

**IN THE COURT OF THE GILA RIVER INDIAN COMMUNITY  
IN THE STATE OF ARIZONA**

In the Matter of:

SUSPENSION OF CERTAIN IN-PERSON  
COURT HEARINGS AND JURY TRIALS  
FROM JANUARY 10, 2022 TO JANUARY  
28, 2022, IN RESPONSE TO THE  
CORONAVIRUS PANDEMIC

ADMINISTRATIVE ORDER  
NO. 2022-01

The Governor of the Gila River Indian Community (Community) issued Comprehensive Executive Order No. 12 (Executive Order) regarding the coronavirus pandemic on August 6, 2021. The Executive Order declared there is a continuing public health state of emergency within the Community. Public gatherings of no more than fifteen (15) persons are prohibited by the Executive Order. Further, the Executive Order encourages all those persons not fully vaccinated to remain at home. The Executive Order remains in effect as of January 7, 2022.

The Centers for Disease Control and Prevention (CDC) states the Omicron Variant of the coronavirus spreads more easily than the Delta Variant and can infect those who are vaccinated or not experiencing symptoms.<sup>1</sup> According to the CDC, the level of transmission of the coronavirus in Arizona, including Maricopa and Pinal counties, is currently high.<sup>2</sup>

The Community continues to experience an increase in coronavirus cases due to the holiday season. From December 20 to December 26, 2021, 76 new positive cases were reported.<sup>3</sup> Positive cases increased over 100% in the period of December 27, 2021 to January 2, 2022 to 160 new positive cases.<sup>4</sup>

The Community Court remains open to serve the public. However, due to the Omicron Variant and the continuing pandemic and public health emergency, certain limitations and changes in court practices and operations are necessary during the duration of the Omicron Variant surge.

These limitations and changes affect criminal jury trials. The Court is cognizant of the rights of criminal defendants to a speedy and public trial under the Indian Civil Rights Act (25 U.S.C. § 1302), the Community's Constitution and Bylaws (Art. IV, Sec. 5) and the Gila River Indian Community Code § 5.104, Speedy Trial, and the particular application of those rights in cases involving defendants who are detained pending trial. Jury trials for criminal felony and misdemeanor cases where the defendant is in custody shall remain scheduled. Due to the low

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html>.

<sup>2</sup> [https://covid.cdc.gov/covid-data-tracker/#cases\\_community](https://covid.cdc.gov/covid-data-tracker/#cases_community).

<sup>3</sup> [https://www.gric-eoc.org/uploads/4/6/3/2/4632666/covid-19\\_data\\_report\\_01\\_06\\_2022.pdf](https://www.gric-eoc.org/uploads/4/6/3/2/4632666/covid-19_data_report_01_06_2022.pdf).

<sup>4</sup> *Ibid.*

number of in-custody defendants scheduled for jury trial, the Court can accommodate these trials through the implementation of protective protocols.

The Court finds that the ends of justice served by ordering the continuances outweighs the best interest of the public and any defendant's right to a speedy trial, pursuant to Gila River Indian Community Code § 5.104(7). The time period of the continuances affected by this Order will be excluded under the speedy trial law.

**IT IS ORDERED** that all in-person court hearings shall be converted, when possible, to telephonic or virtual hearings with the exception of those hearings deemed essential hearings. This Order affects hearings scheduled between January 10, 2022 and January 28, 2022. The Court may proceed with an in-person hearing if the parties or their attorneys/advocates appear. This Order is not intended to vacate or continue hearings that may otherwise be held in-person or by telephone or virtual conference.

**IT IS FURTHER ORDERED** that essential hearings are: initial appearances, arraignments, in-custody preliminary hearings, bail hearings, revocation hearings, changes of plea, sentencing hearings, jury trials and orders of protection/restraining order hearings. The parties and their attorneys/advocates shall appear in-person for these hearings unless excused by the trial judge.

**IT IS FURTHER ORDERED** that for non-essential hearings attorneys/advocates shall encourage their clients to appear by telephone. Parties and their attorneys/advocates may telephonically appear after notifying the clerk of the court by electronic mail prior to the hearing. Parties and their attorneys/advocates shall provide a contact number and shall be ready to appear telephonically at the hearing time. No formal written motion is required to appear telephonically. Parties and their attorneys/advocates who fail to notify the clerk of the court of their telephonic appearance shall appear in-person.

**IT IS FURTHER ORDERED** that attorneys/advocates are strongly encouraged to submit motions to continue when it appears a hearing may not be productive (not because a party is unprepared). Judges are encouraged to grant continuances and make accommodations, when necessary.

**IT IS FURTHER ORDERED** that self-represented parties (those without an attorney/advocate) may appear telephonically or appear in-person at their hearing's date and time.

**IT IS FURTHER ORDERED** that attorneys/advocates and parties are strongly encouraged to submit documents through the Court's public electronic mailbox, [courtpublicmailbox@gric.nsn.us](mailto:courtpublicmailbox@gric.nsn.us), or fax, 520-562-9867.

**THEREFORE, IT IS ORDERED** that all criminal jury trials, except those specified in this Order, scheduled in January, 2022, are continued pending further order.

**IT IS FURTHER ORDERED** that all trials affected by this Order shall be vacated by the trial judge as soon as practical and notice sent to the parties. Trial judges shall schedule status conferences for all cases affected by this Order no later than the end of February, 2022.

**IT IS FURTHER ORDERED** that, due to the continuing public health emergency, the “ends of justice” findings and excludable time contained within this Order apply to all criminal cases continued by this Order. Issuing individual findings in each separate case would be redundant, unnecessary and a waste of judicial resources.

**IT IS FURTHER ORDERED** that criminal felony and misdemeanor jury trials where the defendant is in custody shall remain scheduled and shall be held with the appropriate protective protocols in place.

**IT IS FURTHER ORDERED** that trial judges presiding over criminal proceedings may take such actions consistent with this Order as may be lawful and appropriate to ensure fairness of the proceedings and preserve the rights of the parties.

**IT IS FURTHER ORDERED** that all jury trials scheduled in February, 2022, and beyond shall be held unless the Court determines that further postponement is appropriate.

**IT IS FURTHER ORDERED** that all in-custody criminal defendants shall appear by telephone or virtual conference unless the hearing is deemed essential.

**IT IS FURTHER ORDERED** that trial judges shall exercise discretion when issuing a bench warrant for a criminal defendant’s non-appearance during this Order. It is recommended that trial judges issue an order to show cause citation for a criminal defendant’s failure to appear.

**IT IS FURTHER ORDERED** trial judges may continue the following hearings: civil traffic, animal control, civil trespass or other non-essential hearings. Any continued hearings shall be rescheduled no later than the end of February, 2022.

**IT IS FURTHER ORDERED** that the Probation Department discourage in-person contact or home visitation. Probation officers are authorized to use technology of all types to supervise those on adult and juvenile probation.

**IT IS FURTHER ORDERED** that trial judges and judicial personnel may take action as necessary to implement the provisions of this Order.

**IT IS FURTHER ORDERED** that this Order expires on January 28, 2022 unless renewed by further Order.

**DATED** this 7th day of January, 2022.

SEAL

/s/ Anthony J. Hill

Honorable Anthony J. Hill, Chief Judge