

**FILED**

**MAR - 5 2021**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia**

IN RE: LIMITED RESUMPTION OF  
CRIMINAL JURY TRIALS IN LIGHT OF  
CURRENT CIRCUMSTANCES RELATING  
TO THE COVID-19 PANDEMIC

Standing Order No. 21-10 (BAH)

Chief Judge Beryl A. Howell

**ORDER**

Due to the circumstances caused by the global Coronavirus Disease 2019 (COVID-19) pandemic, all jury trials in this District have been suspended for almost an entire year. Proceeding incrementally, and after consultation with the U.S. Attorney's Office for the District of Columbia, the Federal Public Defender, the U.S. Marshals Service, and other stakeholders, this Court has issued a series of standing orders initially suspending and subsequently further suspending all jury trials to protect the health and safety of the public, courthouse staff and visitors, litigants, and counsel.<sup>1</sup> This Court's latest order regarding postponing jury trials, issued December 17, 2020, further suspended all jury selections and trials through March 15, 2021. *See* Standing Order No. 20-93. Now, based on a review of current circumstances relating to the COVID-19 pandemic, the Court concludes that a limited

<sup>1</sup> *See In Re: Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-9 (BAH) (March 16, 2020), ¶¶ (a)–(f); *In Re: Extension of Postponed Court Proceedings in Standing Order 20-9 and Limiting Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-19 (BAH) (Apr. 2, 2020), ¶¶ (g)–(i); *In Re Further Extension of Postponed Court Proceedings in Standing Order 20-9 and Limiting Court Operations in Exigent Circumstances Created by the COVID-19 Pandemic*, Standing Order No. 20-29 (BAH) (May 26, 2020), ¶¶ (j)–(l); *In Re: Third Further Extension of Postponed Court Proceedings Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic*, Standing Order No. 20-62 (BAH) (July 9, 2020), ¶¶ (a)–(c); *In Re: Fourth Further Extension of Postponed Court Proceedings Due to Ongoing Exigent Circumstances*, Standing Order No. 20-68 (BAH) (August 10, 2020), ¶¶ (a)–(d); *In Re: Fifth Extension of Postponed Jury Trials Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic*, Standing Order No. 20-89 (BAH) (Nov. 6, 2020); *In Re: Adjustment to Fifth Extension of Postponed Jury Trials Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic and Temporary Suspension of Authority to Administer the Oath of Allegiance to New Citizens*, Standing Order No. 20-91 (BAH) (Nov. 24, 2020); *In Re: Sixth Extension of Postponed Jury Trials Due to Ongoing Exigent Circumstances Caused by COVID-19 Pandemic*, Standing Order No. 20-93 (BAH) (Dec 17, 2020).

resumption of jury trials in criminal cases may be undertaken under the stringent restrictions and safety precautions detailed below.

- (a) The District of Columbia remains in Phase Two of its reopening plan and has not identified a date upon which it intends to transition to Phase Three.<sup>2</sup> The District remains under a public emergency and public health emergency declaration, which is set to expire on March 17, 2021, but with a renewed and continued emergency declaration anticipated.<sup>3</sup>
- (b) This Court remains in Phase Two of its Continuity of Operations Plan during the COVID-19 Pandemic (“COOP Plan”), issued July 15, 2020.<sup>4</sup> Phase Two of the COOP Plan contemplates that “urgent” criminal trials may take place with appropriate precautions.
- (c) Over the nearly nine months since the District of Columbia entered Phase Two on June 22, 2020, COVID-19 case counts in D.C. have fluctuated, with rates dropping significantly in late summer, 2020, only to rise precipitously in November and December 2020. Over the last month, the 7-day average of new cases in D.C. has dropped but remains significant (on February 4, 2021 it was 176; on March 4, 2021 it was 127).<sup>5</sup> Over the last two weeks in the

---

<sup>2</sup> See Mayor’s Order 2020-103, *Extensions of Public Emergency and Public Health Emergency and Additional Measures in Phase Two of Washington D.C. Reopening* (October 7, 2020), [http://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/Mayor%27s%20Order%202020-103%20%2010-7-2020%20%281%29.pdf](http://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayor%27s%20Order%202020-103%20%2010-7-2020%20%281%29.pdf); *Phase Two*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, <http://coronavirus.dc.gov/phasetwo> (last visited Mar. 5, 2021).

<sup>3</sup> See Mayor’s Order 2021-004, *Extension of Paused Activities and Clarification of Duration of Public Emergency and Public Health Emergency* (Jan. 11, 2021), [https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/Mayor%27s%20Order%202021-004%201-11-2021.pdf](https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayor%27s%20Order%202021-004%201-11-2021.pdf).

<sup>4</sup> The Court’s COOP Plan is available at U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, *Continuity of Operations Plan during the COVID-19 Pandemic (with appendices)*, July 15, 2020, <https://www.dcd.uscourts.gov/sites/dcd/files/Continuity%20of%20Operations%20Plan%20with%20Appendix%208%20for%20External.pdf>.

<sup>5</sup> *Washington, D.C. Coronavirus Map and Case Count*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/us/washington-dc-coronavirus-cases.html> (last visited Mar. 5, 2021); see also *COVID-19 Surveillance*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/data> (last visited Mar 5, 2021).

District, the number of new cases has ticked up by 5 percent, highlighting the need for continued vigilance.<sup>6</sup>

(d) Other jurisdictions within the D.C. metropolitan area have also seen a drop in COVID-19 cases over the last month, with new cases over the last two weeks dropping by 38 percent in Virginia and by 13 percent in Maryland.<sup>7</sup>

(e) Local efforts to vaccinate the population against COVID-19 are proceeding steadily but slowly. The District is currently vaccinating certain categories of individuals in Tiers 1a, 1b, and 1c of its vaccination plan, including frontline emergency, public health and healthcare workers; residents age 65 and older; residents in long term care and congregate settings; residents with high-risk medical conditions; correctional officers; various categories of essential workers; and court employees.<sup>8</sup> Currently, demand for the vaccine in D.C. is much higher than the available supply the city is receiving from federal government.<sup>9</sup> Mayor Bowser and DC Health continue to advocate for the federal government to send more vaccine so that the city can meet the high demand for the vaccine and protect the lives of its residents and workforce.<sup>10</sup> As of March 5, 2021, the District had vaccinated approximately 109,000 individuals (residents and non-residents), and approximately 9.3% of the D.C. population had been vaccinated.<sup>11</sup> Thus, the vast majority of the public remains

---

<sup>6</sup> *Washington, D.C. Coronavirus Map and Case Count*, *supra* note 5.

<sup>7</sup> *Virginia Coronavirus Map and Case Count*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/us/virginia-coronavirus-cases.html> (last visited Mar. 5, 2021); *Maryland Coronavirus Map and Case Count*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/us/maryland-coronavirus-cases.html> (last visited Mar. 5, 2021).

<sup>8</sup> GOVERNMENT OF THE DISTRICT OF COLUMBIA, *Vaccination Program Phases with Tiers*, [https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/Vaccination-Program-Phases-with-Tiers.pdf](https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Vaccination-Program-Phases-with-Tiers.pdf) (last visited Mar. 5, 2021).

<sup>9</sup> *Coronavirus (COVID-19) Vaccine*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/vaccine> (last visited Mar. 5, 2021).

<sup>10</sup> *Id.*

<sup>11</sup> *Vaccination Data*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/data/vaccination> (last visited Mar. 5, 2021).

unvaccinated and adherence to health and safety precautions to reduce the spread of the virus remains critical.

- (f) This Court has developed a comprehensive plan for the resumption of trials that prioritizes the health and safety of all trial participants, courthouse staff and those working in the courthouse. Details of that plan are available in Appendix 8 to the COOP Plan.<sup>12</sup>

Courtrooms have been retrofitted with plexiglass and otherwise reconfigured in accordance with expert health and safety recommendations, and numerous other steps have been taken throughout the courthouse to mitigate the risk of virus transmission.

- (g) This Court has developed a master trial plan that prioritizes trials in criminal cases with detained defendants and accounts for other factors such as length of detention, whether witnesses would be required to travel from out of town, and previously established trial dates.

Accordingly, in light of the generally improving state of the COVID-19 pandemic in this area, the ongoing large-scale vaccination efforts, the lengthy pretrial delay being experienced by many defendants in criminal cases, which is creating an urgency to restart trials, and the significant precautions being taken by this Court in planning for the resumption of trials, it is hereby **ORDERED**:

- (1) **Limited Resumption of Criminal Trials.** During the period from March 15, 2021 through August 31, 2021, this Court will begin a limited resumption of criminal trials. The need to maintain proper health and safety protocols, including social distancing, necessarily limits the Court's capacity to conduct trials. The Court anticipates that each trial will require the use of multiple courtrooms, including the Ceremonial Courtroom for jury selections. Thus, no more than one jury selection will take place on a given day, and no more than three trials, with an

---

<sup>12</sup> See *Continuity of Operations Plan for COVID-19 Pandemic*, U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, <https://www.dcd.uscourts.gov/continuity-operations-plan-covid-19-pandemic> (last visited Mar. 5, 2021).

effort to segregate the trials on separate floors, will take place within the courthouse at one time during this period. The Court will prioritize trials with detained defendants and will schedule trials according to a master trial calendar.

- (2) **Speedy Trial Act Exclusion For Postponed Criminal Trials.** In Standing Order Nos. 20-9, 20-19, 20-29, 20-62, 20-68, 20-89 and 20-93, this Court found that due to the exigent circumstances created by the COVID-19 pandemic, the time period from **March 17, 2020 through March 15, 2021** would be excluded in criminal cases, under the Speedy Trial Act, 18 U.S.C. §§ 3161 *et seq.* Due to the ongoing circumstances, as detailed above and in prior Standing Orders, and because resumption of jury trials without the health and safety protocols and limitations described in paragraph (1) before **August 31, 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, *see* 18 U.S.C. § 3161(h)(7)(B)(i), the Court now finds that for those cases that cannot be tried consistent with those health and safety protocols and limitations, the additional time period from **March 15, 2021 through August 31, 2021** is excluded under the Speedy Trial Act as the ends of justice served by the continuances to protect public health and safety and the fair trial rights of a defendant outweigh the best interest of the public and any defendant's right to a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A). The presiding Judge in any criminal case for which a jury trial is postponed under this Order may make any additional findings and exclude additional time, as necessary and appropriate, regarding the scheduling of any new date for trial.
- (3) **Continued Suspension of Civil Trials.** All civil trials are continued and postponed through June 1, 2021, given the Court's limited capacity to conduct trials and need to prioritize urgent

criminal cases. After June 1, 2021, the scheduling of criminal trials will continue to be given precedence in the scheduling of jury trials to take place through August 31, 2021.

**Further Orders.** Further orders addressing court operations in the exigent circumstances created by the COVID-19 pandemic will be issued as circumstances warrant.

**SO ORDERED.**

Date: March 5, 2021



A handwritten signature in cursive script that reads "Beryl A. Howell".

---

BERYL A. HOWELL  
Chief Judge