

## **CIRCUIT COURT PHASE ANNOUNCEMENT – 2/19/21**

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 21<sup>st</sup> 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 22<sup>nd</sup> Circuit; both Presiding Judges agreed to regularly speak with the Chief Judge and always before deciding to change phases.

**The 21<sup>st</sup> 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:**

No employees are currently positive for COVID-19; two employees are in quarantine, due to living with household members who are positive for the virus. Court employees are continuing to work an A/B shift schedule.

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

One case of COVID-19 was reported at the jail on February 16, 2021. The inmate was tested upon admission to the DJS Jail and then, as protocol demands, immediately placed in quarantine where he remains today.

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 DJS 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.

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. 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).*

All Missouri corrections officers and some offenders are now eligible to receive the vaccine. Each state in the U.S. has developed a three-phase vaccine distribution plan.<sup>1</sup> 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 condition 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," January 28, 2021).*

As of Thursday, February 18, no doses have yet been made available for inmates of Missouri prisons, according to M.D.C. spokesperson, Karen Pojmann. Pojmann also indicated that infections in Missouri prisons have "plummeted," with only 0.2% of the prison population currently infected. Nearly all of those cases, she said, are in reception facilities where inmates enter the prison system from local jails. Twenty-two inmates in the two St. Louis City jails have been identified as high risk for health complications due to the virus; these inmates are being vaccinated. The high-risk inmates in the St. Louis County Jail have already been vaccinated. *(Source: St. Louis Post-Dispatch, February 18, 2021).*

### **3. Detention Center Residents and Staff:**

No residents or staff members at the Detention Center have tested positive for the virus in the past week. The juvenile who had tested positive last week remains in quarantine.

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<sup>1</sup> 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:

On Thursday, February 18, St. Louis County officials reported 61 new confirmed COVID-19 cases, making the seven-day average 109 per day.<sup>2</sup> The seven-day average is down from 132 a week earlier (on February 11), and 167 two weeks earlier (on February 4). The average number of new cases per day has decreased dramatically from its peak of 726 on November 12.<sup>3</sup> (Source: *showmestrong.mo.gov*, February 18, 2021).

Deaths in St. Louis County have also declined since peaking in early December. As of February 15, the seven-day moving average number of deaths per day due to COVID-19 is down to 1. On February 7, the seven-day average was 3. On February 1, the average was 6 deaths per day. The seven-day average is down from highs of approximately 13 deaths per day in early December. (Source: *showmestrong.mo.gov*, February 18, 2021). Since the start of the pandemic, 1,881 St. Louis County residents have died due to coronavirus. (Source: *stlcorona.com*, February 18, 2021).

On Thursday, February 18, St. Louis County's seven-day average rate of positive tests was 6.8%, down slightly from 7.0% from the previous week.<sup>4</sup> These averages are calculated using the Centers for Disease Control and Prevention's (CDC) method.<sup>5</sup> (Source: *showmestrong.mo.gov*, February 18, 2021).

As of Thursday, February 18, St. Louis County, the most populous county in Missouri, has the highest total number of COVID-19 vaccinations of any county in the state, with more than 82,000 residents receiving the first vaccine dose. 9.7% of the population in St. Louis County has received at least one dose of the vaccine. (Source: *showmestrong.mo.gov*, February 18, 2021).

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<sup>2</sup> This number lags 3 days to ensure accuracy.

<sup>3</sup> These numbers reflect the number of positive PCR tests, which are considered *confirmed* cases and do not include antigen (rapid) test results, which are considered *probable* cases. (Source: *showmestrong.mo.gov*, February 18, 2021). According to data compile by the St. Louis County Department of Public Health, St. Louis County reported a seven-day moving average of 154 new confirmed and probable cases on Thursday, February 18. The data from the St. Louis County Department of Public Health also lags 3 days to ensure accuracy. (Source: *stlcorona.com*, February 18, 2021).

<sup>4</sup> 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).]

<sup>5</sup> 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.

According to analysis by the *New York Times*, St. Louis County is in the “Very High” risk category with 185 average daily cases, which amounts to 19 per 100,000 residents.<sup>6</sup> (Note that this number is higher than the number provided by *showmestrong.mo.gov* in the earlier part of this section.) The *Times* recommends several precautions for those residents of counties in the “Very High” risk category: they should avoid nonessential indoor activities, nonessential travel, and large gatherings. These residents should protect themselves at work or school, and should not skip or delay medical care. (Source: *nytimes.com*, February 18, 2021).

A mass vaccination event is being held on Saturday, February 20, at the UMSL campus in north St. Louis County. All other state-run vaccination events across the state were canceled earlier this week due to snow and extremely cold temperatures. (Source: *St. Louis Post-Dispatch*, February 18, 2021).

### **5. St. Louis Region:**

New hospital admissions due to COVID-19 in the St. Louis area have trended downward since peaking in late November, and are down to levels last seen in early October of last year. On Thursday, February 18, the Task Force reported that 39 new COVID-19 patients were admitted to St. Louis area hospitals, making the seven-day daily average 42. The week before (on February 11), the seven-day average was also 42. It was at 63 the week before that (on February 4). In late November, the average was at 140. Before October of last year, the average hovered near 40 patients per day. (Source: *St. Louis Metropolitan Pandemic Task Force Facebook page*, February 18, 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 down to levels last seen in early October. On Thursday, February 18, the St. Louis Metropolitan Pandemic Task Force<sup>7</sup> reported that the seven-day average total number of COVID-positive patients in Task Force hospitals was 331, down from 400 a week prior (on February 11) and 484 two weeks ago (on February 4). (Source: *St. Louis Metropolitan Pandemic Task Force Facebook page*, February 18, 2021).

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<sup>6</sup> 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.

<sup>7</sup> 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.

Deaths across St. Louis area hospitals have steadily declined since December, though the curve has plateaued over the last week. On Thursday, February 18, the Task Force reported a seven-day moving average of 7 deaths per day due to COVID-19 in Task Force hospitals. A week earlier (on February 11), the average was 6 deaths per day. Two weeks prior (on February 4), the average was 9 deaths per day. The average number of deaths across Task Force hospitals per day is down to levels last seen in early November. The average peaked in mid-December, when it was above 20. *(Source: St. Louis Metropolitan Task Force Facebook page, February 18, 2021).*

As of Thursday, February 18, St. Louis area hospitals were operating at approximately 76% in-patient bed capacity and 80% ICU bed capacity. *(Source: showmestrong.mo.gov, February 18, 2021).*

Dr. Alex Garza, leader of the St. Louis Metropolitan Pandemic Task Force, is confident that the Task Force can overcome the impact that this week's severe winter weather had on the vaccine rollout. "The snow has certainly slowed down our vaccination schedule this week, but we're going to make that up quickly," he said. He also encouraged residents to sign up for vaccine alerts and to stay patient. "Vaccine is just part of our ability to get back to normal, but so is continuing to wear your mask, washing your hands and staying socially distanced as much as possible," Dr. Garza said. *(Source: KSDK.com, February 17, 2021).*

While the number of COVID-19 patients in St. Louis area hospitals continues to decline, the Task Force is also concerned about the possibility of another wave fueled by new strains of the virus. "What concerns us is the presence of these new COVID variants, and it's entirely possible we could have another serious wave if we're not careful, especially since it's taking us longer than we would like to get the majority of the population vaccinated," Dr. Garza said. *(Source: KSDK.com, February 17, 2021).*

Compared to the rest of the population, far fewer children who have been infected with COVID-19 have gotten seriously ill, though they can still spread the virus. Vaccinating them could be critical to slowing the spread. Experts forecast that 70% to 85% of the population may need immunity before COVID-19 is unlikely to spread. "It's important to evaluate the vaccines in children to ensure that if they are used, the immune responses, the protection, will be as good as what has been seen in adults," said Dr. David Hunstad, chief of pediatric infectious diseases at Washington University School of Medicine and St. Louis Children's Hospital.

Hunstad also said that the widespread vaccination of children will likely make it easier to open schools in the future. (*Source: St. Louis Post-Dispatch, February 18, 2021*).

## 6. Missouri:

Missouri's seven-day moving average number of new COVID-19 cases has declined dramatically since January 11, when the average was 3,147 new cases per day. On Thursday, February 18, the state reported 376 new cases, making the seven-day daily average 544.<sup>8</sup> The seven-day average is down from 872 reported a week earlier (on February 11), and 1,220 reported two weeks prior (on February 4). Since the start of the pandemic, Missouri has reported 472,143 cases. (*Source: St. Louis Post-Dispatch, February 18, 2021*).

For the week of February 9 through 15, Missouri recorded 3,734 new confirmed COVID-19 cases.<sup>9</sup> This represents an incredible decrease of 36.9% from the previous week. During that seven-day period, Missouri had the 6<sup>th</sup> lowest rate of new COVID-19 cases in the United States. (*Source: showmestrong.mo.gov, February 11, 2021*).

New deaths in Missouri due to COVID-19 appear to be trending downward, although the rolling seven-day average remains volatile.<sup>10</sup> On January 26, the average was 60.4 deaths per day. Then, on January 31, the average fell down to 28.6, only to bounce back up to 56 on February 4. On February 9, the average fell dramatically to 8.7. Most recently, on February 17, the average was back up to 44.1. Missouri has recorded 7,470 deaths since the start of the pandemic. (*Source: St. Louis Post-Dispatch, February 18, 2021*).

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<sup>8</sup> This data lags 3 days to ensure accuracy.

<sup>9</sup> Missouri's COVID-19 dashboard now includes PCR, or polymerase chain reaction, tests and antigen test results. Previously, the state's dashboard included only PCR test results. A positive PCR test result is considered a *confirmed* case. 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. A positive antigen test result is considered a *probable* case. Antigen tests, also known as rapid tests, have been growing in use since November and currently make up around 30% of total tests administered. The antigen test detects protein fragments specific to the coronavirus, and turnaround time for results is only 15 minutes. A positive 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. The state's dashboard shows the antigen test results separately from PCR test results. (*Sources: showmestrong.mo.gov, February 19, 2021; St. Louis Post-Dispatch, February 10, 2021*).

<sup>10</sup> The volatility may be attributed to the fact that deaths are often reported in batches and with a delay. For instance, Missouri reported 270 deaths on February 11, 2021. Many of these occurred in prior weeks and months. (*Source: St. Louis Post-Dispatch, February 18, 2021*).

On Thursday, February 11, Missouri reported a seven-day average positivity rate of 7.0%, down from 7.5% from the previous week. These averages reflect the positivity rate for confirmed cases and are calculated using the CDC method. (Source: *showmestrong.mo.gov*, February 18, 2021).

Missouri hospitalizations due to COVID-19 are down to levels last seen in October of last year. As of Monday, February 15, Missouri had 1,281 patients hospitalized with confirmed or suspected COVID-19, making the seven-day moving average 1,383.<sup>11</sup> A week earlier (on February 8), the seven-day average was 1,592. A week before that (on February 1), the average was 1,808. [On Oct. 15, the average was 1,394. On Nov. 1, the average was 1,604]. (Source: *showmestrong.mo.gov*, February 18, 2021).

As of January 23, 2021, the transmission rate,  $R_0$ , for Missouri is 0.92. That is roughly the same as the transmission rate of 0.93 on January 18.<sup>12</sup> (Source: *statista.com*, February 11, 2021).

Missouri hospitals are operating at 71% in-patient bed capacity and 74% ICU bed capacity. (Source: *showmestrong.mo.gov*, February 18, 2021).

As of Thursday, February 18, 939,810 people statewide have been reported to have received at least one dose of the vaccine, or 10.9% of the population. 4.5% have received two doses. (Source: *showmestrong.mo.gov*, February 18, 2021).

Presently, Missouri is currently 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). The state has yet to open up Phase 1B-Tier 3, which includes “Critical Infrastructure” employees. (Source: *St. Louis Post-Dispatch*, February 18, 2021).

The “Critical Infrastructure” category 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.

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

<sup>12</sup> The transmission rate,  $R_0$ , 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 value is less than one, the spread of the disease is slowing. The higher the  $R_0$  number, the worse the spread.

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.

On Monday, February 15, Gov. Mike Parson announced that all state-run COVID-19 vaccination events in Missouri would be canceled for the rest of this week due to the snow and extreme cold. “Missouri is experiencing severe winter weather that makes driving dangerous and threatens the health and safety of anyone exposed to the cold,” Parson said. “We want to protect the safety of everyone involved in the mass vaccination events, from the patients being vaccinated to the volunteers who generously support these events.” Parson added that the cancelations will not impact how many doses of vaccine each region receives. (*Source: St. Louis Post-Dispatch, February 16, 2021*).

Later in the week, Parson added that “[o]nce supply will consistently allow, Missouri vaccinators ... have demonstrated the capacity to administer nearly 50,000 vaccines per day[.]” (*Source: St. Louis Post-Dispatch, February 18, 2021*).

Missouri continues to not rank well compared to the other states in the U.S., as to administering the vaccination doses received from the federal government. Missouri ranks 43rd of the states, at a rate of 12% of the population that has received at least one shot. Missouri, however, has slightly improved in the rankings over the past week. (Alaska ranks first, at a rate of 20%; the national average is 13%; Utah ranks 50<sup>th</sup> at a rate of 11%) (*Source: N.Y. Times, February 19, 2021*). (Note that the Missouri numbers quoted by [showmestrong.mo.gov](http://showmestrong.mo.gov), on the previous page, are slightly lower.)

## **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](http://stlcorona.com/news/dph-covid19-update-11132020), November 13, 2020*).

St. Louis County's "Safer at Home" order has since been amended three times as the number of new COVID-19 cases continues to decline. Under the current restrictions, restaurants and bars are limited to 50% occupancy, must close by 11 p.m., and must write down the name and contact information of at least one member of each dining party to assist with contact tracing. Before February 11, restaurants and bars were limited to 25% occupancy. (Sources: <https://stlcorona.com/dr-pages-messages/public-health-orders/>, February 9, 2021; [fox2now.com](https://www.fox2now.com), February 9, 2021).

On Wednesday, February 17, Page eased COVID-19 restrictions that had halted most sports games and tournaments. Under the new guidelines, effective immediately, competitive games and tournaments for all adult and youth contact sports, including football, basketball and ice hockey, are allowed, provided that there are only two teams present on the sports field or court at a time.

Page attributed the rollback in restrictions to the decline in the number of new COVID-19 cases and hospitalizations, and an increase in vaccinations. "This combination has allowed us to relax some of our public health orders," Page said. "We will continue working with our community advisory groups to guide us as we take thoughtful, cautious steps to reopen activities and businesses across St. Louis County." (Source: *St. Louis Post-Dispatch*, February 18, 2021).

## **8. Other considerations:**

New COVID-19 cases across the United States continue to decline after hitting all-time highs in January. On February 17, the seven-day moving average number of new cases in the U.S. was 77,385 per day. A week before that (on February 10), the average was 102,530 new cases per day. Two weeks prior (on February 3), the average was 134,029 new cases per day. The all-time high occurred on January 11, when the seven-day average was 249,047. (Source: *CDC.gov*, February 18, 2021).

Since the start of the pandemic, the U.S. has recorded approximately 27.6 million cases. 567,842 of those occurred in the past week. That is 24.5 average daily cases per 100,000 people in the last seven days. (Source: *CDC.gov*, February 18, 2021).

New deaths due to COVID-19 in the U.S. are down from the all-time highs hit in January, but are still high compared to earlier in the pandemic. On February 17, the seven-day moving average was 2,708 deaths per day. A week before that (on February 10), the average was 2,975 deaths per day. And two weeks prior (on February 3), the average was 3,001. [The all-time high was on January 13, when the seven-day average was 3,373 deaths. On July 1, 2020 the average was 891. On September 1, 2020 the average was 897. On Nov. 1, 2020 the average was 825.] *(Source: CDC.gov, February 18, 2021).*

The U.S. has recorded 486,466 deaths due to COVID-19 since the start of the pandemic. 20,001 of those were reported in the past seven days. *(Source: CDC.gov, February 18, 2021).*

The number of patients hospitalized with COVID-19 across the U.S. has decreased since last month. On January 15, 127,235 patients were hospitalized with COVID-19. By February 17, that number had decreased to 63,398, which is approximately the same number of COVID-19 hospitalizations that the U.S. had in early November. *(Source: covidtracking.com, February 18, 2021).*

Approximately 4.72% of U.S. residents are fully vaccinated. Nearly 12% have received at least one dose. *(Source: Johns Hopkins Coronavirus Resource Center, available at coronavirus.jhu.edu, February 18, 2021).*

According to data from Johns Hopkins University, the daily averages for new cases and deaths have both dropped significantly across the United States over the past two weeks. But, as some states and local governments relax occupancy restrictions on restaurants and other businesses, scientists continue to warn that dangerous COVID-19 variants are quietly spreading across the United States. Top experts—including Dr. Anthony Fauci and CDC Director Dr. Rochelle Walensky—say that the downward trend could reverse if new variants spread. The problem, experts say, is that the U.S. does not yet have a genetic surveillance system capable of tracking the spread of different variants. “The fact of the matter is we’re kind of in the dark,” said Dr. Diane Griffin, who studies infectious diseases at Johns Hopkins. She said that the variants are “probably widespread even if we don’t know it.” *(Source: St. Louis Post-Dispatch, February 18, 2021).*

A more contagious and possibly deadlier variant first discovered in the United Kingdom has been found in at least 42 states, including Missouri. Two other concerning variants have been reported across the U.S. in low numbers.

The variant first identified in South Africa has been identified in 10 states so far, and is especially worrisome to experts as evidence shows our current vaccines are less effective against it.<sup>13</sup> (Source: *St. Louis Post-Dispatch*, February 18, 2021).

Dr. Anthony Fauci, the White House Chief Medical Advisor and a leading infectious disease expert, said that data on the South Africa variant is "sobering," and current vaccines are less effective against it than the original strain or UK variant. "But we do know that it (the South Africa variant) evades the protection from some of the monoclonal antibodies, and it diminishes somewhat the capability and the effectiveness of the vaccine to block it," Fauci said. "It doesn't eliminate it, but it diminishes it by multiple fold." On the bright side, Fauci added there is "still some cushion left" so that current vaccines do provide some protection against it. (*usatoday.com*, February 15, 2021).

Fauci also said that U.S. will have to work "double time" to make up for Covid-19 vaccination delays this week caused by the winter storm that hit much of the country. "It's been slowed down, in some places going to a grinding halt," Fauci said Thursday. "We're just going to have to make up for it as soon as the weather lifts a bit, the ice melts and we can get the trucks out, and the people out and getting the vaccine into people's arms," he said. "We're going to just have to make up for it, namely do double time when this thing clears up." As a result of the winter weather, a number of states have reported delays in vaccine deliveries and distribution. (Source: *CNN.com*, February 18, 2021).

## **IN CONCLUSION**

The Supreme Court's "Gateway Criteria" factors remain extremely encouraging. The presence of COVID in this community is consistently decreasing. The numbers of hospitalized COVID patients are significantly decreasing.

News about the vaccines is also very encouraging, of course, but the limited supply and the low statewide rate of administering the vaccine continue to be concerning.

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<sup>13</sup> There are three major known coronavirus variants that are concerning to public health experts: (1) the South African variant—known as 20I/501Y.V2 or B.1.351; (2) the UK or Kent variant—known as 20I/501Y.V1 or B.1.1.7; and (3) the Brazilian variant—known as P.1. (Source: *St. Louis Post-Dispatch*, February 11, 2021).

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 is making plans to move into Phase Two next month, 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 because of the B.1.1.7 strain.

**Accordingly, after the aforementioned consultation and consideration, the 21st Judicial Circuit will remain in Operating Phase One on February 19, 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  
February 19, 2021

**SO ORDERED:**

  
Judge Division 16

February 19, 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 Northwest Crossings Government Building 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. This site's grand opening occurred on February 8, 2021. Court staff members are now available to assist litigants in connecting to their hearings.

On March 1, 2021, individuals who are County residents or who have been abused in St. Louis County may seek temporary (*ex parte*) orders of protection at the Northwest Crossings location. Court staff members will be available to assist litigants in completing their petitions for orders of protection. Domestic violence victim advocates will be available to assist with safety planning and providing resources.