



of COVID-19, while at the same time altering the nature and level of restrictions imposed based on an assessment of the circumstances presented by the COVID-19 pandemic; and

**WHEREAS**, according to the Virgin Islands Department of Health (“VIDOH”) COVID-19 reports, from March 13, 2020 through June 30, 2020, there were 90 persons in the Virgin Islands who tested positive for COVID-19, including 6 persons who died of the disease. The number of positive tests rose to 421 by the end of July, including 8 deaths; then skyrocketed to 1139 by the end of August, including 15 deaths; and increased to 1318 as of September 29, 2020, including 20 deaths;

**WHEREAS**, in exercising his powers and duties to direct and aid the response to the COVID-19 pandemic in the Virgin Islands, the Governor of the Virgin Islands issued Orders progressing from a “Stay-At-Home” Order effective March 25, 2020, to a “Safer-At-Home” Order effective May 4, 2020, to an “Open Doors Phase” effective June 1, 2020, followed by a retreat to the “Stay-At-Home Phase” effective August 17, 2020 after a sharp spike in positive COVID-19 cases in the Virgin Islands, and a return to the current “Safer-At-Home Phase” effective September 8, 2020; and

**WHEREAS**, the Virgin Islands Department of Education has announced that from September 8, 2020 to January 20, 2021, instruction to public school students will be conducted virtually; and

**WHEREAS**, in light of the serious public health concerns that COVID-19 presented, the District Court of the Virgin Islands entered General Orders concerning the operations of the Court on March 17, 2020, March 20, 2020, April 9, 2020, April 16, 2020, April 30, 2020, May 12, 2020, June 12, 2020, July 8, 2020, July 14, 2020, and August 31, 2020, designed to allow the Court to continue to effectively perform its mission of fairly and impartially administering justice, while at

the same time doing so in a manner consistent with the adoption of precautionary and preventive measures aimed at reducing exposure to COVID-19 and slowing the spread of the disease; and

**WHEREAS**, during the periods covered by the aforementioned General Orders, the precautionary and preventive measures included, *inter alia*, the continuance of all civil and criminal bench and jury trials, except any that could be conducted remotely; the limitation of in-person court proceedings to those required by law and not amenable to continuance; and the conduct of videoconference and teleconference proceedings to the greatest extent practicable and permitted by law; and

**WHEREAS**, the number of persons who tested positive for COVID-19 in the Virgin Islands for the month of September 2020 and the corresponding positivity rate reflected a significant decrease from the month of August 2020, and the Court therefore determined that, with the implementation of appropriate protocols, a carefully monitored lifting of certain restrictions in the Court's operations as a first step toward resumption of full operations was warranted; and

**WHEREAS**, the first step toward the resumption of full Court operations was announced in the Court's Eleventh Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on September 30, 2020, and was implemented effective October 1, 2020; and

**WHEREAS**, the first step toward the resumption of full Court operations, which was denominated a "soft reopening" of operations, consisted of the following:

- a. The resumption of grand jury proceedings, provided that quorums could be established;
- b. The conduct of in-person court proceedings for any matters that do not involve large numbers of persons in the courtroom, with proceedings that qualify for this

exception to the limitation on in-person proceedings to be determined in the sole discretion of the presiding judge;

c. The conduct of Central Violations Bureau proceedings;

d. The resumption of Clerk's Office counter services, except that payments in cash are not accepted. Payments may be made by personal check, credit and debit cards, money order, or certified bank check, except that criminal debts cannot be paid by personal check or credit and debit cards; and

**WHEREAS**, the number of persons who tested positive for COVID-19 in the Virgin Islands for the month of October 2020 and the corresponding positivity rate continued to mirror the significant decrease from the month of August 2020 that was reflected in the September 2020 VIDOH daily reports; and

**WHEREAS**, the September and October 2020 COVID-19 reports for the Virgin Islands causes the Court to believe that an additional step toward resumption of full Court operations can be taken that includes an incremental resumption of jury trials; and

**WHEREAS**, the Court recognizes that jury selection in the District of the Virgin Islands frequently involves large jury venire pools, which often consist of individuals in—or caring for those in—the age categories identified by the CDC as being especially at risk; individuals who are otherwise at enhanced health risks for other recognized reasons; and parents or guardians of school age children, thus increasing the likelihood of the unavailability of a significant number of potential jurors and the challenges of convening a representative jury venire; and

**WHEREAS**, although there is reason for cautious optimism in light of the September and October COVID-19 reports in the Virgin Islands, the continuing danger and threat to public health and safety that COVID-19 poses as confirmed by the recent spike in cases in the continental United States, the unpredictability and uncertainty of the COVID-19 impact in the Territory at any given

time, and the potential challenges of convening a jury venire, counsel in favor of a cautious, flexible, step-by-step approach to the resumption of jury trials and full Court operations; and

**WHEREAS**, the incremental step-by-step lifting of restrictions on full Court operations must be accompanied by the continued implementation of precautionary and preventive measures previously imposed; the continued monitoring of the COVID-19 climate in the Virgin Islands and the continental United States; the continued development, dissemination and implementation of protocols; the necessary coordination among the entities and parties involved in the justice system; and the flexibility to adjust the Court's operations in light of the COVID-19 situation in the Territory, the capacity of the Court, the ability to convene a jury venire, and the needs of particular matters before the Court;

**NOW, THEREFORE**, in order to continue to promote public health and safety, and the health and safety of Court personnel and those with whom they interact in conducting the business of the Court, counsel, litigants, other case participants, jurors, persons with other business at the courthouse, and the general public, and consistent with the accomplishment of the Court's mission and the circumstances discussed herein, it is hereby **ORDERED** as follows:

1. The District Court of the Virgin Islands will remain open for official business in both the St. Croix and the St. Thomas/St. John Divisions of the Court, subject to the conditions set forth in this Order.

2. The "soft reopening" of Court operations—announced in the Court's Eleventh Order entered on September 30, 2020 and implemented on October 1, 2020—is extended to include the incremental resumption of civil and criminal jury trials before any judge or magistrate judge in either Division of the Court, as determined and scheduled by the presiding judge. The Court may issue further General Orders concerning the incremental resumption of jury trials as may be

deemed necessary and appropriate. All jury trials to be conducted pursuant to this Order will be determined and scheduled by further Order of the assigned judicial officer.

3. All deadlines set by Federal or Local Rules or Court Orders, including, but not limited to, scheduling orders in all civil and criminal cases, remain in effect unless modified by further General Order of the Court or by Order of the assigned judicial officer.

4. Except as otherwise stated in this General Order or consistent with the extension of the “soft reopening” of Court operations to include jury trials as set forth herein, the Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on March 17, 2020, the Second Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on March 20, 2020, the Fourth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on April 16, 2020, the Sixth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on May 12, 2020, the Seventh Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on June 12, 2020, the Ninth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on July 14, 2020, the Tenth Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on August 31, 2020, and the Eleventh Order Concerning Operations of the District Court of the Virgin Islands During the COVID-19 Outbreak entered on September 30, 2020, which are set to expire on November 1, 2020, shall be extended and continue in full force and effect through November 30, 2020.

5. With regard to criminal matters, the time period of November 1, 2020 through November 30, 2020 shall be “excluded time” under the Speedy Trial Act for purposes of determining when an information or indictment must be filed or when a trial must commence pursuant to 18 U.S.C.

§ 3161(h)(7)(A), because the Court specifically finds that the ends of justice served by taking such action materially outweigh the best interests of the public and any defendant in a speedy trial and speedy indictment in view of the serious public health impact of COVID-19 and the resulting need for an incremental, step-by-step approach to the resumption of jury trials as discussed above. Such exclusion is necessary as to any cases scheduled for trial during the November 1, 2020 through November 30, 2020 period in order to assure that there is a full, unhindered, continuously serving jury venire and seated jury in every case, which is central to the sound administration of justice. Such exclusion of time is also necessary in cases that are set for trial outside of the November 1, 2020 through November 30, 2020 time period, as well as cases that are not yet set for trial, in order to address the reasonably anticipated difficulties in defense counsel communicating or visiting with clients; the difficulties that the parties are likely to face in undertaking all of the tasks necessary to fully prepare for trial; and the inherent delay in the scheduling of further trials as a consequence of the exclusion periods in the Court's COVID-19 General Orders. Further, such exclusion of time is necessary in the grand jury context, notwithstanding permission to resume grand jury proceedings, due to the uncertainty surrounding the ability of the grand juries to form a quorum. The Court may by further Order extend the period of exclusion as circumstances warrant, and the assigned judicial officer may by Order also do so as to any specific proceeding.


6. For any federal inmate released from imprisonment during the period November 1, 2020 through November 30, 2020, the Standard Condition of Release which requires such inmates to submit to one drug test within 15 days of release is waived.

7. By its terms, the Twelfth Order Concerning Operations of the District Court of the Virgin Islands concerning Videoconferences and Teleconferences for Criminal Proceedings, entered on October 6, 2020, shall remain in effect for 90 days from the date of that Order, unless terminated earlier or extended.

8. This Order shall remain in effect for the period November 1, 2020 through November 30, 2020 unless it, or any portion thereof, is modified or terminated earlier or extended by further Order of the Court.

**SO ORDERED.**

Date: October 31, 2020

  
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WILMA A. LEWIS  
Chief Judge