pennsylvania and Philadelphia has increased, vaccine supply remains limited, and the vast majority of the population in this district has not yet been vaccinated. Most attorneys and Court staff are not yet eligible to receive the vaccine under the Pennsylvania and Philadelphia vaccination plans, and most inmates at the Federal Detention Center in Philadelphia have not yet had the opportunity to be vaccinated. Even as vaccinations increase, 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, including maintaining at least 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, and limiting face-to-face contact with others. The CDC continues to stress the need for rigorous and increased compliance with public health mitigation strategies, especially in

light of the emergence of new variants of the virus which appear to spread more easily and quickly than other variants and which have been detected in the United States. Based on these and other factors, the Court remains in Phase One of its COVID-19 Reopening Guidelines.

Upon consideration of the current circumstances with respect to the COVID-19 outbreak in this district, including the circumstances described above as well as those described in the prior Standing Orders, the Court finds it is necessary and appropriate to extend the existing continuance of all jury selections and jury trials in this district through April 5, 2021, to protect public health and safety, including the safety of Court personnel and all persons entering courthouses and Court locations in this district. Absent a significant increase in COVID-19 risk in this district, the Court plans to resume jury trials on a limited basis the week of April 5, 2021.

When jury trials resume, the Court will re-enter the initial test period for jury trials. Criminal cases will again be prioritized. Due to the health and safety precautions necessary to conduct criminal jury trials at this stage of the pandemic and in order to limit the number of jurors in the courthouse at one time, while the Court remains in the initial test period, only one criminal jury trial will be conducted at a time, as outlined in the Initial Guidelines for the Reinstitution of Jury Trials. The Court has continued to work with representatives of the U.S. Attorney's Office and the Federal Community Defender Office in this district to identify cases that are ready to proceed to trial and to prioritize those cases based on criteria developed by the Court. Trials will be scheduled in accordance with the master list maintained by the Court. As criminal trials resume, cases in which there is only one defendant, the defendant is detained, the trial is anticipated to last less than one week, and the witnesses consist primarily of law enforcement officers and government personnel will be prioritized.

The Court also anticipates that civil jury trials may resume on a limited basis during the test period pursuant to protocols currently being developed by the Court. Because civil trials will involve the summoning and impaneling of fewer prospective jurors than criminal trials, they will not require the same commitment of space and staff as is necessary to maintain health and safety protocols in criminal cases. It is anticipated that civil jury trials will be held in the Ceremonial Courtroom in the James A. Byrne U.S. Courthouse, which can safely accommodate a larger number of jurors and case participants than the standard courtrooms, so as not to interfere with the current criminal trial schedule. At least initially, civil jury trials will be limited to cases involving only one plaintiff and one defendant in which the trial is expected to last no more than one week. The Court has been compiling a master list of civil cases that are ready to be tried and meet these criteria. Trials will be scheduled in accordance with the master list maintained by the Court. At most, one civil jury trial may be held per week.

It is therefore ORDERED as follows:

1. All civil and criminal jury selections and jury trials scheduled to begin on or before April 5, 2021, before any district or magistrate judge in any courthouse or Court location in this district are CONTINUED pending further Court order.

2. Absent a significant increase in COVID-19 risk in this district, the Court will resume holding jury trials on limited basis beginning the week of April 5, 2021. The Court anticipates that it will remain in the initial test period for jury trials through at least June 7, 2021. During this period, trials may be scheduled only in cases included on the master lists described above and will be scheduled in accordance with a master trial calendar. No more than one criminal jury trial and one civil jury trial will be held each week.

3. 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 outbreak in this district outlined above and in the Court's prior Standing Orders, the Court finds the ends of justice served by granting a continuance of jury trials through April 5, 2021, outweigh the best interest of the public and each defendant in a speedy trial. Existing conditions with respect to the COVID-19 outbreak in this district continue to impede the Court's ability to obtain an adequate complement of trial jurors at this time and impact the ability of Court personnel, counsel, defendants, and other case participants to be present during trial. Given current conditions as well as the large number of people that must be assembled to conduct a jury trial, the Court has determined it is not possible to conduct jury trials safely and in accordance with available public health guidance at this time. In these circumstances, and given the seriousness of the ongoing COVID-19 outbreak in this district, failure to postpone jury trials through April 5, 2021, would likely make the continuation of such trials impossible or result in a miscarriage of justice. Accordingly, the additional time period from today's date until April 5, 2021, 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, until further Court order authorizing the resumption of jury trials—i.e., the date of this Standing Order. 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.

4. For those criminal cases that cannot be tried during the initial test period consistent with the health and safety protocols and limitations necessary for the conduct of jury trials at this time, as described above and in prior Standing Orders and the Initial Guidelines for the Reinstitution of Jury Trials, the additional time period from April 5, 2021, through June 7, 2021, shall also be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A). The Court finds the ends of justice served by continuances that will be necessary in those cases outweigh the best interest of the public and each defendant in a speedy trial because, given the circumstances regarding the COVID-19 outbreak in this district, resumption of jury trials without these health and safety protocols and limitations prior to June 7, 2021, would jeopardize public health and safety and pose significant risks of exposure and transmission of the virus to trial participants, which would make continuation of a trial impossible or result in a miscarriage of justice. 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 will be continued based on 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.

5. 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.

Except as modified herein or by other Standing Orders issued since May 29, 2020, the May 29, 2020, Standing Order remains in effect.

IT IS SO ORDERED.

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

Date: March 18, 2021