

CIRCUIT COURT PHASE ANNOUNCEMENT – 09/03/20

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

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

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

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

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

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

1. Courthouse Staff: No new cases of COVID-19 were reported among Courthouse staff during the past week.

2. DJS Jail and Detention Staff: Two cases of COVID-19 were reported among the Department of Justice Center Jail staff during the last week of August. (Source: St. Louis County Department of Public Health, August 31, 2020).

3. DJS Jail and Detention Residents: Three new positive Buzz Westfall Justice Center patients were identified during the last test cycle. All patients were newly admitted to BWJC, with one presenting at intake with COVID-like symptoms; this represents the first COVID-positive patient outside of the asymptomatic trend thus far. No new juveniles in the Detention Center have tested positive for COVID-19 since August 10, 2020. (Source: St. Louis County Department of Public Health, August 24, 2020).

4. St. Louis Region: Over the week of August 26 - September 1, the St. Louis metro area has averaged about 550 new cases per day. That is an increase of approximately 27 (5.2%) from the week prior. (Source: St. Louis Public Radio, 9.2.20).

On Tuesday September 1, 2020, the St. Louis Metropolitan Pandemic Task Force reported 33 new hospital admissions and seven-day moving average of 43. New hospital admissions due to COVID-19 in the St. Louis area have hovered around 40 per day for the last month, except for a spike of 71 on Wednesday, August 28th. The task force lead, Dr. Alex Garza, has said that anything above 40 is concerning to public health officials. New admissions data lags two days to help ensure accuracy. These numbers are collected from a collaboration of healthcare systems in the St. Louis region that includes BJC HealthCare, SSM Health, Mercy and St. Luke's Hospital. (Source: St. Louis Post-Dispatch, 9.2.20).

The transmission rate, R_0 , in the St. Louis area is 0.95. A transmission rate below one means spread of the virus in the community is being slowed. (Source: KSDK.com, 8.31.20).

Illinois Gov. J.B. Pritzker announced a ban on indoor service at bars and restaurants in the Metro East area, effective Wednesday September 2, 2020, due to the continued high rate of infection. (Source: St. Louis Post-Dispatch, 9.4.20).

5. St. Louis County: On Sunday August 30, 2020, St. Louis County reported 207 new COVID-19 cases for a total of 19,278 since the pandemic began. (Source: St. Louis Post-Dispatch, 8.31.20).

There have been 736 deaths in St. Louis County since the start of the pandemic. St. Louis County accounts for approximately 22% of Missouri's 85,755 cases and about 48% of Missouri's 1,538 deaths. (Source: Missouri Department of Health and Senior Services, 9.2.20).

On Sunday August 30, 2020, St. Louis County's average rate of positive tests for the past week was 8.6%, an increase from 8.0% the week before that. (Source: St. Louis County Department of Public Health, 8.31.20).

6. Missouri: On Saturday August 29, 2020, Missouri reported its worst daily total for deaths from COVID-19 since mid-June with 32 deaths. (Source: St. Louis Post-Dispatch, 8.29.20). (Source: Missouri Department of Health and Senior Services, 8.31.20).

On Sunday August 30, 2020, Missouri reported more than 1,400 new cases of COVID-19 for a fourth time in a week. (Source: St. Louis Post-Dispatch, 8.31.20).

On Sunday August 30, 2020, Missouri's seven-day average of percent positive tests was 12.5%. This marked the 5th day in a row that the average was above 12%. (Source: St. Louis Post-Dispatch, 8.31.20). 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, 8.31.20). Percent positive is a "critical measure" because it gives insight into how widespread the infection is in the community and whether levels of testing are keeping up with levels of COVID-19 transmission.

The rolling seven-day average number of new COVID-19 cases per day in Missouri spiked during the month of July. At the beginning of July, the average was around 400 new cases per day. Near the end of the July, the average peaked at 1,600 new cases per day. The average then decreased, and by August 8th, the average had dipped below 900. By August 17, however, that trend had reversed, and the rolling average increased to 1,238 new cases per day. Since then, the average has stayed in the 1,000 to 1,300 range. First, it trended downward and hit 1,031 new

cases per day on August 25, 2020. In the past week, however, the average has trended back up and hit 1,250 new cases per day on August 31, 2020. (Sources: St. Louis Post-Dispatch citing the Missouri Department of Health and Senior Services, 8.31.20).

As of August 30, 2020, the transmission rate, R_0 , for Missouri is 1.04. This number measures the average number of people who become sick from an infectious person. An R_0 value of 1.0 means each case causes on average, one new case. If the value is less than one, the spread of the disease is slowing. The higher the R_0 number, the worse the spread. (Source: Statista, 8.31.20).

7. St. Louis County and St. Louis City Executive Orders: On Monday, Aug. 31, 2020, St. Louis County Executive Sam Page reported 75 cases of COVID-19 among students and staff at private and public schools in St. Louis County that reopened August 24, 2020.

In public schools, which are largely teaching virtually, most COVID-19 cases have been among staff, Page said. There have been 26 cases among staff, and seven among students. In independent schools, which are largely teaching in person, cases have been primarily among students. There have been 39 student cases, and three cases among staff.

During a briefing Monday, Dr. Garza said it will take another week or so before the region's COVID-19 data reflect the full impact of schools starting. "If those schools that started in person have all those mitigation strategies in place, and they follow them very strictly, then we would hopefully not see a large increase," Garza said.

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

8. Additional Supportive Information: Without significant changes in behavior, such as residents across the St. Louis area consistently wearing masks, the numbers of new COVID-19 cases are unlikely to decline, according to Dr. Garza.

"People are still getting sick, they're still being admitted to the hospital, and unfortunately they're still dying from this virus," he warned. "It's up to us to determine our future, and your actions today directly affect the health of your neighbors, and your friends and your loved ones." The Task Force recommends wearing masks in public and not gathering in large crowds. (*Sources: St. Louis Post-Dispatch and KSDK.com, August 25, 2020*).

Accordingly, after the aforementioned consultation and consideration, the 21st Judicial Circuit will remain in Operating Phase Zero on September 4, 2020. The Court's phase status will continue to be reviewed on an ongoing basis.

Mary Elizabeth Ott, Assistant Presiding Judge, and Acting Presiding Judge
of the 21st Circuit
St. Louis County, Missouri
September 4, 2020

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WHAT DOES PHASE ZERO ALLOW?

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

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

The St. Louis County Courthouse is not closed to the public. People may come into the building to file pleadings, motions and responses. Petitioners may enter

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

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

c. Proceedings pursuant to chapter 453 pertaining to adoption;

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

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

f. Proceedings related to emergency child custody orders;

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

h. Proceedings related to emergency mental health orders;

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

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

k. Oral arguments regarding time-sensitive matters; and

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

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.

SO ORDERED:

A handwritten signature in blue ink, appearing to read "A. M. [unclear] [unclear]".

Judge

Division 7

September 03, 2020