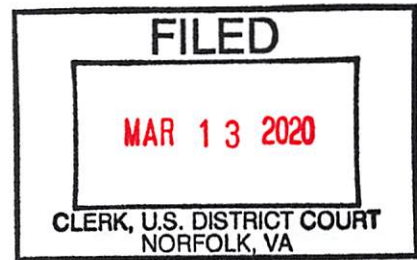


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

In re:

COURT OPERATIONS UNDER THE EXIGENT  
CIRCUMSTANCES CREATED BY THE OUTBREAK  
OF CORONAVIRUS DISEASE 2019 (COVID-19):  
JURY SELECTIONS, JURY TRIALS, AND GRAND  
JURY PROCEEDINGS



General Order No. 2020-02

The United States District Court for the Eastern District of Virginia has been closely monitoring the outbreak of Coronavirus Disease 2019 (COVID-19) in the United States and the Commonwealth of Virginia, as well as the developing guidance from the Centers for Disease Control and Prevention ("CDC"). The CDC has described the outbreak as a "rapidly evolving situation" and is providing continuously updated guidance regarding the appropriate community response to COVID-19 as conditions worsen. The CDC's guidance includes mitigation strategies for communities with local COVID-19 transmission, to include reducing or eliminating large gatherings of individuals.

Consistent with the evolving CDC advisories,<sup>1</sup> this Court has implemented a staged response to the ongoing public health emergency, and has done so with the input from multiple

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<sup>1</sup> See <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>.

stakeholders and in conformity with this Court's Continuity of Operations Plan. The first stage involved suspending non-case related outside events, tours, and other gatherings in our courthouses, as well as postponing naturalization ceremonies for the remainder of March 2020. The second stage of our response occurred yesterday, on March 12, 2020, when this Court issued a General Order continuing the misdemeanor, traffic, and petty offense dockets scheduled District-wide through April 30, 2020. Gen. Order 2020-01.

In addition to this Court's prior General Order, the "rapidly evolving" community, state, and federal response to the spread of COVID-19 has seen significant developments over the last 48 hours. The President of the United States announced updated international travel restrictions, multiple federal courts have suspended jury proceedings, the Governor of the Commonwealth of Virginia declared a state of emergency, and classes at Virginia state universities, as well as many K-12 public schools within the Eastern District of Virginia, have been canceled or temporarily suspended. Additionally, the number of confirmed COVID-19 cases within the Eastern District has increased each day, as have the number of reports from recent visitors to our federal Courthouses indicating that they are concerned that they may have been exposed to COVID-19.

Given the fact that the Commonwealth of Virginia is now under a state of emergency due to the COVID-19 pandemic,<sup>2</sup> and given the growing number of confirmed cases within this District, the Commonwealth of Virginia, and the surrounding states, as well as the rising number of U.S. and worldwide fatalities, additional preventative measures are appropriate at this time. It is therefore ordered that, effective **Monday, March 16, 2020**:

(1) Subject to the clarifications below, all civil and criminal (grand and petit) jury empanelments, jury trials, and grand jury proceedings scheduled to commence from **March 16, 2020** through **April 17, 2020** before any district or magistrate judge in any courthouse in the Eastern District of Virginia are **CONTINUED** pending further Order of the Court;<sup>3</sup>

(2) With regard to criminal trials, due to the Court's anticipated reduced ability to obtain an adequate spectrum of jurors, the risk posed to the jurors and the public, and the

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<sup>2</sup> The Governor has ordered a phased transition to teleworking for state employees, has canceled state conferences and certain other large events for thirty days, has directed state agencies to limit in-person meetings and non-essential work gatherings, and is urging localities to limit large public events effective immediately. See <https://www.governor.virginia.gov/newsroom/all-releases/2020/march/headline-853537-en.html>.

<sup>3</sup> The process of selecting a grand or petit jury for a federal proceeding inherently involves a crowded courtroom, sometimes requiring prospective jurors to spend an entire day, or longer, crowded onto bench seats where they cannot avoid contact with the individuals sitting next to them. Furthermore, even after a grand or petit jury is selected and empaneled, the jurors are required to sit closely together in the jury box or room and spend the majority of the day sharing the same confined space.

effect of the public health recommendations on the availability of counsel and Court staff to be present in the courtroom, the time period of the continuances implemented by this Order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the continuances outweigh the best interests of the public and each defendant in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A). Should any speedy trial motions/challenges associated with the findings in this District-wide Order be challenged in any individual case, the presiding judge is encouraged to make any necessary case-specific assessment and findings and memorialize such findings in the record of such case. Cf. 18 U.S.C. § 3161(h)(7)(A).

(3) With regard to grand juries, all grand jury selections shall be temporarily suspended through **April 17, 2020**. As to grand juries that are already empaneled in this District, grand jury proceedings in Norfolk, Newport News, and Richmond shall likewise be suspended through **April 17, 2020**; however, the United States Attorney is permitted to continue to utilize grand juries in the Alexandria Division of this Court to consider matters arising in all Divisions of this Court, in order to ensure that the consideration and investigation of

criminal activities may continue without interruption across the District. Prior to conducting any such grand jury proceedings, the United States Attorney shall coordinate with the Court to determine whether there is an available space within the Alexandria Courthouse that will, to the extent possible, allow the grand jurors to be spread apart and maintain a safe distance from one another. All grand jury proceedings that are conducted should proceed in a manner that reduces person-to-person contact to a minimum.

As dictated by the ever-changing circumstances and the anticipated increase in community spread of COVID-19, the Court may issue further staged responses as the situation evolves, including possible extensions of the timeframes set forth in the instant Order.

Although jury proceedings are continued through April 17, 2020, the Courthouses and Clerks' Offices of the Eastern District of Virginia remain open in all Divisions at this time, and cases not scheduled for a jury trial during this period will continue as scheduled. Individual judges may, of course, take actions on a case-by-case basis for matters not impacted by this General Order as is necessary to ensure the fairness of the proceedings and to preserve the rights of the parties.

Counsel and members of the public planning to enter the Courthouses in our District are asked to contact the Court in advance if they have symptoms such as fever, cough, or shortness of breath, or if they believe that they may have been exposed within the past fourteen days to individuals who may have COVID-19. The public may continue to utilize Court services while following all emerging public health guidelines and recommendations, as well as Orders from this Court.

It is so ORDERED.

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Mark S. Davis  
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
March 13, 2020