

CIRCUIT COURT PHASE ANNOUNCEMENT – 3/12/21

As directed by the Missouri Supreme Court on May 4, 2020 (and ultimately modified on July 24, 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 Supreme 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 One, as it has been since January 29, 2021.

(Continued)

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

1. Courthouse Staff:

One member of the courthouse staff tested positive for the virus and is quarantining at home. This individual was last in the Courthouse on Wednesday (March 10, 2021), the day on which he received his test result. This staff member had actually been fully vaccinated, but was exposed to COVID only two days after he had received his second shot. [Note that the CDC defines a “vaccinated person” as someone who is 2 weeks after their 2nd dose of a 2-dose series (Pfizer or Moderna) or 2 weeks after a single-dose vaccine, like Johnson & Johnson.]

The court continues to operate on an A/B schedule.

To improve access to justice during the pandemic, secure computer stations (“E-Court”) are now available on the street level of the St. Louis County Courthouse and the St. Ann satellite court at The Crossings at Northwest in St. Ann. The E-Court allows members of the public to participate in live court proceedings, including criminal preliminary hearings, small claims, landlord-tenant and order of protection dockets. Court staff members are available to assist litigants in connecting to their hearings before the judges.

2. DJS Jail Residents and Staff (and the Missouri Department of Corrections):

After one resident of a general housing unit in the Jail tested positive for the virus, the entire population of that housing unit was tested on March 5, 2021. Eighteen residents subsequently tested positive. The residents of the unit will remain in quarantine until the period of potential contagion (14 days beyond the last known contact with a COVID-19 positive individual) has passed.

No jury trials are being conducted while the Court is in Phase One, due in part, to ongoing concerns about exposure to the virus from transporting inmates to and from the Courthouse. However, the circuit court is coordinating with the Department of Justice Services to conduct limited “in person” bench trials and motion hearings for confined defendants. (No more than two “in person” proceedings in the Courthouse can occur at any time.) The Court has been engaging in regular communication with prosecuting attorneys and defense attorneys for many months as it develops and provides a plan to address jury trials once the circuit moves into Phase Two.

The Department of Public Health still has concerns of exposure, primarily due to both the potential for “likely transmission” in the Jail and the presence of cases reported in the community at large. Of special concern to the Department of Public Health is the risk of bringing inmates who are currently housed in the Missouri Department of Corrections to the Jail to address pending criminal matters here.

The Missouri Department of Corrections system has taken a number of steps to both reduce the transmission of the virus and contain outbreaks when they occur. Containment measures include suspending regular transfers among facilities, isolating those who are or may be infected, and providing additional medical care. The M.D.C. is also turning to new technology to fight the spread of COVID-19, including wastewater testing equipment, air purifiers, and disinfecting sprayers. *(Sources: St. Louis Post-Dispatch, January 7, 2021; fox2now.com, January 4, 2021; Missouri Department of Corrections Website, “COVID-19 Data,” January 28, 2021).*

Each state in the country has developed a three-phase vaccine distribution plan.¹ Missouri is one of only 11 states in the nation to include corrections staff in Phase 1, according to a survey by the Prison Policy Initiative. Corrections staff are eligible in Phase 1B - Tier 1, which was activated on January 14. People in high-risk populations because of age (65 or older) or medical conditions are in Phase 1B - Tier 2. This phase includes eligible offenders in these high-risk populations and was activated on January 18. All other offenders are included in a later phase. *(Source: Missouri Department of Corrections Website, “COVID-19 Data,” February 26, 2021).*

3. Detention Center Residents and Staff:

No new cases of the virus have been reported among residents or staff members in the Detention Center since early February.

¹ On January 14, 2021, the director of the Missouri Department of Health and Senior Services established three phases, with various sub-phases and tiers; each sub-phase (or tier) provides for the administration of the COVID-19 vaccine to distinct groupings of Missouri residents. The groupings are based on occupations, health conditions and/or places of residence. Phase 1A includes “Patient-Facing Health Care Workers and Long-Term Care Facility Residents and Staff.” Phase 1B -- Tier 1 includes “First Responders, Emergency Services and Public Health Infrastructure.” Phase 1B – Tier 2 includes “High-Risk Individuals” (i.e., anyone aged 65 and older and adults with certain severe illnesses). Phase 1B – Tier 3 includes those whose jobs provide “Critical Infrastructure,” (i.e., “keep the essential functions of society running”). This tier specifically addresses those whose employment is in “Education, Childcare, the Communications Sector, the Dams Sector, the Energy Sector, the Food/Agriculture Sector, Government, the Information Technology Sector, the Nuclear Reactor/Materials/Waste Sector, the Transportation Systems Sector and the Water and Wastewater Systems Sector.” Phase 2 includes those who protect “those who have been disproportionately affected” and those who “accelerate... economic recovery.” Phase 3 includes everyone else who wishes to be vaccinated. *(Source: MO DHSS 01/14/21 letter from DHSS Director Dr. Randall W. Williams).*

4. St. Louis County:

Although the number of COVID-19 cases in St. Louis County has declined dramatically since late last year, the numbers have leveled off—or even ticked back up slightly over the past few weeks.

As of Thursday, March 11, St. Louis County reported the seven-day rolling average of 84 confirmed cases and 53 probable cases per day (137 total).² A week earlier (on March 4), the county averaged 74 confirmed cases and 57 probable cases per day (131 total). Two weeks prior (on February 25), the county averaged 81 confirmed cases and 49 probable cases per day (130 total). The average number of new cases per day has decreased significantly from its peak of 726 confirmed cases on November 12. (*Source: showmestrong.mo.gov, March 11, 2021*).

Deaths in St. Louis County have also declined since peaking in early December. As of March 8, the seven-day moving average number of deaths per day due to COVID-19 is 1. On March 2, the seven-day average was 1. On February 22, the seven-day average was 2. The seven-day average is down from highs of 13 deaths per day in early December. (*Source: showmestrong.mo.gov, March 11, 2021*). Since the start of the pandemic, 2,055 St. Louis County residents have died due to coronavirus. (*Source: stlcorona.com, March 11, 2021*).

On Thursday, March 11, St. Louis County's seven-day average rate of positive tests was 5.3%, up from 4.3% during the previous week.³ These averages are calculated using the Centers for Disease Control and Prevention's (CDC) method.⁴ (*Source: showmestrong.mo.gov, March 11, 2021*).

² Missouri's COVID-19 dashboard reports confirmed and probable cases separately. A *confirmed* case means a positive PCR test. A *probable* case means a positive antigen test. Experts consider the PCR test the "gold standard" for detecting the virus. It detects the genetic material of the virus within days of infection, even in individuals who have no symptoms. Results come back in two or three days. Antigen tests, also known as rapid tests, detect protein fragments specific to the coronavirus. Turnaround time for results is only 15 minutes. A positive antigen test is considered highly accurate, especially for those experiencing symptoms, but negative test results are less reliable. Both PCR and antigen tests are conducted by nasal swab. If a person tests positive using both a PCR test and antigen test, they are counted only once—the PCR test is counted as a confirmed case. (*Sources: showmestrong.mo.gov, February 19, 2021*); *St. Louis Post-Dispatch, February 10, 2021*).

Data lags 3 days to ensure accuracy.

³ The World Health Organization has advised state and local governments that before reopening, the rate of positivity in testing should remain at 5% or lower for at least 14 days. (*Source: Johns Hopkins University of Medicine Coronavirus Resource Center, coronavirus.jhu.edu, August 31, 2020*.)

⁴ Under the CDC method, the total number of positive PCR tests is divided by the total number of PCR tests. This methodology does not "de-duplicate," meaning it is not adjusted for instances where the same individual has been tested multiples times in the same week.

As of Thursday, March 11, around 165,179 St. Louis County residents have received the first dose of the COVID-19 vaccine, which is 16.6% of the county's population. (*Source: showmestrong.mo.gov, March 11, 2021*).

According to analysis by the *New York Times*, St. Louis County is in the "Very High" risk category with 135 average daily cases, which amounts to 14 per 100,000 residents.⁵ This average has been about the same over the past two weeks. Since the start of the pandemic, at least 1 in 11 residents has tested positive for COVID-19. (*Source: nytimes.com, March 11, 2021*). These numbers include confirmed and probable cases, and may differ from those reported on Missouri's COVID-19 dashboard at showmestrong.mo.gov.

5. St. Louis Region:

New hospital admissions due to COVID-19 in the St. Louis area have decreased dramatically since peaking in late November, but have plateaued over the past few weeks. On Thursday, March 11, the St. Louis Metropolitan Pandemic Task Force⁶ reported that 42 new COVID-19 patients were admitted to St. Louis area hospitals, making the seven-day average 37. The week before (on March 4), the seven-day average was 32. It was at 46 the week before that (on February 25). In late November, the average was up around 140. Before October of last year, the average hovered at approximately 40. (*Source: St. Louis Metropolitan Pandemic Task Force Facebook page, March 11, 2021*).

The number of COVID-positive patients hospitalized across St. Louis area hospitals has also declined dramatically since last year's late-November peak and is back down to levels last seen in early October. On Thursday, March 11, the Task Force reported that the seven-day average total number of COVID-positive patients in Task Force hospitals was 229, down from 266 a week prior (on March 4) and 312 two weeks ago (on February 25). (*Source: St. Louis Metropolitan Pandemic Task Force Facebook page, March 11, 2021*).

⁵ A county is in the "Very High" risk category if it reported more than 160 cases per 100,000 people during the past two weeks, which would be equivalent to a daily rate of 11 cases per 100,000 people. A county with fewer cases may also be in this category if more than 10% of tests had a positive result over the past two weeks. The *Times* lists several recommended precautions for each risk category. Residents of counties in the "Very High" risk category should avoid nonessential indoor activities, nonessential travel, and large gatherings. Residents can enjoy outdoor activities, should protect themselves at work or school, and should not skip or delay medical care.

⁶ The Task Force is a collaboration of local health systems and collects data from BJC HealthCare, Mercy, SSM Health and St. Luke's Hospital facilities in the region.

As of Monday, March 8, St. Louis area hospitals were operating at approximately 76% staffed in-patient bed capacity and 79% staffed ICU bed capacity. (Source: *showmestrong.mo.gov*, March 11, 2021).

On Monday, March 8, the Task Force reported that the transmission rate for the St. Louis area was 0.93. A slight increase from the rate of 0.89 reported a week earlier.⁷ (Source: *KSDK.com*, March 8, 2021).

Deaths due to COVID-19 across St. Louis area hospitals have steadily declined since December. On Thursday, March 11, the Task Force reported a seven-day moving average of 5 deaths per day due to COVID-19 in Task Force hospitals. A week earlier (on March 4), the average was 4 deaths per day. Two weeks prior (on February 25), the average was 5 deaths per day. (Source: *St. Louis Metropolitan Task Force Facebook page*, March 11, 2021).

Dr. Alex Garza, leader of the St. Louis Metropolitan Pandemic Task Force, said that the St. Louis area continues to make "really good progress" as key hospitalization metrics continue to decline. "Without a doubt, these are some of the best numbers we've seen in quite some time, since, really, early last fall," Dr. Garza said on Monday. "But it's important to recognize that we can't let our guard down now. We know how quickly this virus can spread." The percentage of ICU beds occupied by confirmed or suspected COVID-19 patients fell below 10% for the first time in months. (Source: *KSDK.com*, March 8, 2021).

Missouri is changing its vaccine distribution system in a way that will send a larger portion of the state's vaccine allocation to the St. Louis region. Starting the week of March 29, the state will shift from an allocation system based on each region's population to one based on the number of unvaccinated, eligible individuals in each region. State officials forecast that the adjustment will increase the supply of vaccine coming into the St. Louis region each week by 5 percent. That would increase the St. Louis region's weekly allotment by 6,000 doses—making the total allotment to be 50,400 doses per week. (Source: *St. Louis Post-Dispatch*, March 11, 2021).

Dr. Garza praised the shift in vaccine allocation. "The St. Louis region has significant unvaccinated populations at high risk for complications from COVID-19," he said. "Increased supply will help us close the gap in vaccinating our most vulnerable citizens." (Source: *St. Louis Post-Dispatch*, March 11, 2021).

⁷ The transmission rate represents how fast COVID-19 is spreading in a given area. It measures the average number of people who become sick from an infectious person. A value of 1.0 means each case causes, on average, one new case. If the value is less than one, the spread of the disease is slowing. The higher the number, the worse the spread.

Dr. Steven Lawrence, an infectious disease expert at Washington University, also praised the decision. “This decision will make it a more equitable distribution of vaccine and get it into the arms of people who need it most,” he said. Dr. Lawrence added that residents should continue to take precautions, because, “[w]hile getting vaccine in more quickly is really the ultimate solution, the reality of it is, it’s going to take some more time[.]” (*Source: St. Louis Post-Dispatch, March 11, 2021*).

Although cases have decreased dramatically from their peak late last year, the numbers leveled off this week. “All of these metrics that we use to measure the impact seem to be perhaps leveling off,” Dr. Lawrence said. “Which is why I emphasize that we still do have some moderate transmission, which means that there still is significant risk for people, especially those who are unvaccinated.” (*Source: St. Louis Post-Dispatch, March 11, 2021*).

This week, the state health department reported that St. Louis County wastewater contains the B.1.1.7 variant of the coronavirus—the extremely transmissible strain that was first identified in the United Kingdom. “We would have an expectation that without any vaccine, it might be associated with another surge. And it still could be,” Dr. Lawrence said. “But if we can get many more people vaccinated very quickly, it may not only prevent another surge from occurring, or if it doesn’t prevent it, it at least could blunt it so that it is shorter in duration or lower in severity.” (*Source: St. Louis Post-Dispatch, March 11, 2021*).

6. Missouri:

Missouri's seven-day moving average number of new COVID-19 cases has declined dramatically since early January, when the average was above 3,000 new cases per day. On Thursday, March 11, the state reported 834 new confirmed and probable cases, making the seven-day average 547.⁸ The seven-day average is down from 580 reported a week earlier (on March 4), and 778 reported two weeks prior (on February 25). Since the start of the pandemic, Missouri has reported 564,300 confirmed and probable cases. (*Source: St. Louis Post-Dispatch, March 11, 2021*).

Deaths in Missouri due to COVID-19 have declined since peaking in early December.⁹ For the week of February 28 through March 6, Missouri reported 16 deaths. For the week of February 21 through 27, Missouri reported 48 deaths.

⁸ This data lags 3 days to ensure accuracy.

⁹ The most recent weeks most likely undercount the number of deaths because deaths are often reported in batches and with a delay.

For the week of February 14 through 20, Missouri reported 68 deaths. For the week of February 7 through 13, Missouri reported 107 deaths. For the week of January 31 through 6, Missouri reported 128 deaths. Missouri has recorded 8,300 deaths due to COVID-19 since the start of the pandemic. (*Source: St. Louis Post-Dispatch, March 11, 2021*).

On Thursday, March 11, Missouri reported a seven-day average positivity rate of 4.5%, up from 4.3% the week before. These averages reflect the positivity rate for confirmed cases and are calculated using the CDC method.¹⁰ (*Source: showmestrong.mo.gov, March 11, 2021*).

Missouri hospitalizations due to COVID-19 are down to levels last seen in early September of last year. As of Monday, March 8, Missouri had 857 patients hospitalized with confirmed or suspected COVID-19, making the seven-day moving average 941.¹¹ A week earlier (on March 1), the seven-day average was 1,102. A week before that (on February 22), the average was 1,220. [On September 1, 2020, the average was 913]. (*Source: showmestrong.mo.gov, March 11, 2021*).

As of March 3, 2021, the transmission rate for Missouri is 0.93. That is up from 0.86 a week earlier (on February 24). (*Source: covidactnow.org, March 11, 2021*).

Missouri hospitals are operating at 75% staffed in-patient bed capacity and 75% staffed ICU bed capacity. (*Source: showmestrong.mo.gov, March 11, 2021*).

On Thursday, March 11, Missouri reported that 1,075,813 people statewide have received at least one dose of the vaccine; this represents 17.5% of the population. 9.5% of the population is completely vaccinated. (*Source: showmestrong.mo.gov, March 11, 2021*).

Currently, Missouri is vaccinating residents in Phase 1A (hospital workers and long-term care facility workers and residents), Phase 1B-Tier 1 (first responders and other emergency workers), and Phase 1B-Tier 2 (seniors 65 and older and people with underlying health conditions). Phase 1B-Tier 3, which includes “Critical Infrastructure” employees, will open March 15. (*Source: St. Louis Post-Dispatch, March 11, 2021*). According to St. Louis County Department of Public Health Chief Operating Officer Valerie Nelson, Tier 3 will begin without waiting for Tier Two to be completed.

¹⁰ See Footnote 4.

¹¹ This data was reported on Thursday. The delay is to ensure accuracy. More recent data is available, but is subject to reporting delays.

The “Critical Infrastructure” category also includes a subsection referred to as “Government” which includes what is referred to as “the Judiciary.” Whether “the Judiciary” includes all members of the Courthouse staff needs to be determined. This circuit maintains that all staff members meet the “Critical Infrastructure” criteria, as they all contribute to “keep the essential functions of society running.” (See footnote 1 for more information about the phases.)

Projections show that approximately 550,000 “Critical Infrastructure” employees in Missouri become eligible for the vaccine next week. State officials expect to receive 120,000 doses each week. (*Source: St. Louis Post-Dispatch, March 11, 2021*).

Missouri compares favorably to other states in the U.S. when it comes to the number of new COVID-19 cases over the past week. Missouri has the fourth-lowest number of cases per capita over the last seven days, with 9 cases per 100,000 people. [New Jersey has the most with 38 cases per 100,000; Hawaii is the lowest with 4]. (*Source: nytimes.com, March 11, 2021*).

Missouri does not rank well compared to the other states in the U.S. in administering the vaccination doses received from the federal government. Missouri ranks 44th of the states, with 18% of the population having received at least one shot. (The state of New Mexico ranks first, at a rate of 28%; Georgia ranks 50th at 15%. The national average is at 20%.) (*Source: nytimes.com, March 12, 2021*).

Starting the week of March 29, Missouri will shift its vaccine allocation system from one based on each region’s population to one based on each region’s number of unvaccinated, eligible individuals. The shift comes after mass vaccination events in rural counties have ended with thousands of surplus doses. In addition, a consulting firm hired by the state found roughly 33% of Missouri residents are traveling outside their home county to get the vaccine. (*Source: St. Louis Post-Dispatch, March 11, 2021*).

7. St. Louis County Executive Action:

Three executive orders issued by St. Louis County Executive Dr. Sam Page went into effect November 17, 2020: 1.) a “Safer at Home” order (which imposed significant limitations on activities outside the home); 2.) a modified face covering order (which expanded the areas where masks should be worn) and 3.) a revised isolation and quarantine order (which imposed directives to those infected by or exposed to the virus). (*Source: stlcorona.com/news/dph-covid19-update-11132020, November 13, 2020*).

On February 16, the County's isolation and quarantine order was revised to ease COVID-19 restrictions that had halted most sports games and tournaments.

(Sources: <https://stlcorona.com/dr-pages-messages/public-health-orders/>, February 25, 2021; St. Louis Post-Dispatch, February 17, 2021).

On Monday, March 8, St. Louis County's "Safer at Home" order was amended a fourth time as case numbers, hospitalizations and death counts have declined dramatically over the past few months. The relaxed restrictions open private indoor gatherings of up to 20 people and outdoor gatherings of up to 30; the 11 p.m. curfew on businesses was extended to midnight; and a 25% capacity limit on indoor banquet halls and conference centers was relaxed to 50 people. *(Source: St. Louis Post-Dispatch, March 8, 2021).*

"Today, there is hope," said St. Louis County Executive, Sam Page. "The cautious reopening of St. Louis County remains possible because many of our residents have worn masks, limited gatherings and stayed home as much as possible and respected the space of others," he added. "The more we continue to do that, the safer we can be." *(Source: St. Louis Post-Dispatch, March 8, 2021).*

8. Other considerations:

Until this past week, new COVID-19 cases across the United States have declined after hitting all-time highs in January. On March 10, the seven-day moving average number of new cases in the U.S. was 67,163 per day. A week before that (on March 3), the average was 62,764 new cases per day. Two weeks prior (on February 24), the average was 66,315 new cases per day. New cases have declined dramatically since the all-time high occurred in early January, when the seven-day average neared 249,000. Since the start of the pandemic, the U.S. has recorded approximately 29 million cases. *(Source: CDC.gov, March 11, 2021).*

New deaths due to COVID-19 in the U.S. are declining as well. On March 10, the seven-day moving average was 1,484 deaths per day. A week before that (on March 3), the average was 1,931 deaths per day. And two weeks prior (on February 24), the average was 2,062. The U.S. has recorded 527,726 deaths due to COVID-19 since the start of the pandemic. *(Source: CDC.gov, March 11, 2021).*

Approximately 19% of U.S. residents have received one dose of the vaccine and 9.9% of have been fully vaccinated. *(Source: nytimes.com, March 11, 2021).*

As of March 10, providers in the U.S. are administering approximately 2.17 million doses of the vaccine per day. That number is up from the approximate 1.8 million doses per day on March 1. At the current pace, 50% of the population should be vaccinated by late May. *(Source: nytimes.com, March 11, 2021).*

Dr. Anthony Fauci, the White House Chief Medical Advisor and a leading infectious disease expert, recently discussed how the decline in cases across the U.S. has stalled over the past few weeks. “We’re plateauing at quite a high level—60 to 70,000 new infections per day is quite high,” he said. This trend is worrisome, Dr. Fauci said, because in the U.S. over the past year, when the daily level of new infections plateaued at a high level, surges in cases followed. Dr. Fauci said a similar pattern recently occurred in Europe, where infection levels were declining, then plateaued, and “over the last week or so, they’ve had about a 9 percent increase in cases[.]” *(Source: nytimes.com, March 7, 2021).*

The variant first identified in the United Kingdom, known as B.1.1.7, is doubling its share of all new U.S. cases about every 10 days. Experts are not sure why the U.S. has not yet seen a surge in cases as the variant has spread so rapidly—it already accounts for more than 20% of new cases. William Hanage, a Harvard epidemiologist, indicated that there could be several reasons why the B.1.1.7 variant has not caused a surge in cases in the U.S. in the way it did Britain: more widespread vaccinations, improving weather, and effective public health measures. *(Source: nytimes.com, March 7, 2021).*

On Thursday, Dr. Fauci stated that public health officials are still concerned about another possible surge as the “virus is still very much circulating in the community” even as some states are lifting restrictions. He added people should still be careful and “at a minimum” wear masks. As the vaccine rollout continues, he predicted the U.S. will start to see “a big, big difference” as soon as mid- to late summer. *(Source: nbcnews.com, March 11, 2021).*

IN CONCLUSION

The Supreme Court’s “Gateway Criteria” factors remain encouraging. Dr. Garza and Dr. Fauci are cautiously optimistic! However, this week, the presence of COVID in this community has plateaued, even increased in some instances. As much as the outbreak of COVID at the County Jail seems to be isolated to one particular housing unit, the numbers are concerning.

The pace of vaccinations is increasing, but the limited supply in the urban areas in this state, including St. Louis County is troubling. Missouri's new approach to vaccine allocation is very promising for residents of St. Louis County. This shift in vaccine distribution, however, will not commence until the end of the month.

This court is mindful of a directive provided by the Missouri Supreme Court on July 24, 2020: "If any court employee, bailiff, or other court personnel currently working in a court facility tests positive for COVID-19, the presiding or chief judge shall move that court facility to Operating Phase One or Zero." This directive makes no distinctions between courthouses in small rural counties and courthouses in large metropolitan counties like St. Louis County. The presence in the Courthouse of one person with COVID precludes the Courthouse from moving to Phase Two.

This Circuit hopes to move into Phase Two in the very near future, but is very aware of the anticipated rapid spread of the new coronavirus variant strains in this country. The infectious disease experts maintain that an increase in COVID numbers lies ahead again, especially if the public lets down their guard.

Accordingly, after the aforementioned consultation and consideration, the 21st Judicial Circuit will remain in Operating Phase One on today's date, March 12, 2021. The Court's phase status will continue to be reviewed weekly on an ongoing basis.

Michael D. Burton, Presiding Judge of the 21st Circuit Court
St. Louis County, Missouri
March 12, 2021

SO ORDERED:


Judge Division 16
March 12, 2021

(Continued)

WHAT DOES PHASE ONE ALLOW BEYOND WHAT PHASE ZERO ALLOWED?

According to the Missouri Supreme Court's May 4, 2020 Operational Directives (which were ultimately modified on July 24, 2020), during Phase Zero, all in-person proceedings must be suspended, with very few designated exceptions. The Court, however, did not suspend court operations; it simply indicated that proceedings continue, but through video conferencing and other means.

Court operations during Phase One do not significantly change from those permitted in Phase Zero. Only the "most extraordinary, pressing and urgent" cases can additionally be heard in person. Occupancy rates in courtrooms and other court areas must be ten people or less, whenever possible. The Supreme Court has consequently made it clear to presiding judges that Phase One does not allow for any jury trial exceptions whatsoever.

In summary, there simply cannot be any additional "in person" court proceedings than those allowed in Phase Zero, unless a judge deems them to be "most extraordinary, pressing and urgent."

The St. Louis County Courthouse is not closed to the public. People may enter 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.

To improve access to justice during the pandemic, secure computer stations ("E-Court") are now available on the street level of the St. Louis County Courthouse to allow members of the public to participate in live court proceedings, including criminal preliminary hearings, small claims, landlord-tenant and order of protection dockets. Court staff members are available to assist litigants in connecting to their hearings before the judges.

This Court has established another Access to Justice site in the County, outside of the Courthouse, in the St. Louis County Government Center at the Crossings in the old Northwest Plaza in St. Ann, MO. At that location, a similar "E-Court" set of secure computer stations are available for litigants, connecting them to the live proceedings in the Courthouse in Clayton. Court staff members are available to assist litigants in connecting to their hearings.

Victims of domestic violence can now seek temporary (*ex parte*) orders of protection at the Northwest Crossings location. Court staff members are now available to assist litigants in completing their petitions for orders of protection. Domestic violence victim advocates are available to assist with safety planning and providing resources.