

## **CIRCUIT COURT PHASE ANNOUNCEMENT – 08/06/20**

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 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 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:** On July 29, 2020, a Court employee was hospitalized for COVID-related symptoms and died shortly thereafter. The Department of Public Health has been contacted for contact tracing. Cleaning and disinfecting of areas where the employee had contact is being done. Staff members who have had exposure to the employee are now quarantined.

On August 3, 2020, a Court employee, who was asymptomatic, received a positive test result. This employee had been at work in the Courthouse until August 3, 2020. The employee is currently on a 14-day quarantine. All fellow employees in the department where the employee works are now working from home after having been tested. Half of the test results have already been received: all are negative.

2. **DJS Jail and Detention Staff:** The last positive result from any employee of the Department of Justice Services or the St. Louis County Detention Center was on July 16, 2020.

3. **DJS Jail and Detention Residents:** As of August 3, 2020, the DJS Jail population of COVID-19 positive patients had grown to 22 residents, with 17 new cases in July. As the DPH Chief Operating Officer indicated, this growth “seemingly aligned with the trends of our community.” These inmates were all new to the facility and asymptomatic. All of these inmates had been quarantined and remain as such.

On July 27, 2020, one youth in the St. Louis County Juvenile Detention facility tested positive for COVID-19. (The youth is present in the facility as a courtesy hold for the Division of Youth Services.) The youth is currently isolated, as the Detention’s COVID protocols mandate.

4. **St. Louis County Community:** In St. Louis County, the average number of new COVID-19 cases increased by 102 percent between July 2, 2020 (109.3 new cases per day) and July 15, 2020 (220.6 new cases per day). (*Source: St. Louis County Department of Public Health, July 28, 2020*).

As of Tuesday July 28, 2020, four of St. Louis County’s five highest single-day case counts had come in the last week. (*Source: St. Louis Post-Dispatch, July 28, 2020*).

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St. Louis County has had the most COVID-19 cases and deaths of any county in Missouri. As of Wednesday August 5, 2020, the total number of known cases in the County had reached 13,478. There have been 647 deaths in St. Louis County since the start of the pandemic. St. Louis County accounts for approximately 25% of Missouri's 54,080 cases and more than half of Missouri's 1,266 deaths.

To help put these numbers into context, St. Louis County has less than one-sixth of Missouri's population. (*Source: St. Louis Post-Dispatch, July 28, 2020*).

Dr. Alex Garza, Commander of the St. Louis Metropolitan Pandemic Task Force, said that hospital admissions due to COVID-19 are a lagging indicator of the spread of the virus in the region. New daily admissions often represent the spread of the virus that occurred during the previous weeks. On Tuesday, August 4, 2020, the task force reported a recent increase in daily hospital admissions. The task force said there were 55 new daily admissions on Sunday, which marked the second time the number topped 50 within the past week. The seven-day rolling average of daily hospital admissions has increased to 44, marking the highest seven-day rolling average in the St. Louis region since May 3. That average peaked at 58 on April 10 and then dropped to 14 in late June, before steadily increasing again through July. (*Source: St. Louis Post-Dispatch, August 5, 2020*).

"Any time ... that rolling seven-day admissions gets above 40, we know that that is in our red zone," said Garza. "That's when we start to be really concerned about the number of patients that are showing up in our healthcare systems."

"Local hospitals reported admissions of 39 new cases Wednesday (August 5, 2020) – a drop from 55 registered the day before." Nonetheless, "that total, along with others from recent days, reaches a level not seen since the early stages of the pandemic." (*Source: St. Louis Post-Dispatch, August 6, 2020*). "It builds on the narrative that we have too much virus circulating in our communities," said Garza. "We're far from out of the woods." (*Source: St. Louis Post-Dispatch, August 6, 2020*).

Dr. Garza also said the reproductive rate of the virus was greater than one throughout the St. Louis area. According to Dr. Garza: "This clearly shows that transmission is occurring throughout the metropolitan area. If it's urban, suburban, rural, (it) doesn't really matter." Garza warned that "[c]ases are spreading pretty much everywhere now." (*Source: KSDK.com, July 29, 2020*).

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5. **Missouri:** On Sunday August 2, 2020, Missouri had 582 new COVID-19 cases, the lowest number since a two-week window where the state broke its daily record of positive tests seven times since July 20. This new case number is similar to the level Missouri saw at the beginning of July. Missouri saw its daily positive test count peak on Thursday July 30th with 2,084 cases. Friday's 1,489 reported cases was the 11th consecutive day in which Missouri reported more than 1,000 positive tests. *(Source: St. Louis Post-Dispatch, August 3, 2020).*

On Tuesday August 4, 2020, the rolling average of new daily COVID-19 cases in Missouri fell for the fifth straight day. Following a sharp increase during the month of July, the seven-day average of new cases fell to 1,322, which is down from last Thursday's peak of 1,591. *(Source: St. Louis Post-Dispatch, August 5, 2020).*

On Saturday August 1, 2020, Gov. Parson indicated that Vice President Pence called him to offer resources to help Missouri fight COVID-19. Following the recent surge of cases, the White House's coronavirus task force added Missouri to a list of 21 states considered to be "red zone" states. The task force defines a "red zone" state as one with more than 100 new cases per 100,000 people in the past week ending on July 24. *(Sources: St. Louis Post-Dispatch, August 3, 2020; New York Times, July 28, 2020).*

6. **St. Louis County Executive Orders:** On July 27, 2020, St. Louis County Executive Dr. Sam Page announced seven new guidelines and restrictions to help stop the spread of COVID-19 in St. Louis County. Among the new restrictions announced: Gatherings in St. Louis County are limited to no more than 50 people; bars must close by 10 pm every night, and businesses' occupancy will be rolled back to 25 percent from 50 percent capacity (the level it was in June). The updated restrictions went into effect on Friday, July 31, 2020 and are expected to be in place for the next four weeks. *(Sources: St. Louis Post-Dispatch and KMOV.com, July 28, 2020).*

The St. Louis Metropolitan Pandemic Task Force was consulted and supports the new guidelines and restrictions. Task Force Commander Dr. Alex Garza said these decisions are not taken lightly, considering their impact on people's livelihoods, but St. Louis County "must take these steps if we want to flatten the curve, get our kids back playing sports and in school full-time, as well as keep everyone safe and healthy." *(Sources: St. Louis Post-Dispatch and KMOV.com, July 28, 2020).*

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**7. Additional Supportive Information:** “Six more school systems across St. Louis (Clayton, Parkway, Pattonville and Webster Groves districts in St. Louis County; KIPP and Lift for Life charter schools in St. Louis City) on Wednesday joined the growing list of area districts that will start the school year with virtual instruction.” They will offer online-only classes for the first quarter of the 2020-2021 year. Other districts that have moved to an all-virtual start to the 2020-2021 school year include Affton, Ferguson-Florissant, Hazelwood, Kirkwood, Maplewood-Richmond Heights and Ritenour. St. Louis Public Schools also is expected to start primarily online. *(Source: St. Louis Post-Dispatch, July 30, 2020).*

On Wednesday July 30, 2020, three more school districts in St. Louis County joined a growing number of area school districts that are planning to start the school year with remote learning. The next day, the St. Louis County Health Department recommended that schools rely on remote learning to start the school year. *(Source: St. Louis Post-Dispatch, July 30-31, 2020).*

**Accordingly, after the aforementioned consultation and consideration, the 21<sup>st</sup> Judicial Circuit will remain in Operating Phase Zero on August 6, 2020.** The Court’s phase status will continue to be reviewed on an ongoing basis.

Michael D. Burton, Presiding Judge of the 21<sup>st</sup> Circuit  
St. Louis County, Missouri  
August 6, 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.<sup>1</sup>

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 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.

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<sup>1</sup> 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.