

## **CIRCUIT COURT PHASE ANNOUNCEMENT – 04/30/21**

As directed by the Missouri Supreme Court on May 4, 2020 (and ultimately modified on July 24, 2020 and March 26, 2021), judicial circuits cannot rush to “open their doors” during this pandemic. They must do so gradually. The Court developed five phases (Zero through Four) to allow for this process. (The Supreme Court added a fifth phase, Phase Four, on March 26, 2021.) In determining whether changing phases is appropriate, the Supreme Court provided the following specific “Gateway Criteria” to consider:

- “1. The number of confirmed COVID-19 cases in the court facility within the last 14-day period.
2. Any local stay-at-home orders or gathering restrictions.
3. Improvement in local COVID-19 health conditions over a 14-day period, including the number of confirmed COVID-19 cases and related deaths.
4. Consultation with local health officials or departments concerning changes to levels of 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.
6. Accessibility to approved COVID-19 vaccines in the community in which the courthouse or court facility is located.”

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 Four, 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 Two, as it has been since March 26, 2021.**

*(Continued)*

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

**1. Courthouse Staff:**

During this past week, one new case of COVID-19 has been reported among Courthouse staff. One staff member is currently in quarantine due to exposure to a COVID-positive individual.

All employees who have been working remotely are required to work three days per week at the courthouse, and two days a week remotely.

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):**

The Court has engaged in regular communication with prosecuting attorneys, defense attorneys and public health experts to develop and maintain a detailed plan to address the resumption of jury trials in Phase Two. (Please refer to Administrative Orders No. 20-54 and No. 21-7.) Jury trials for designated criminal cases resumed seamlessly on April 12, 2021. They will continue to take place two at a time until this Circuit enters Phase Three (which will not occur until the entire court staff has had the opportunity to be fully vaccinated).

Trials have been carried out under heightened public health and safety conditions, as recommended by the CDC and the County Department of Public Health, in tandem with consultation with a local epidemiologist.

The Department of Public Health has had concerns of exposure to its residents, 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 was 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 number of COVID cases in the Department has dropped considerably.<sup>1</sup> Testing there has been extensive.<sup>2</sup>

Each state in the U.S. has developed a three-phase vaccine distribution plan.<sup>3</sup> The Missouri Department of Corrections staff have been eligible for the vaccine since mid-January under the Phase 1B – Tier 1 of the rollout. Inmates in high-risk populations because of age (65 or older) or medical conditions are in Phase 1B - Tier 2, and have been eligible for the vaccine since January 18. All other offenders became eligible on April 9, when Phase 3 opened. (*Sources: Missouri Department of Corrections Website, "COVID-19 Data," April 21, 2021*).

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

No new residents or staff members have been reported to have tested positive for the coronavirus for the past two months.

### **4. St. Louis County:**

New COVID-19 cases have been at about the same level since early March (approximately 120 – 160 new cases each day). On Tuesday, April 27, St. Louis County reported that the seven-day rolling average of 123 (confirmed and probable) COVID-19 cases per day.<sup>4</sup> A week earlier (on April 20), the seven-day

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<sup>1</sup> As of Monday, April 26, the Missouri Department of Corrections reports 23 active inmate cases across all of its adult facilities (down from 36 reported a week earlier and the 39 reported two weeks prior); 3 active cases among prison staff; and 2 active cases among non-prison staff. The department has reported 48 inmate and six staff deaths from COVID-19 and related complications. No new COVID-related deaths have occurred since the first week in January. (*Source: Missouri Department of Corrections Website, COVID-19 Data, April 26, 2021*).

<sup>2</sup> The department employs a number of testing strategies, and as of April 26, has performed 95,292 tests. The strategy includes, but is not limited to, testing offenders who exhibit symptoms of COVID-19 or may have had contact with an infected person; testing all offenders upon intake and pre-release; testing all offenders in a housing unit or contained area when an outbreak is suspected; and testing at random regardless of symptoms. (*Source: Missouri Department of Corrections Website, COVID-19 Data, April 26, 2021*).

<sup>3</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*).

<sup>4</sup> Missouri's COVID-19 dashboard reports confirmed and probable cases separately. For this report, they have been combined. 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

average was 128 cases per day. Two weeks prior (on April 13), the average was 166 cases per day. [On March 1, the average was 115. On March 15, the average was 138. The average number of new cases per day has decreased significantly from its peak of 728 *confirmed* cases on November 12.] (Source: *showmestrong.mo.gov*, April 27, 2021).

Deaths due to COVID-19 in St. Louis County have continued to decline and are down significantly since peaking in early December. On April 25, the seven-day moving average number of deaths per day due to confirmed cases of COVID-19 was 1. A week earlier (on April 18), the seven-day average was 1. Two weeks prior, (on April 11), the seven-day average was 1. The seven-day average is down from highs of 13 deaths per day in early December. Since the start of the pandemic, 2,147 St. Louis County residents have died due to coronavirus. (Sources: *showmestrong.mo.gov*; *stlcorona.com*, April 27, 2021).

On Tuesday, April 27, St. Louis County's seven-day average rate of positive tests was 5.5%, no change from the previous week.<sup>5</sup> This positivity rate is calculated using the Centers for Disease Control and Prevention's (CDC) method.<sup>6</sup> (Source: *showmestrong.mo.gov*, April 27, 2021).

As of Tuesday, April 27, more than 390,849 St. Louis County residents—i.e., 39.3% of the County's population—have received at least one dose of the COVID-19 vaccine. 26.4% are fully vaccinated. (Source: *showmestrong.mo.gov*, April 27, 2021).

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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. Antigen testing started growing in usage around November of last year. Currently, about 30% of all tests are antigen tests. The most recently reported COVID-19 case numbers are delayed 3 days to ensure accuracy. (Sources: *showmestrong.mo.gov*, March 18, 2021; *St. Louis Post-Dispatch*, February 10, 2021).

On Saturday, April 17, the Missouri Department of Health and Senior Services reported a database error that was causing individuals with both a positive PCR and antigen result to be counted as both a probable and confirmed case. This correction removed more than 11,000 cases across Missouri that had been counted twice. (Source: *St. Louis Post-Dispatch*, April 22, 2021). Presumably, some of those cases were from St. Louis County, though the exact number is not easily ascertained from Missouri's COVID-19 dashboard.

<sup>5</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>6</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 an analysis by the *New York Times*, St. Louis County remains in the “Very High” risk category, with 159 average confirmed and probable daily cases.<sup>7</sup> That average amounts to 16 per 100,000 residents.<sup>8</sup> This average has been approximately the same since late February. [On April 1, the average number of daily cases per 100,000 residents was 14. On March 1, that number was 13. On February 15, it was 19. On February 1, it was 34.] (*Source: nytimes.com, April 27, 2021*).

St. Louis County Executive Sam Page says that approximately 140 County residents are being diagnosed with COVID-19 each day. That number, he says, is still too high. He also indicated that there is evidence that new variants are spreading in the County. He urged County residents to get vaccinated. (*Source: fox2now.com, April 26, 2021*).

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

New hospital admissions due to COVID-19 in the St. Louis area have decreased dramatically since peaking in late November of last year, but have plateaued recently—hovering at approximately 40 since the beginning of March. On Tuesday, April 27, the St. Louis Metropolitan Pandemic Task Force<sup>9</sup> reported that 35 new COVID-19 patients were admitted to St. Louis area hospitals, making the seven-day daily average at 40. The week before (on April 20), the seven-day average was 38. It was at 39 the week before that (on April 13). (*Source: St. Louis Metropolitan Pandemic Task Force Facebook page, April 27, 2021*).

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<sup>7</sup> The case numbers reported by the *New York Times*, Missouri’s dashboard at showmestrong.mo.gov, and St. Louis County’s dashboard at stlcorona.com may be different. This can be attributed to differences in reporting methods. Missouri’s dashboard at showmestrong.mo.gov reports probable and confirmed cases separately. In contrast, the case count reported by the *Times* and St. Louis County includes both confirmed and probable cases. There are also differences in the way probable cases are reported. On Missouri’s dashboard, a probable case means only those individuals with a positive antigen test. On the St. Louis County dashboard and *Times* website, the definition of probable cases follows CDC guidelines and is broader. One of the major differences is that probable cases from those sources (St. Louis County and the *Times*) include not only individuals with positive antigen test results, but also those individuals who have COVID-19 symptoms and are known to have had close contact with a COVID-positive person in the 14 days prior to the onset of their symptoms, but have not had a confirmatory test. (*Sources: stlcorona.com; nytimes.com; stlcorona.com; March 17, 2021*).

<sup>8</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. 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.

<sup>9</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.

The number of COVID-positive patients hospitalized across St. Louis area hospitals has similarly leveled off since early March. On Tuesday, April 27, the Task Force reported that the seven-day average total number of COVID-positive patients in Task Force hospitals was 224, approximately in line with the 208 reported a week prior (on April 20) and 229 two weeks earlier (on April 13). *(Source: St. Louis Metropolitan Pandemic Task Force Facebook page, April 27, 2021).*

As of April 24, St. Louis area hospitals were operating at approximately 82% staffed in-patient bed capacity and 83% staffed ICU bed capacity. *(Source: showmestrong.mo.gov, April 27, 2021).*

Deaths due to COVID-19 across St. Louis area hospitals have also plateaued recently, after steadily declining since December. On Tuesday, April 27, the Task Force reported a seven-day moving average of 3 deaths per day due to COVID-19 in Task Force hospitals. That is the same as the average of 3 deaths per day reported a week prior (on April 20) and two weeks earlier (on April 13). The average was above 20 in December. *(Source: St. Louis Metropolitan Task Force Facebook page, April 27, 2021).*

Members of the St. Louis Metropolitan Pandemic Task Force claim that the metro area has made strides in controlling the spread of the coronavirus, but relaxing precautions too soon could cause a setback. Dr. Alex Garza, the Task Force's leader, urged residents to continue taking precautions, even in the face of an "understandable temptation" to let up. *(Source: St. Louis Post-Dispatch, April 24, 2021).*

Hospital admissions have been steady since early March, while the pace of vaccinations has slowed recently, causing experts to worry. "Unfortunately we're still seeing people getting sick and being admitted to our hospitals, for what is almost entirely a preventable disease," Garza said. "In a pandemic," Garza said, "virtually everyone either gets vaccinated or gets the virus." "It's becoming more challenging, now, to get people into the clinics to get vaccinated," Garza said. *(Source: St. Louis Post-Dispatch, April 24, 2021).*

Chief Clinical Officer for BJC HealthCare, Dr. Clay Dunagan, said that there has been a "sudden and abrupt" decrease in the number of vaccination appointments at the health systems' large-scale clinics. But, he added, some residents may be getting doses at other places, like pharmacies or the mass vaccination site at The Dome at America's Center. *(Source: St. Louis Post-Dispatch, April 24, 2021).*

“Looking at our data, I think one thing is very clear: that the vaccines are nearly 100% effective in preventing serious illness and death from the virus,” Garza said. (Source: *St. Louis Post-Dispatch*, April 24, 2021).

## 6. Missouri:

Missouri's seven-day moving average number of new COVID-19 cases has declined over the past few weeks. On Tuesday, April 27, the state reported 321 new confirmed and probable cases, making the seven-day average 496.<sup>10</sup> The seven-day average is down from 507 reported a week earlier (on April 20) and 609 reported two weeks prior (on April 13). Since the start of the pandemic, Missouri has reported 581,643 confirmed and probable cases.<sup>11</sup> (Sources: *showmestrong.mo.gov* and *St. Louis Post-Dispatch*, April 27, 2021).

Deaths in Missouri due to COVID-19 continue to trend downward since peaking in December.<sup>12</sup> For the week starting April 18, Missouri reported 1 death. For the week starting April 11, Missouri reported 12 deaths. For the week of April 4, Missouri reported 21 deaths. For the week of March 28, Missouri reported 29 deaths. (For the week of March 21, the state reported 46 deaths, and for the week before that, 40 deaths.) Missouri has recorded 8,695 deaths due to COVID-19 since the start of the pandemic. (Source: *St. Louis Post-Dispatch*, April 27, 2021).

The number of patients in Missouri who are hospitalized with COVID-19 has decreased significantly since the start of 2021, but the curve has flattened out over the past few weeks. As of April 24, Missouri had 753 patients hospitalized with confirmed or suspected COVID-19, making the seven-day moving average 756. A week earlier (on April 17), the seven-day average was 774. A week before that (on April 10), the average was 775. [On March 1, the average was 1,102. On Jan 1, the average was 2,704.] (Source: *showmestrong.mo.gov*, April 27, 2021).

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<sup>10</sup> This data lags 3 days to ensure accuracy. A positive PCR test is a confirmed case. A positive antigen test is a probable case.

<sup>11</sup> On Saturday, April 17, the Missouri Department of Health and Senior Services reported a database error that was causing individuals with both a positive PCR and antigen result to be counted as both a probable and confirmed case. This correction removed 11,454 cases that were counted twice, according to the department. (Source: *St. Louis Post-Dispatch*, April 22, 2021).

<sup>12</sup> The most recent weeks likely undercount the number of deaths because deaths are often reported in batches and with a delay. Therefore, the most recent numbers reported here are likely to increase over time.

On Tuesday, April 27, Missouri reported a seven-day average positivity rate of 4.8%, essentially the same as the 4.6% reported the previous week. These averages reflect the positivity rate for confirmed cases (PCR test results only) and are calculated using the CDC method. The positivity rate for antigen tests is 4.9%, unchanged from the previous week. (*Source: showmestrong.mo.gov, April 27, 2021*).

As of April 18, the transmission rate for Missouri is 1.01.<sup>13</sup> That is essentially the same as the rate of 1.02 a week earlier (on April 11). (*Source: covidactnow.org, April 27, 2021*).

Missouri hospitals are operating at 76% staffed in-patient bed capacity and 76% staffed ICU bed capacity. (*Source: showmestrong.mo.gov, April 27, 2021*).

Through Thursday, April 22<sup>nd</sup>, 2,261,816 people statewide—i.e., 36.9% of the population—were reported to have received at least one dose of the vaccine. 26.5% of the population is completely vaccinated. (*Source: showmestrong.mo.gov, April 27, 2021*).

Missouri compares favorably to other states in the U.S. when it comes to the number of new COVID-19 cases reported over the past week. Missouri is tied for the 10<sup>th</sup> lowest number of cases per capita over the last seven days, with 10 cases per 100,000 people. [Michigan has the most with 51 cases per 100,000; California, Oklahoma, Arkansas and Hawaii have the lowest with 6.] (*Source: nytimes.com, April 27, 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 38<sup>th</sup> among the states, with 37% of the population having received at least one shot. [The national average is 42%; the state of New Hampshire ranks first, at a rate of 60%; Mississippi ranks last with 30%.] (*Source: nytimes.com, April 27, 2021*).

Missouri is resuming the use of the Johnson & Johnson vaccine after a CDC advisory committee determined its benefits vastly outweigh the risk of rare but serious blood clots. The state said providers with the J&J vaccine in stock can immediately begin administering it. Shipments from the federal government will

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<sup>13</sup> 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 1.00 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.

resume next week. Before the vaccine was paused for 11 days, approximately 105,000 doses had been administered in Missouri. (*Source: fox2now.com, April 26, 2021*).

### **7. St. Louis County Executive Action:**

St. Louis County officials issued three public health orders that 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 third amended isolation and quarantine order (which imposed directives to those infected by or exposed to the virus). (*Source: stlcorona.com, April 27, 2021*).

These public health orders have been amended several times as transmission of the coronavirus has reduced significantly since November of last year and vaccines have become more widely available.

The most recent amendment to the County’s public health orders came on April 21, 2021, when the Quarantine and Isolation Order was amended a sixth time. The amended order includes updated isolation and quarantine protocols for vaccinated and recently infected residents. (*Sources: stlcorona.com, April 27, 2021*).

### **8. Other considerations:**

The number of new COVID-19 cases across the United States has trended downward since mid-April. On Monday, April 26, the seven-day moving average number of new cases in the U.S. was 55,186. A week before that (on April 19), the average was 66,813 new cases per day. Two weeks prior (on April 12), the average was 67,763 new cases per day. Since the start of the pandemic, the U.S. has recorded approximately 31.9 million cases. (*Source: CDC.gov, April 27, 2021*).

New deaths due to COVID-19 in the U.S. are also trending downward. On Monday, April 26, the seven-day moving average was 666 deaths per day. A week before that (on April 19), the average was 682 deaths per day. And two weeks prior (on April 12), the average was also 708. The U.S. has recorded 569,771 deaths due to COVID-19 since the start of the pandemic. (*Source: CDC.gov, April 27, 2021*).

Approximately 43% of U.S. residents have received at least one dose of the vaccine; 29% have been fully vaccinated. *(Source: nytimes.com, April 27, 2021).*

On Tuesday, April 27, the CDC eased its guidelines on wearing face coverings outdoors. Fully vaccinated Americans no longer need to wear masks outdoors unless they are in a big crowd. Previously, the CDC had advised Americans to wear masks outdoors if they are within 6 feet of one another. *(Source: St. Louis Post-Dispatch, April 27, 2021).*

“Today, I hope, is a day when we can take another step back to the normalcy of before,” said CDC Director, Dr. Rochelle Walensky. “Over the past year, we have spent a lot of time telling Americans what you can’t do. Today, I am going to tell you some of the things you can do, if you are fully vaccinated.” *(Source: St. Louis Post-Dispatch, April 27, 2021).*

For those still not fully vaccinated, the CDC still advises continuing to wear masks at outdoor gatherings which include other unvaccinated people. Those who are not fully vaccinated should also keep wearing masks at outdoor restaurants. *(Source: St. Louis Post-Dispatch, April 27, 2021).*

The CDC still recommends that everyone, vaccinated or not, continue to wear face coverings at indoor public places, as well as large outdoor gatherings like concerts and sporting events. *(Source: St. Louis Post-Dispatch, April 27, 2021).*

Dr. Fauci, the White House Chief Medical Advisor and a leading infectious disease expert, said that the risk of infection outdoors for vaccinated individuals is “minuscule.” “I think it’s pretty common sense now that outdoor risk is really, really quite low” for vaccinated people, Dr. Fauci said. *(Source: nytimes.com, April 27, 2021).*

A growing amount of research indicates that the risk of spreading the virus is far lower outdoors than indoors. Experts say that a brief encounter with a passing walker or jogger poses very little risk of transmission because viral particles disperse quickly outdoors. “That biker who whizzes by without a mask poses no danger to us, at least from a respiratory virus perspective,” Dr. Paul Sax, an infectious disease specialist at Brigham and Women’s Hospital wrote in a medical journal blog post. *(Source: nytimes.com, April 27, 2021).*

Still, it is possible to transmit the virus outdoors. “It does happen: You can get infected outdoors,” said Dr. Nooshin Razani, an associate professor of epidemiology and biostatistics at the University of California, San Francisco. “It usually has to do with how long you’re with someone and how often you see them, and if you’re wearing a mask and if you’re close to each other.” *(Source: nytimes.com, April 27, 2021).*

Worldwide news of the virus continues to be very concerning. An extremely infectious variant of the virus is spreading rapidly in India, which recorded more than 300,000 new cases on Tuesday, April 27, for the sixth consecutive day. *(Source: nytimes.com, April 27, 2021).*

Scientists are concerned that the spike in India is due in part to the emergence of a variant known as the “double mutant,” B.1.617, because it contains mutations found in two other troublesome variants. One mutation was present in the highly contagious variant that spread through California earlier this year. The other mutation is similar to one found in the variant dominant in South Africa and is believed to make the virus more resistant to vaccines. *(Source: nytimes.com, April 27, 2021).*

## **IN CONCLUSION**

The number of COVID cases in this community have plateaued – which is of great concern to infectious disease experts. They have warned that these numbers will increase if the public continues to let down their guard. (This concern holds true for everyone, including vaccinated individuals...) Many people, suffering from pandemic fatigue, have failed to heed the simple demands of masking and social distancing. Many have also not taken advantage of the opportunity to be vaccinated.

Courthouse staff members are all expected to have had their necessary shots by the end of this week. Thus, they will have the opportunity to be fully vaccinated by mid-May.

Jury trials have begun in St. Louis County on April 12, after a thirteen-month hiatus. The St. Louis County Department of Public Health supports the court's measured commencement of jury trials, as presented in the court's Administrative Order No. 21-7. While in Phase Two, defendants who are confined at the Jail will be brought to the Courthouse for trial, but only at the rate of two jury trials at any given time.

Discussions have begun for planning for Phase Three...

**After the aforementioned consultation and consideration, the 21st Judicial Circuit will remain in Operating Phase Two on April 30, 2021.** The Court's phase status will continue to be reviewed weekly on an ongoing basis.  
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Michael D. Burton, Presiding Judge of the 21st Circuit Court  
St. Louis County, Missouri  
April 30, 2021

**SO ORDERED:**



Presiding Judge

Div. 16

*(Continued)*

## **WHAT DOES PHASE TWO ALLOW BEYOND WHAT PHASE ONE ALLOWED?**

According to the Missouri Supreme Court's May 4, 2020 Operational Directives (which were ultimately modified on July 24, 2020 and March 26, 2021), during Phase One, most in-person proceedings must be suspended, with very few designated exceptions. Only the "most critical in-person proceedings could occur." The Supreme Court ultimately made it clear to presiding judges that Phase One does not allow for any jury trial exceptions whatsoever.

The Court did not suspend court operations even during Phase Zero; it simply indicated that proceedings continue, but through video conferencing and other means. That is still the case for most proceedings during Phase Two.

Court operations during Phase Two do not significantly change from those permitted in Phase One. Increased in-person proceedings, including the "most extraordinary, pressing and urgent ... petit jury proceedings" can additionally be heard. Through its various administrative orders, including AO Nos. 20-54 and 21-7, certain criminal cases have been deemed to be "extraordinary, pressing and urgent" and ready for trial shortly after the Circuit enters into Phase Two. These all involve confined defendants, many of whom have filed motions for speedy trials.

According to the Operational Directives, these aforementioned prioritized criminal trials can only be heard during Phase Two "where they can safely be conducted in compliance with social distancing protocols and occupancy rate limitations applicable to the local community." Occupancy rates in courtrooms, jury assembly rooms, jury deliberation rooms, break rooms and other court areas must be 25 people or less, whenever possible.

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.