

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY**

**In Re: NINTH SUPPLEMENTAL ORDER
CONCERNING COURT OPERATIONS
RELATED TO COVID-19**

**GENERAL ORDER
NO. 21-08**

* * *

On January 15, 2021, this Court entered General Order 21-03, continuing all jury trials and grand jury proceedings through April 2, 2021. While the number of new COVID-19 cases has declined significantly, the positivity rate is presently at 6.30 percent, which exceeds the World Health Organization’s recommended rate for reopening of five percent or less for at least fourteen days.¹ Additionally, the Commonwealth has reported the tenth highest rate of new cases per 100,000 individuals and the fourth highest rate of test positivity in the United States.² Thirty-seven of Kentucky’s 120 counties remain in “red zones,” meaning that the average number of daily cases in those counties is 25 or more per 100,000 people.³ Official recommendations for reducing the number of COVID-19 cases within red zones include rescheduling any public events, avoiding non-essential activities outside the home, and avoiding gatherings of any size.⁴

Against this backdrop, a total of 594,380 individuals have received at least the first dose of the COVID-19 vaccine as of February 23, 2021.⁵ Governor Andy Beshear has announced that Kentucky’s regional COVID-19 vaccination sites will begin administering doses of the vaccine to

¹ See the Kentucky Cabinet for Health and Family Service’s [daily report](#) for February 23, 2021.

Which U.S. States Meet WHO Recommended Testing Criteria? JOHNS HOPKINS UNIVERSITY & MEDICINE CORONAVIRUS RESOURCE CENTER, (Updated Feb. 24, 2021), <https://coronavirus.jhu.edu/testing/testing-positivity>

² WHITE HOUSE CORONAVIRUS TASK FORCE REPORTS FOR KENTUCKY, (Feb, 21, 2021), <https://gscdn.govshare.site/381d0fbb43b611527a8f1c329301ef51fd555fcf/Kentucky%202.21.21.pdf>

³ *Kentucky Coronavirus Monitoring*, TEAM KENTUCKY, (Updated Feb. 23, 2021) <https://govstatus.egov.com/kycovid19>

⁴ Kentucky Cabinet for Health and Family Services, [Red Zone Reduction Recommendations](#), (Announced November 19, 2020),

⁵ *COVID-19 Vaccine*, TEAM KENTUCKY, (Updated Feb 23, 2021), <https://govstatus.egov.com/ky-covid-vaccine>

those eligible under Phase 1C of the Commonwealth's vaccination plan⁶. Phase 1C, however, includes more than 1 million Kentuckians and Governor Beshear has indicated that it could take 10 to 11 weeks for Kentucky to work through this Phase.⁷

Based upon the forgoing, it remains imperative that the Court continue to limit the number of persons whose presence is required in its courthouses in order to reduce the possibility of exposure to the virus and slow the spread of the disease, to the extent practical. It is, therefore, hereby **ORDERED** as follows:

1. JURY TRIALS. All civil and criminal jury trials scheduled to begin on or before April 30, 2021, are **CONTINUED GENERALLY** and shall be rescheduled by separate order of the presiding judge. Any judge may, in his or her discretion, determine that the need to conduct a jury trial during this period outweighs the public health concerns addressed herein.

2. TRIAL DEADLINES. All trial-specific deadlines in criminal cases scheduled for trial on or before April 30, 2021, are continued pending further order of the Court. Individual judges may continue trial-specific deadlines in civil cases at their discretion.

3. GRAND JURY. All grand jury proceedings are **CONTINUED** through April 30, 2021.

4. GRAND JURY IMPANELMENT. Due to the continuation of grand jury proceedings within the Western District, General Order 21-07 is hereby **AMENDED** as follows:

a. Louisville Grand Jurors. The prospective grand jurors who were summoned to serve an eighteen (18) month term of service beginning April 9, 2021 shall, instead, serve an eighteen (18) month term beginning on May 7, 2021.

b. Bowling Green The prospective grand jurors who were summoned to serve an eighteen (18) month term of service beginning April 14, 2021 shall, instead, serve an eighteen (18) month term beginning on May 19, 2021.

⁶ Deborah Yetter and Sarah Ladd, *Beshear: Kentucky's regional sites to expand COVID-19 vaccinations to more people March 1*, Courier Journal (Updated Feb. 22, 2021), <https://www.courier-journal.com/story/news/local/2021/02/22/kentuckys-regional-sites-begin-1-c-vaccinations-march-1/4546880001/>


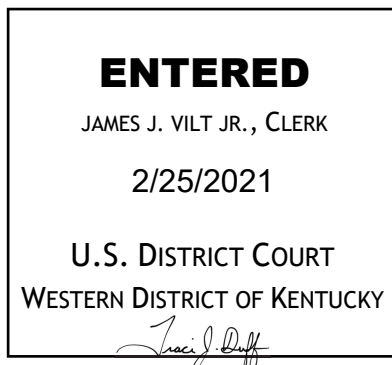
⁷ *Kentucky's regional vaccination centers starting Phase 1C on March 1, Beshear says*, WDRB, (updated Feb. 22, 2021), https://www.wdrb.com/news/coronavirus/kentuckys-regional-vaccination-centers-starting-phase-1c-on-march-1-beshear-says/article_3287dfc8-7554-11eb-b2d4-3bb3c58d470e.html

5. **SPEEDY TRIAL ACT CONSIDERATIONS.** The Court finds that due to the public health risks associated with summoning large groups of prospective jurors, the public's perceptions of the risks associated with jury service, and its reduced ability to obtain an adequate spectrum of jurors, the time period of the continuance caused by this Order shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), as the Court specifically finds that the ends of justice served by taking this action outweigh the interests of the parties and the public in a speedy trial. Subject to intervening orders, the period of exclusion shall be from the date of this Order through April 30, 2021. The district judge assigned to the matter may extend this period as circumstances may warrant. This Order and period of exclusion is incorporated by reference as a specific finding pursuant to 18 U.S.C. § 3161(h)(7)(A) in the record of each pending case where the Speedy Trial Act applies. *See Zedner v. United States*, 547 U.S. 489, 506-07 (2006).

The Court recognizes the right of criminal defendants to a speedy and public trial under the Sixth Amendment to the United States Constitution, and the particular application of that right in cases involving defendants who are detained pending trial. No party impacted by the Court's analysis regarding the time excluded under the Speedy Trial Act is foreclosed from seeking relief from this General Order.

This Order shall be effective upon entry. The Court shall vacate, amend, or extend this Order no later than April 30, 2021. All provisions of previous General Orders concerning court operations that are not inconsistent with this Order shall remain in effect.

DATED: February 25, 2021



Greg N. Stivers, Chief Judge
United States District Court