

CIRCUIT COURT PHASE ANNOUNCEMENT – 08/27/20

As directed by the Missouri Supreme Court on May 4, 2020, judicial circuits cannot rush to “open their doors” during this pandemic. They must do so gradually. The Court developed four phases (Zero through Three) to allow for this process. In determining whether changing phases is appropriate, the Court provided the following specific “Gateway Criteria” to consider:

- “1. No confirmed COVID-19 cases in the court facility within a 14-day period.
2. Rescission or lack of stay-at-home orders or the relaxing of group gathering restrictions applicable to the community.
3. Improving COVID-19 health conditions over a 14-day period in the community, including conditions such as the number of confirmed COVID-19 cases and related deaths in relation to a community’s population density, size of particularly vulnerable populations, and availability of medical facilities including emergency and intensive care capacity.
4. Consultation with local health officials or departments concerning changes to levels of court and courthouse activities.
5. Consultation with local judiciary partners such as children’s division personnel, juvenile officers, members of the local bar, prosecutors and public defenders, law enforcement and probation and parole.”

Starting on May 12, 2020, the 21st Circuit has engaged in phasing discussions with judges, law enforcement officers, court administrators, prosecutors, public defenders, juvenile officers, Department of Public Health officials, probation officers, bar leaders and others. These discussions occur on a weekly basis, and will continue even after this Circuit enters into Phase Three, as the possibility of moving back to a lower phase always remains, depending on the status of the spread of the virus.

This Circuit has also engaged in discussions with the Chief Judge of the Eastern District Court of Appeals and the Presiding Judge of the 22nd Circuit; both Presiding Judges agreed to regularly speak with the Chief Judge and always before deciding to change phases.

The 21st Circuit is currently in Phase Zero, as it has been since July 22, 2020.

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Factors that this Circuit has considered this week include the following:

1. Courthouse Staff: One member of the St. Louis County Police Department courthouse security team tested positive on August 24, 2020 for COVID-19. This officer was last in the courthouse on August 19, 2020. The St. Louis County Department of Public Health was notified and conducted contact tracing. The officer, along with another security officer, have been quarantined. As is this Court's practice, the Human Resources Department has also conducted contact tracing to determine if the officer had any significant contact with court personnel. We determined that there was no sufficient contact. The officer followed CDC guidelines and wore a mask at all times and practiced social distancing. All areas that the officer worked in, including the front entrance, has been commercially disinfected.

2. DJS Jail and Detention Staff: No new cases of COVID-19 have arisen among the Department of Justice Center Jail staff or the St. Louis County Juvenile Detention Center staff in the last week. *(Source: St. Louis County Department of Public Health, August 24, 2020).*

3. DJS Jail and Detention Residents: The Department of Public Health's Chief Operating Officer for Corrections Medicine reports a downward trend in new COVID-19 cases since early August in the adult jail population, with no new positive cases identified over the past week. Moreover, none of the residents of the Juvenile Detention Center have tested positive for COVID-19 since August 10, 2020. *(Source: St. Louis County Department of Public Health, August 24, 2020).*

4. St. Louis Region: Over the week of August 19-25, the St. Louis metropolitan area has averaged 523 new cases per day. This represents a decrease of approximately 121 cases (i.e., 18.8%) from the previous week. *(Source: St. Louis Public Radio, August 26, 2020).*

On Wednesday, August 26, 2020, the St. Louis region's pandemic response team reported a record high number of COVID-19 hospitalizations. Dr. Alex Garza, the Chief Medical Officer of SSM Health who leads the St. Louis Metropolitan Pandemic Task Force, called the data "fairly alarming." Dr. Garza said that, although he prefers to look at long-term trends rather than daily swings in the numbers, the spike was "hard to ignore."

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The Task Force specifically reported that there were, at the reporting hospitals in the region, on average 71 new hospital admissions for COVID-19, a significant increase. The daily admissions number (which reflects data lagging by two days), had hovered at a “plateau” of approximately 40 patients for several weeks. This number is the largest one-day admissions number the region has seen yet. The Task Force recorded its previous high, 69 admissions, more than four months ago, on April 8, 2020. The hospitalizations came from across the metropolitan area and from multiple health systems, which include BJC HealthCare, SSM Health, Mercy and St. Luke’s Hospital.

“We can’t continue to see admission numbers up that high,” Garza said. “Eventually it will catch up to the health care systems and we will be unable to provide care for other types of patients, and elective surgeries.” (*Source: St. Louis Post-Dispatch, August 26, 2020*).

5. St. Louis County: As of Wednesday morning, August 26, 2020, the total number of confirmed COVID-19 cases in St. Louis County was 17,564. There have been 709 deaths in St. Louis County since the start of the pandemic. St. Louis County, which has less than 17% of the state’s population, accounts for approximately 24% of Missouri’s 76,636 cases and 49% of Missouri’s 1,439 deaths. (*Source: Missouri Department of Health and Senior Services*).

St. Louis County’s average rate of positive tests for the week was 8.0%, a slight increase from 7.8% from the previous week. (*Source: St. Louis County Department of Public Health*).

On Wednesday, August 26, 2020, St. Louis County Executive Sam Page said that St. Louis County is experiencing a “worrisome” rise in cases of COVID-19 among teenagers. Data provided by the County Public Health Department shows the largest increase has been in the 15 to 19-year-old age group (now roughly between 30 and 45 cases of COVID-19 per 100,000 population, whereas that number had never exceeded 5 cases per 100,000 before mid-June).

In June, the number of 15 to 19-year-olds with COVID-19 jumped to 135 cases, then to 700 in July. By mid-August, the County had reported 527 cases for the month. Residents over the age of 80 still have the highest rate of infection in the County, followed by residents in their 20s.

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Page cautioned that young people can spread the virus to those who have a higher risk of serious illness: "The virus spreads easily and it spreads fast, so please take care of yourself, and in doing so, you are also taking care of others." (Source: *St. Louis Post-Dispatch*, August 26, 2020).

6. Missouri: Missouri reported 1,426 new cases of COVID-19 on Wednesday, August 26, 2020, reaching a total of 78,062, and 10 more deaths on that day. (Source: *St. Louis Post-Dispatch*, August 26, 2020)

Missouri is currently averaging an 11.5% positivity rate. (Source: *St. Louis Post-Dispatch*, August 24, 2020).

The rolling seven-day average number of new COVID-19 cases per day in Missouri spiked during the month of July. At the beginning of July, the average was approximately 400 new cases per day. Near the end of July, the average peaked at 1,600 new cases per day. The average then decreased, and by August 8th, the average had dipped below 900. By August 17, however, that trend had reversed, and the rolling average increased to 1,238 new cases per day. Since then, the rolling average has trended downward and hit 1,122 new cases per day on August 22, 2020. (Sources: *St. Louis Post-Dispatch* and *Missouri Department of Health*, August 14, 2020).

Kinsa Health, a health data company that tracks fevers through its internet-connected thermometers, placed Missouri at the top of its watchlist for a surge in COVID-19 cases in the next few weeks. "So far during the pandemic, Kinsa's data gathered has been fairly accurate at predicting outbreaks three to four weeks in advance, according to an analysis by the *New York Times*." (Source: *St. Louis Post-Dispatch*, August 19, 2020).

As of August 22, 2020, the transmission rate, R_0 , for Missouri is 1.0. This number measures the average number of people who become sick from an infectious person. An R_0 value of 1.0 means each case causes, on average, one new case. If the R_0 value is less than one, the spread of the disease is slowing. The higher the R_0 number, the worse the spread. (Source: *Statista*, August 24, 2020).

7. St. Louis County and St. Louis City Executive Orders: In the past two weeks, officials in St. Louis City and St. Louis County have further restricted businesses and expanded face masks requirements, as the rate of positive test results have increased. Bars and restaurants that serve alcohol have been ordered to close early; gathering sizes at public venues have been limited.

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On Friday August 20, 2020, the St. Louis County Department of Public Health mandated that, starting Monday August 24, businesses be prohibited from serving individuals who are not wearing masks. Further, children over 5 years old must now wear masks in school. The DPH order also requires that individuals wear masks at both indoor and outdoor businesses in St. Louis County. "As face-to-face interactions increase, and as scientific evidence indicates that COVID-19 is spread by asymptomatic and pre-symptomatic individuals, it is critical that all individuals wear face coverings in public settings, including children in school settings," a public health official indicated. A previous order had authorized, but did not require businesses to refuse service to individuals not wearing a mask. *(Sources: St. Louis Public Radio, August 21, 2020 and St. Louis Department of Public Health, August 21, 2020).*

On Thursday August 13, 2020, St. Louis City officials imposed new restrictions designed to slow the spread of COVID-19. Bars and restaurants may allow no more than 50% capacity and must close by 11 p.m. The new restrictions are expected to last until September 7th. According to Mayor Lyda Krewson, St. Louis City's new rules were necessary because coronavirus numbers have been "stubbornly high," particularly among young people. She added that the return of college students to the City for the fall semester was also a factor in her decision. *(Source: St. Louis Post-Dispatch, August 13, 2020).*

8. Additional Supportive Information: Without significant changes in behavior, such as residents across the St. Louis area consistently wearing masks, the numbers of new COVID-19 cases are unlikely to decline, according to Dr. Garza. "People are still getting sick, they're still being admitted to the hospital, and unfortunately they're still dying from this virus," he warned. "It's up to us to determine our future, and your actions today directly affect the health of your neighbors, and your friends and your loved ones." The Task Force recommends wearing masks in public and not gathering in large crowds. *(Sources: St. Louis Post-Dispatch and KSDK.com, August 25, 2020).*

Accordingly, after the aforementioned consultation and consideration, the 21st Judicial Circuit will remain in Operating Phase Zero on August 27, 2020. The Court's phase status will continue to be reviewed on an ongoing basis.

Michael D. Burton, Presiding Judge of the 21st Circuit
St. Louis County, Missouri
August 27, 2020

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WHAT DOES PHASE ZERO ALLOW?

According to the Missouri Supreme Court's May 4, 2020 Operational Directives, during Phase Zero, all in-person proceedings must be suspended, with very few designated exceptions.¹

The Supreme Court, however, did not mandate the suspension of court operations; it simply indicated that proceedings continue, but through video conferencing and other means.

The St. Louis County Courthouse is not closed to the public. People may come into the building to file pleadings, motions and responses. Petitioners may enter the building to file for *ex parte* (temporary) orders of protection, as the Adult Abuse Office remains open.

Due to the current pandemic, however, this court strongly encourages the public to visit the St. Louis County Circuit Court's website. The website provides means to participate in proceedings and avoid physically entering the building. For example, petitioners can obtain orders of protection through online filing.

¹ a. Proceedings necessary to protect the constitutional rights of criminal defendants, including the right to a speedy trial, and the rights afforded under section 544.676.3;

b. Proceedings pursuant to chapters 210 and 211 pertaining to juvenile delinquency and abuse, neglect, and termination of parental rights;

c. Proceedings pursuant to chapter 453 pertaining to adoption;

d. Proceedings in which civil or criminal jury trials are already in progress as of March 16, 2020;

e. Proceedings pursuant to chapter 455 pertaining to orders of protection;

f. Proceedings related to emergency child custody orders;

g. Proceedings related to petitions for temporary restraining orders or other forms of temporary injunctive relief;

h. Proceedings related to emergency mental health orders;

i. Proceedings pursuant to Chapter 475 for emergency guardianship or conservatorship;

j. Proceedings directly related to the COVID-19 public health emergency;

k. Oral arguments regarding time-sensitive matters; and

l. Other exceptions approved by the Chief Justice of this Court.