

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:
CORONAVIRUS/COVID-19 PANDEMIC

**ADMINISTRATIVE ORDER
NO. 2020-15**

FURTHER CONTINUANCE OF JURY TRIALS AND
EXCLUSION OF TIME UNDER THE SPEEDY
TRIAL ACT

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ROSLYNN R. MAUSKOPF, Chief Judge

On March 13, 2020, the President of the United States issued a proclamation declaring a National Emergency in response to the Coronavirus Disease-2019 ("COVID-19") pandemic pursuant to the National Emergencies Act (50 U.S.C. § 1601, *et seq.*). In addition, by Executive Order No. 202 issued March 7, 2020, the Governor of New York declared a State disaster emergency for the entire State of New York as a result of documented cases of COVID-19, and, in addition, took a number of steps to prevent the spread of COVID-19, including, but not limited to: banning mass gatherings in the state; encouraging residents to remain at home, limit all non-essential travel, and limit personal contact; and closing all non-essential businesses. By Executive Order No. 202.18, issued April 16, 2020, the Governor has extended these measures through at least May 16, 2020.

The COVID-19 pandemic has had and will continue to have an extraordinary impact on this District. As of the date of this order, there were over 147,000 confirmed cases of COVID-19, and over 8600 fatalities due to the virus, in the boroughs of New York City and the counties of Long Island that comprise the Eastern District of New York. These account for over 60 percent of all cases and fatalities in both New York State and New York City; approximately 20 percent of all cases and fatalities in the United States; and approximately five percent of all cases and fatalities in the world.¹ Estimates by health authorities indicate that the incidence of infection is likely greater among the community than the number of cases confirmed, and a significant number of new cases, hospitalizations, and fatalities, while declining from their peak, are continuing daily.

The current and continuing public health crisis has caused and will continue to cause significant disruption throughout this District, including but not limited to: restrictions on travel; significant reductions in mass transit and concerns about its safe use; the continued closure of offices, schools, and other public and private institutions and facilities; and

¹ Data available from <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Map?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n>; <https://coronavirus.jhu.edu> (last visited April 20, 2020).

displacement of district residents.

The current and continuing public health crisis has had and will continue to have profound and material impacts on court operations due to the inability of court staff, attorneys, and others to appear at our courthouses, and in order to limit in-person contact and prevent the spread of COVID-19, including, but not limited to: the reduction or suspension of certain court operations, including suspension of summoning jurors for both petit and grand jury service, which cannot be conducted remotely; restrictions on the movement of defendants to and from detention facilities; severely limited telephone phone and video communication between defendants in custody, their attorneys, and the court; and the need to conduct proceedings remotely, using video and telephone conferencing, including conducting criminal proceedings pursuant to the CARES Act as set forth in Administrative Order 2020-13. In addition, after a canvass of individual grand jurors who currently sit in this District, none of the grand juries currently sitting in the District will be able to muster a quorum prior to May 15, 2020.

By Administrative Orders 2020-06 and 2020-11, in light of the exigent circumstances created by the COVID-19 pandemic and in order to protect public health, reduce the size of public gatherings and travel, and prevent the spread of the virus, the following actions, among others, were ordered: all civil and criminal jury trials to be held in this District and scheduled to begin before April 27, 2020 were continued pending further order of the court; the time period between March 16, 2020 and April 27, 2020 was excluded under the Speedy Trial Act for all criminal cases and for the filing of indictments; and the time in which a preliminary hearing must be held pursuant to Rule 5.1(a) between March 18, 2020 and April 27, 2020 was extended until 60 days after the initial appearance.

Upon consideration of the current situation relating to the serious, ongoing public health emergency in this District created by the COVID-19 pandemic, and in order to continue to protect public health, limit the size of public gatherings and travel, and prevent the spread of the virus, it is HEREBY ORDERED:

1. The United States District Court for the Eastern District of New York will remain open, but with limited operations in both Brooklyn and Central Islip to support essential functions in criminal and civil matters, and in a manner to ensure the safety, health and welfare of the public and court staff, and to promote the precautions set forth in both national and state orders.
2. All civil and criminal petit jury selections and jury trials scheduled to commence between April 27, 2020 and June 15, 2020, and all grand jury selections scheduled before June 15, 2020, are continued pending further Order of the Court.
3. Compliance with all trial-specific deadlines in civil and criminal cases shall be at the discretion of the assigned judges.
4. Individual judges presiding over civil and criminal proceedings may take such actions consistent with this Order as may be lawful and appropriate to ensure the fairness of the proceedings and preserve the rights of the parties. Judges are strongly encouraged to

conduct court proceedings by telephone or video conference where practicable, including pursuant the CARES Act as set forth in Administrative Order 2020-13, and to adjourn matters or deadlines, or stay litigation, where in-person meetings, interviews, depositions, or travel would be necessary to prepare for any such proceedings. No in-person bench trials or evidentiary hearings may be scheduled without consultation with the Chief Judge.

5. 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. Any motion by a criminal defendant seeking an exception to this order in order to exercise that right should be directed to the District Judge assigned to the matter in the first instance; provided, however, that no such exception may be ordered without consultation with the Chief Judge.
6. Due to the ongoing exigent circumstances created by the COVID-19 pandemic as outlined herein, including the Court's reduced ability to obtain an adequate spectrum of jurors due to concerns regarding health and safety, and the effect of the above public health restrictions and recommendations on the ability of jurors, defendants, counsel, witnesses, and court staff to safely travel and be present in court, the time period from April 27, 2020 to June 15, 2020 is hereby excluded under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, for all trials and other conferences and proceedings in criminal cases, as the Court finds that the ends of justice served by such continuances to protect public health and safety outweigh the best interests of the public and the defendant in a speedy trial pursuant to 18 U.S.C. § 3161(h)(7)(A). These same concerns, as well as the unavailability of a grand jury sitting in this District arising from the inability to muster a quorum prior to May 15, 2020, and the suspension of the selection of new grand jurors, make it "unreasonable to expect return and filing of [an] indictment within the period specified in section 3161(b)." 18 U.S.C. § 3161(h)(7)(B)(iii). As such, the 30-day time period for filing an indictment under 18 U.S.C. § 3161(b), which previously had been tolled through April 27, 2020 by Administrative Order 2020-06, is further tolled until May 15, 2020. *See also* 18 U.S.C. § 3161(h)(7)(A).
7. The assigned judge in any criminal case for which a trial or other conference or proceeding is postponed or continued under this Order may make any additional findings and exclude additional time, as necessary and appropriate, in scheduling any new date for any trial or other conference or proceeding in a criminal case.
8. Due to the ongoing exigent circumstances created by the COVID-19 pandemic as outlined herein, in all criminal matters in which a magistrate judge must conduct a preliminary hearing pursuant to Federal Rule of Criminal Procedure 5.1 on or between April 27, 2020 and June 15, 2020, the time for such hearing set forth in Rule 5.1(c) is further extended to no later than 60 days after the initial appearance of the defendant.
9. Initial appearances and arraignments shall continue to take place in the ordinary course, or where practicable or necessary, be conducted remotely pursuant to procedures established by the Court, including pursuant to the CARES Act as set forth in

Administrative Order 2020-13. Detention and bail review proceedings shall be scheduled with the approval of the assigned District Judge or Duty Magistrate Judge.

10. The Clerk's Office, the District Executive's Office, Pre-Trial Services, the Probation Department, and all other District Court services continue to operate under modified hours and procedures.
11. All Administrative Orders related to the COVID-19 pandemic shall continue in force and effect by their terms. Further orders addressing court operations in the exigent circumstances created by the COVID-19 will be issued as circumstances warrant.

SO ORDERED.

Dated: Brooklyn, New York
April 21, 2020



ROSLYNN R. MAUSKOPF
Chief Judge