

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

**COURT OPERATIONS UNDER THE
EXIGENT CIRCUMSTANCES CREATED
BY COVID-19**

**ADM-1
ORDER 20-25**

ORDER

This Standing Order is the fourth comprehensive court operations order issued in response to the outbreak of Coronavirus Disease 2019 (COVID-19). This order supersedes the court's order on Court Operations Under the Exigent Circumstances Created by COVID-19, ADM-1, 20-5, as well as the Order Extending Deadlines in Prior Standing Orders ADM-1, 20-21, and takes effect immediately.

The World Health Organization and the Centers for Disease Control and Prevention (CDC) have officially declared COVID-19 to be a pandemic. In response to the spread of COVID-19, President Trump declared a national emergency, and Governor Sununu declared a state of emergency.

Since the first announced case in New Hampshire on March 2, 2020, the state has now reported 6,318 confirmed cases of COVID-19. Further, in New Hampshire 3,425 people are being monitored for signs of COVID-19 infection, 149,792 people have been tested, and community-based transmission has been confirmed. Nationally, the number of confirmed cases has grown to over 4,170,333 with 147,342 cases resulting in death.

The CDC and other health authorities continue to advise people to take precautions to reduce the possibility of exposure to the COVID-19 virus and to slow the spread of the disease. In particular, the CDC is recommending that people attempt to keep physical distance between themselves and other people. This technique, known as social distancing, is especially important for people who have a higher health risk should they contract the disease. The CDC is also recommending employers attempt to minimize exposure between employees and the public and to consider the public health and safety when scheduling group or public events. Specifically, the CDC is cautioning that the more people an individual interacts with at a gathering, and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19. Lastly, it is now accepted in the medical community that COVID-19 can be spread by persons who are asymptomatic and, as noted above, that there is community-based transmission of the virus in this district.

Therefore, in order to protect public health, and in order to reduce the size of public gatherings and unnecessary travel, the United States District Court for the District of New Hampshire issues the following order:

CARES Act Authorization

1. The court incorporates by reference its previous findings in ADM-1, 20-21, which concluded that the emergency conditions caused by COVID-19 continue to justify the use of video and telephonic conferences as permitted by the CARES Act. This authorization shall continue until September 15, 2020, which is 90 days from the date of the entry of ADM-1, 20-21. Prior to the expiration of this authorization, the court will determine whether emergency conditions continue to exist that justify a further extension of this authority.

Criminal Hearings

2. The presiding judge has the discretion to schedule a criminal hearing to occur by teleconference/videoconference with defendant's consent, or by an in-court hearing at the Rudman Courthouse as safety and health considerations allow.

3. All in-court hearings will be scheduled on Tuesdays and Thursdays. The procedures and protocols for those hearings are set forth in Standing Order ADM-1, 20-27.

4. Initial appearances, arraignments and detention hearings will be scheduled by videoconference with the defendant's consent pursuant to Fed. R. Crim. P. 5(f) and 10(c). Bail revocation and bail review hearings will also be scheduled by videoconference. If a defendant elects not to consent to a videoconference hearing, an in-court hearing will be scheduled at a future date in the discretion of the presiding judge as safety and health considerations allow.

5. Until further notice, criminal complaints, applications for search warrants, trap/trace pen registers, wire taps, and applications for other warrants shall be submitted electronically pursuant to Fed. R. Crim. P. 4.1.

Civil Hearings

6. The presiding judge has the discretion to schedule a civil hearing to occur by teleconference/videoconference or by an in-court hearing at the Rudman Courthouse as safety and health considerations allow.

Civil and Criminal Juries

7. All civil jury trials assigned to the undersigned judges, which are scheduled to begin before October 1, 2020, are continued. All final pretrial conferences associated with those trials are also continued.

8. The following shall apply to all criminal cases assigned to the undersigned judges. Given the safety and public health considerations presented by COVID-19, the court will select one criminal

jury trial per selection period and no jury trials will proceed simultaneously. Each month the presiding judge will consult with counsel regarding the cases scheduled for trial during the next month and will attempt to identify cases that are prepared to proceed to trial. Based on various factors, the court will then create a prioritized list of trial ready cases for the following month, which will be shared with counsel in those cases. All listed cases shall be prepared to proceed to trial during the designated month. Attorneys in those listed cases may seek a continuance if COVID-19 or non-COVID-19 complications subsequently arise that prevent a case from proceeding to trial, which will be resolved by the presiding judge. Listed cases that are continued may or may not appear on the priority list of cases for the following month. All other criminal jury trials scheduled for August before the undersigned judges that are not identified on the priority list will be continued. Commencing in September, however, counsel in any case scheduled for trial that is not added to the priority list must file a motion to continue.

9. Due to the above-referenced public health considerations associated with criminal jury trials, the time period of the continuances implemented by this Standing Order will be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A). The court finds that the ends of justice served by ordering these continuances outweigh the best interest of the public and each defendant's right to speedy trial.

10. The court will consider requests by the United States Attorney to convene the grand jury.

Masks and Social Distancing in Rudman Courthouse

11. All persons in public areas, elevators, bathrooms and courtrooms for an in-court hearing, jury trial or grand jury session, shall at all times wear a face covering or mask that covers their noses and mouths. The court will provide a face covering/mask for those seeking entry who do not have their own covering. For in-court hearings and jury trials, the presiding judge may permit the removal of a face covering/mask for the purpose of facilitating a hearing or otherwise promoting the functioning and effective operation of a court proceeding. For grand jury proceedings, the United States Attorney shall petition the court to obtain permission for any individual to deviate from the requirement to wear face covering/mask. If any person entering the Rudman Courthouse has a "medical condition" that makes it unsafe to wear a face covering/mask, the presiding judge may make an exception to the face covering requirement.

12. All persons entering the Rudman Courthouse shall maintain a six foot distance between themselves and others at all times.

Miscellaneous Matters

13. Until further order, the Rudman Courthouse will be closed to the public except for dates on which the court conducts in-court hearings, grand jury proceedings, or jury trials at the courthouse. During regular business hours, all court employees will telework, process court filings, issue orders and judgments, schedule hearings and conferences, and be available to answer telephone calls and emails from the public and bar. Court employees will perform specified other duties at the courthouse as required.

14. Attorneys and pro se parties may continue to file documents with the court electronically through CM/ECF, in paper by using the court's outside filing depository behind the Cleveland Federal Building, or by email as permitted in ADM-1, 20-11. As a result, the clerk's office is not deemed "inaccessible" for the purposes of computing filing deadlines under Fed. R. Civ. P. 6(a)(3) or Fed. R. Crim. P. 45(a)(3), and is deemed "open" for purposes of Fed. R. Civ. P. 77(c).

15. The court will take necessary measures to address emergency matters. Attorneys and pro se parties may request that a matter receive immediate attention by motion or by contacting the clerk's office at 603-225-1477.

16. Until further order, all scheduled in-person court sponsored/conducted mediations are continued.

17. All petty offense Central Violations Bureau hearings are continued to October 15, 2020.

18. Until further order, all court-hosted naturalization events are cancelled. This order does not, however, impact the authority of U.S. Citizenship and Immigration Services to conduct administrative naturalization ceremonies and a judicial officer will participate in those ceremonies as necessary to effectuate name changes.


19. Until further order, all in-person non-case related events, including but not limited to public tours, administration of oaths to attorneys, and committee meetings, are cancelled.

Going Forward

The court once again reiterates that it is committed to fulfilling its mission of providing justice efficiently and effectively throughout this public health emergency. Even when the Rudman Courthouse is physically closed to the public, the judges and court staff are working full time on the cases pending before this court. It is only through the careful planning and the partnership of numerous court stakeholders, such as the United States Marshals Service, the Federal Public Defenders Office, the Office of the United States Attorney, and the members of our bar, that the court is able to remain operational during this public health emergency. The judges of this court remain committed to preserving the constitutional and legal rights of the public as we respond to these unprecedented challenges.

SO ORDERED.

Date: July 24, 2020



Landya B. McCafferty
Chief Judge



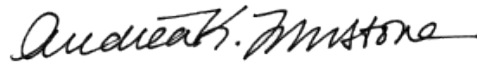
Joseph N. Laplante
District Judge



Joseph A. DiClerico, Jr.
District Judge



Steven J. McAuliffe
District Judge



Andrea K. Johnstone
Magistrate Judge