



**SECOND JUDICIAL DISTRICT, STATE OF COLORADO
DENVER COUNTY**

**THIRD AMENDED)
ADMINISTRATIVE ORDER) 2020-04
REGARDING COURT OPERATIONS)
UNDER COVID-19 AND)
SUSPENSION OF JURY TRIALS)**

Since early this year, our country, our state and our community have struggled in the face of the unrelenting Novel Coronavirus (COVID-19). Virtually every segment of our society has been impacted by this terrible disease. Across our nation, the COVID-19 pandemic has exacted a heavy toll on businesses in the private sector and governmental entities. Colorado’s courts are not insulated from the impact of this virus and have necessarily adjusted our operations to provide the essential governmental services we are constitutionally required to, while striking a balance between fulfilling our responsibilities and promoting public safety. While it has not always been easy, we have successfully managed to accomplish much of our essential work under these trying circumstances. Despite our collective best efforts, the COVID-19 pandemic marches on.

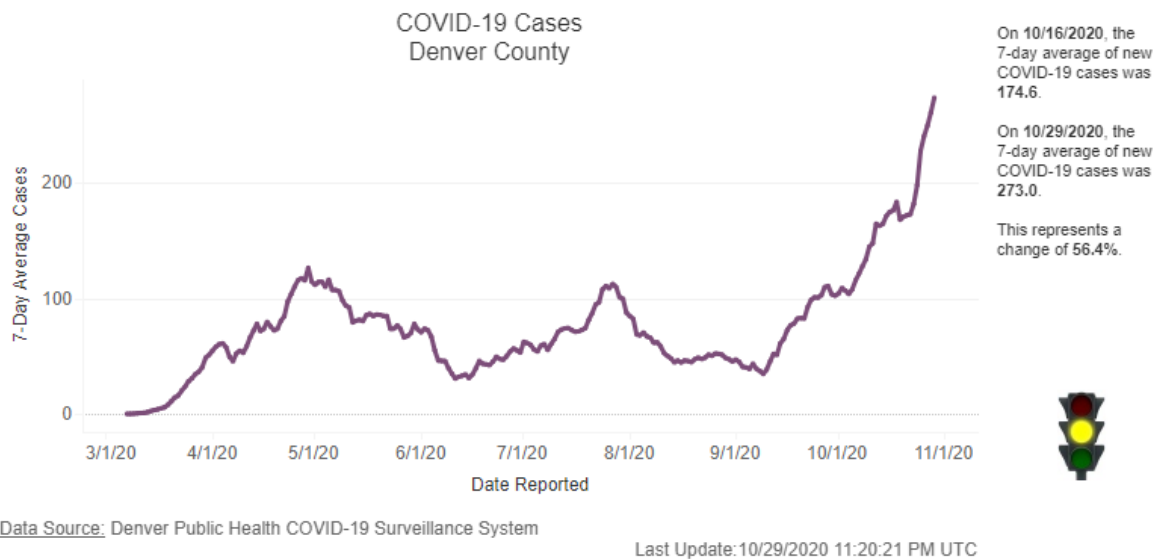
On July 24, 2020, Chief Justice Coats issued Updated Order Regarding COVID-19 and Operations of State Courts removing the requirement that Chief Judges obtain a waiver from him to resume conducting jury trials after August 2, 2020, provided the Chief Judge of the district determined that a jury pool can safely be assembled consistent with applicable executive orders and health directives. In recent days, certain key indicators maintained by the Colorado Department of Public Health and Environment (CDPHE) have shown that this virus is persistent and is spreading in our community at an increasing rate. This Order is issued to provide guidance to summoned jurors, attorneys, litigants, and all others associated with any jury trials in the Second Judicial District in light of the ongoing public health risk posed by the COVID-19 virus.

Much has been undertaken in an effort to combat the COVID-19 pandemic. To wit:

- **On March 16, 2020** Chief Justice Coats of the Colorado Supreme Court issued an order modifying court operations in response to concerns related to the Novel Coronavirus (“COVID-19”) pandemic. This order suspended all jury calls, excepting those with constitutional speedy trial deadlines, and limiting proceedings to only those deemed essential to matters of public safety and wellbeing.
- **On March 27, 2020** Public Health Order 20-24 issued by the Colorado Department of Public Health and Environment (CDPHE) implemented Stay at Home requirements for all Coloradans pursuant to Executive Order D 2020 017.
- **On April 17, 2020 the Court issued Administrative Order 2020-04** finding that jurors would not be assembled in the Second Judicial District amidst the unprecedented circumstances and growing public health concerns related to COVID-19. This determination was made after careful consideration of state and local public health orders outlining the necessity to implement social distancing, requiring the incorporation of face coverings, placing limitations on gathering sizes, and instituting Stay-At-Home mandates issued by Mayor Hancock and Governor Polis. While the Court is defined as a critical government function, and thereby exempted from certain requirements related to gathering sizes and operational capacities, the determination was made that jury pools could not be assembled in a fashion compliant with the existing public health guidelines.
- **Administrative Order 2020-04 was amended and extended on May 6, 2020 and again on June 15, 2020** with the directive that no jurors would be summoned to report for jury service before August 3, 2020 subject to waiver from the Chief Justice.
- **On April 26, 2020 Executive Order D 2020 044 issued by Governor Polis outlined transition plans for the state from a Stay-At-Home Order to Safer-At-Home model**, reducing restrictions and allowing for limited business operations to reopen under strict compliance with public health orders. The order notes “While we have seen indications that our efforts to ‘flatten the curve’ are working, transmission of the virus continues to threaten Coloradans’ way of life and livelihoods” and defines ongoing requirements for social distancing, limited operations, and ongoing stay at home directives for vulnerable individuals.
- **On June 1, 2020 Governor Polis issued Executive Order D 2020 091 Safer-At-Home and in the Vast, Great Outdoors** allowing for further lessening of restrictions and reopening of limited recreational activities.

- During the suspension of jury calls, the Second Judicial District engaged in extensive planning efforts to drastically modify the format and process by which jurors are summoned and assembled to ensure this could be done safely and in comport with public health guidelines. New trial procedures have incorporated several new protective protocols and safety measures to reduce the risk of virus transmission, as well as stage and relocate proceedings to larger spaces to allow for adequate social distancing. **These procedures were adopted on August 2, 2020 in 2020-08 “Chief Judge Order Regarding Second Judicial District Jury Call and Trial Procedures in Response to the COVID-19 Pandemic.”** This plan was implemented in a phased approach; beginning with only two trials during the duration of Phase I, and slowly increasing trial capacity while monitoring ongoing public health guidance, and with the commitment to monitor the community status of COVID-19 throughout. To date, the Second Judicial District is in Phase III of CJO 2020-08. We have successfully convened and completed 28 jury trials in District Court, 9 trials in County Court, and 3 trials in Juvenile Court.
- **Effective September 15, 2020 Colorado moved to a dial framework for individual county guidance to include five levels; Protect Our Neighbors (outlined in CDPHE Public Health Order 20-32), Safer at Home Levels 1-3, and Stay-At-Home.** Safer-At Home guidelines are further established under CDPHE Public Health Order 20-35 (as amended October 27, 2020) and were adopted by the Denver Department of Public Health and Environment (DDPHE) on September 18, 2020. PHO 20-35 identifies three levels under Safer-At-Home, including Safer-At-Home Level 1 (Cautious), Level 2 (Concern) and Level 3 (High Risk). Each of these levels outline associated public health guidelines and restrictions. Determination on county status in these levels is based on three data metrics: new COVID-19 cases over a two-week period (per 100,000 people), testing positivity rate, and impact on hospitalizations.
- As detailed in a letter from CDPHE to Mayor Hancock and DDPHE, **it was requested on October 8, 2020 that Denver County implement additional restrictive measures and mitigation planning**, noting that the county’s indicators exceeded the Safer at Home Dial Level 2 threshold; with a two-week cumulative incidence rate of 200.48/100,000 people, 4.01% positivity rate, and two-week COVID-19 new case count of 1,462.
- **On October 16, 2020** Mayor Hancock issued amended public health orders and restrictions in response, referencing a surge in Denver’s two-week cumulative incident rate increasing from 119.1 (per 100,000 persons) on September 18, 2020 to 249 on October 13, 2020. Additionally, Denver’s 7 day moving average of COVID-19 cases increased from 82.6 to 143 between September 18 and October 13, 2020. These public health orders implemented additional face covering guidelines and further restricted the number of individuals at public or private gatherings.

- **Subsequent to these increased restrictions, CDPHE moved the City and County of Denver to a more restrictive level in CDPHE Public Health Order 20-35 Safer at Home Dial Level 3. This was announced by Mayor Hancock on October 27, 2020 with full implementation to be completed by October 28, 2020.** This move was determined based on the severity of metric increases; noting a two-week cumulative incidence rate of 384.65/100,000 people, a 7.03% positivity rate, and a two-week COVID-19 new case count of 2,805.
- Data from the Denver Public Health COVID-19 Surveillance System shows that as of October 29, 2020 the 7-day average of new COVID-19 cases increased to 273, representing a 56.4% change from October 16, 2020.



- While the Court is defined as a critical government function and remains exempt from certain public health order elements and capacity guidelines, the trajectory of the data causes concern and establishes the need for the Court to review how operations, specifically the convening of jurors in group settings, should proceed amidst these newly defined public health levels.

Notwithstanding these substantial modifications to public health guidelines and local executive orders, the Coronavirus pandemic continues to pose a serious threat to the health and safety of persons participating in jury trials in the Second Judicial District courthouses. The decision to suspend the summoning of jurors to our courts is not one undertaken lightly. The right to a jury trial in criminal cases is fundamental and guaranteed by the United States and Colorado constitutions, and it has been of paramount importance to the judges in this district, including Denver County Court, to resume and conduct jury trials in criminal and civil cases only when we believed it was safe to do so. However, due to the ongoing public health issues related to the COVID-19 pandemic, it is inappropriate at this time for

the courts of the 2nd Judicial District to continue hearing jury trials.

Pursuant to the authority granted in Chief Justice Directive 95-01 and Chief Justice Order dated July 24, 2020, it is hereby ORDERED as follows:

The Courts of the 2nd Judicial District (District Court, Probate Court, Juvenile Court, and County Court) hereby suspend the summoning of jurors for jury trials set through **December 31, 2020**. **No person will be summoned to report for jury service in this court before January 4, 2021**. This order is subject to review and revision in accordance with prevailing public health guidelines from the CDPHE and DDPHE.

Dated this 30th day of October, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Michael A. Martinez", written over a horizontal line.

MICHAEL A. MARTINEZ
Chief Judge, 2nd Judicial District