

**FILED**

**JUN 30 2020**

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

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

IN RE: FIRST EXTENSION OF  
AUTHORIZATION FOR USE OF VIDEO  
TELECONFERENCING AND  
TELECONFERENCING FOR CERTAIN  
CRIMINAL AND JUVENILE  
DELINQUENCY PROCEEDINGS

Standing Order No. 20-54 (BAH)

Chief Judge Beryl A. Howell

**ORDER**

Extension of the Court’s Standing Order 20-17, *In Re Use of Video Teleconferencing and Teleconferencing For Certain Criminal And Juvenile Delinquency Proceedings*, Standing Order No. 20-17 (BAH) (March 29, 2020), is warranted and authorized by the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. No. 116-136, 134 Stat. 281, Div. B, Title V, § 15002(b)(3)(A), which requires that authorization for use of video teleconferencing or telephone conferencing be reviewed “on the date that is 90 days after the date on which [such] authorization . . . is issued,” *id.*, upon consideration of the **FINDINGS** set out below:

1. On March 13, 2020, the President of the United States declared a national emergency under the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, with respect to the Coronavirus Disease 2019 (COVID-19) global pandemic,<sup>1</sup> which national emergency remains in effect;
2. On March 29, 2020, the Judicial Conference of the United States found “that emergency conditions due to the national emergency declared by the President” with respect to COVID-19

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<sup>1</sup> *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, OFFICE OF THE PRESIDENT OF THE UNITED STATES, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/> (last visited June 26, 2020).

“have materially affected and will materially affect the functioning of the federal courts generally,”<sup>2</sup> which finding remains in effect;

3. The United States District Court for the District of Columbia is a district court covered by the Judicial Conference finding, set out in paragraph 2, above;

4. The Centers for Disease Control and Prevention (“CDC”) and other public health authorities have advised taking precautions to reduce the possibility of exposure to COVID-19 during this global pandemic in order to slow the spread of the disease and, because “[t]he virus is . . . spread mainly from person-to-person . . . [b]etween people who are in close contact with one another,”<sup>3</sup> the CDC further advises that individuals should engage in “social distancing” by maintaining a distance of at least “6 feet . . . from others when possible”<sup>4</sup>;

5. As of June 22, 2020, the District of Columbia is operating in the second phase of its recovery and reopening plan. Under the District of Columbia’s Phase Two restrictions and guidance, the general public is advised to continue to maintain social distancing of 6 feet and to wear masks when in the presence of individuals outside their own household. Mass gatherings of more than 50 people are prohibited, and non-essential businesses may operate only at a 50 percent capacity.<sup>5</sup> The District of Columbia government is operating under a “modified telework posture.”<sup>6</sup> The states of Maryland and Virginia have also entered second

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<sup>2</sup> Memorandum, dated March 29, 2020, from Jim Duff, Director of the Administrative Office of the Courts, RE: UPDATE ON CARES ACT PROVISIONS FOR CRIMINAL PROCEEDINGS, at 1; *see also* CARES Act, Div. B, Title V, § 15002(b)(1) & (b)(2).

<sup>3</sup> *How COVID-19 Spreads*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html> (last visited June 26, 2020).

<sup>4</sup> *Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19), May 2020*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (last visited June 26, 2020).

<sup>5</sup> Mayor’s Order 2020-075, *Phase Two of Washington, DC Reopening*, available at <https://coronavirus.dc.gov/phasetwo> (last visited June 26, 2020).

<sup>6</sup> *Building a Healthier More Equitable DC*, OFFICE OF THE MAYOR OF THE DISTRICT OF COLUMBIA, [https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page\\_content/attachments/Hospital-Announcement-and-Situational-Updated-Presentation\\_061720.pdf](https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Hospital-Announcement-and-Situational-Updated-Presentation_061720.pdf) (last visited June 26, 2020).

phases of their recovery plans, which include similar restrictions and guidance, with the counties nearest to the District of Columbia entering Phase Two in mid-June<sup>7</sup>;

6. Over the last several months, a number of individuals detained in the D.C. Department of Corrections' ("DOC") D.C. Jail have tested positive for COVID-19, resulting in the isolation of those individuals and quarantine of other individuals detained at the D.C. Jail on charges pending in the U.S. District Court for the District of Columbia or in other local and federal courts in this metropolitan area.<sup>8</sup> The transmission of the virus within the D.C. Jail has been significantly curtailed recently, but DOC officials remain vigilant about the risks of transmission and further exposure;

7. In-court proceedings for felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure require close contact between criminal defendants and their counsel, government counsel, court staff, Deputy United States Marshals, Court Security Officers, and Judges, including to transport detained individuals from various jail facilities to the courthouse within a confined vehicle space, and therefore continue to pose serious risks, if conducted in person, to public health and safety and threaten to contravene public health guidance; and

8. Public health guidance continues to emphasize and recommend the maintenance of physical distancing of at least 6 feet, the wearing of masks, and additional precautions during

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<sup>7</sup> Montgomery Cty. Exec. Order 082-20, *COVID-19 Local Order – Phase 2*, available at <https://www.montgomerycountymd.gov/exec/Resources/Files/orders/082-20.pdf> (last visited June 26, 2020); *County Executive Alsobrooks Announces Modified Phase Two Reopening for Prince George's County on June 15*, OFFICE OF THE PRINCE GEORGE'S COUNTY EXECUTIVE, <https://www.princegeorgescountymd.gov/ArchiveCenter/ViewFile/Item/3234> (last visited June 26, 2020); *Fairfax County to Enter Phase Two Reopening on June 12*, FAIRFAX COUNTY EMERGENCY INFORMATION, <https://fairfaxcountyemergency.wpcomstaging.com/2020/06/10/fairfax-county-to-enter-phase-two-reopening-on-june-12/> (last visited June 26, 2020).

<sup>8</sup> *Public Safety Agency COVID-19 Case Data*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/page/public-safety-agency-covid-19-case-data> (compiling statistics on the prevalence of COVID-19 within the D.C. Department of Corrections) (last visited June 26, 2020).

the current phase of recovery, including continuing to encourage telework and to take precautions to protect vulnerable individuals.<sup>9</sup>

It is therefore **ORDERED**, based upon this Court's review of the current circumstances in this District, that the authorization for use of video teleconferencing or telephone conferencing under Standing Order No. 20-17 shall remain in effect until the earliest of the following:

(A) 30 days after the date on which the President's national emergency declaration terminates;

(B) The date on which the Judicial Conference of the United States finds that emergency conditions due to the national emergency declared by the President no longer materially affect the functioning of either the Federal courts generally or this Court in particular; or

(C) This Court determines that such authorization is no longer warranted; and it is further **ORDERED** that this Court shall review the authorization for use of video teleconferencing or telephone conferencing every 90 days to determine whether this authorization is still warranted or whether extension of the authorization is necessary.

**SO ORDERED.**

Date: June 26, 2020



Handwritten signature of Beryl A. Howell in black ink.

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BERYL A. HOWELL  
Chief Judge

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<sup>9</sup> See *Opening Up America Again*, OFFICE OF THE PRESIDENT OF THE UNITED STATES, <https://www.whitehouse.gov/openingamerica/> (describing phase two guidelines) (last visited June 26, 2020).