

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

**AMENDED GENERAL ORDER REGARDING
CRIMINAL MATTERS DURING CORONAVIRUS PANDEMIC**

Congress has passed legislation authorizing the use of video and telephone conferencing, under certain circumstances and with the consent of the defendant, for various criminal events during the course of the COVID-19 emergency. *See* The CARES Act, H.R. 748. In light of the Judicial Conference of the United States finding that emergency conditions exist materially affecting the functioning of the federal courts due to the national emergency declared by the President under the National Emergencies Act with respect to the Coronavirus Disease 2019 (COVID-19), I specifically find that a public health crisis exists, and because of that criminal hearings cannot be conducted in person without seriously jeopardizing the public health and safety of the Defendants, their attorneys, Court staff, U.S. Marshals Service, and the public. Therefore, pursuant to Section 15002(b)(1), I hereby specifically find and order that:

1. Due to the current unavailability of reliable and available video conferencing, all criminal hearings (i.e., initial appearances, preliminary hearings, waivers of indictment, arraignments, probation and supervised release revocation proceedings, appearances under Rule 40 of the Federal Rules of Criminal Procedure, misdemeanor pleas and sentencings, and proceedings under the Federal Juvenile Delinquency Act) as listed in Section 15002(b) of the legislation shall take place telephonically.
2. Pursuant to Section 15002(b)(2), I further specifically find that 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 cannot be conducted in person in this district without

seriously jeopardizing public health and safety. As a result, if a felony plea or sentencing in a case cannot be further delayed without serious harm to the interests of justice, such hearings shall be conducted telephonically because video conferencing is not reasonably available.

3. The Defendant's consent, after consultation with counsel, to the electronic proceeding will be presumed unless the Court is informed by defense counsel beforehand that the Defendant does not waive his/her appearance at a hearing in which case the hearing will be continued. During the hearing, defense counsel shall be prepared to convey whether his/her client has waived their appearance. The waiver need not be in writing, as the Court will record the hearing digitally.
4. A mechanism will be in place to allow defense counsel to speak privately telephonically with his/her client and well as to receive interpretative services if necessary.
5. If counsel finds that the hearing cannot be further delayed without serious harm to the interests of justice, and if the Defendant fails to give consent to the telephonic hearing, counsel shall file a motion with the presiding District Judge or the Chief Judge of the district in those cases in which a district judge is not assigned. Any motion shall:
 - a. State the grounds for why a continuance would cause harm;
 - b. Provide a reasonable alternative to conduct the hearing without seriously jeopardizing public health and safety.
6. Such telephonic hearings remain open to the public. Any member of the public wishing to access the hearing may contact the Clerk's Office in advance of the hearing to obtain the dial-in information.

7. Pursuant to Section 15002(b)(3) of the legislation, this authorization will remain in effect for 90 days unless terminated earlier. If emergency conditions continue to exist 90 days from the entry of this order, I will review this authorization and determine whether to extend it.

IT IS SO ORDERED.

By the Court:

March 30, 2020

/s/ John J. McConnell Jr., Chief Judge