

District Court, Weld County, State of Colorado Court Address: 901 9 th Avenue, Greeley, CO 80631 Mailing Address: P.O. Box 2038, Greeley, CO 80632-2038	<div data-bbox="1015 457 1367 489" data-label="Section-Header"> <p>▲ COURT USE ONLY ▲</p> </div> <div data-bbox="966 506 1347 581" data-label="Text"> <p>Case Number: 2021 CV 01 Division 1</p> </div>
<div data-bbox="251 422 876 539" data-label="Section-Header"> <p>AMENDED ADMINISTRATIVE ORDER NO. 2021-03 <i>(Amended June 4, 2021)</i></p> </div>	
<div data-bbox="222 676 1383 751" data-label="Section-Header"> <p>ADMINISTRATIVE ORDER REGARDING CONDUCTING JURY TRIALS IN THE 19TH JUDICIAL DISTRICT</p> </div>	

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 to resume and conduct jury trials in criminal and civil cases only when we believed it was safe to do so. Due to serious public health issues related to the COVID-19 pandemic, jury trials throughout the state of Colorado were suspended by the order of then Colorado Supreme Chief Justice Nathan B. Coats dated April 16, 2020, and as extended by the Chief Justice's orders of May 5, 2020 and June 15, 2020, which precluded any person from being summoned to state courts to assemble for jury service to begin any time prior to August 3, 2020, subject to waiver by Chief Justice Coats.

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.

On July 30, 2020, I issued *Administrative Order 2020-17, Regarding Resuming, Scheduling, and Conducting Jury Trials* setting forth the 19th Judicial District's authorizing trials with six-person jury panels to commence in August 2020, with one jury trial held per week. I issued two amended versions of A.O. 2020-17, on September 8, 2020 and October 26, 2020. After conducting several jury trials in the county court, we expanded operations to include felony jury trials for a brief period before the coronavirus numbers began to skyrocket at an alarming rate. On November 6, 2020, I issued *Administrative Order 2020-20, Suspending Jury Calls in the 19th Judicial District Through*

January 19, 2021, based on the increasing coronavirus incidence rates in Weld County and nationwide. I issued amended A.O. 2020-20(B) on December 17, 2020, extending the suspension of jury calls until March 1, 2021.

On March 3, 2021, I issued *Administrative Order 2021-03, Resuming, Scheduling, and Conducting Jury Trials in the 19th Judicial District*. We resumed jury trials for cases involving six or seven-person jury panels on March 17, 2021, and we resumed felony jury trials on April 19, 2021.

The judges of the Nineteenth Judicial District have continued to meet regularly since I issued Administrative Order 2021-03 to evaluate local, state, and national health data, and discuss the procedures that were implemented to resume jury trials beginning in March 2021. We have considered information from the Centers for Disease Control and Prevention (“CDC”), the Colorado Department of Public Health and Environment (“CDPHE”), and the Weld County Department of Public Health and Environment (“WCDPHE”); information presented to the Chief Judges Council and individually to the undersigned by Dr. Eric France, Chief Medical Officer with CDPHE and members of the CDPHE team; information shared from local health departments in other Colorado counties; and the executive orders issued by Colorado Governor Jared Polis and public health orders issued by the director of the CDPHE.

After considering the information and recommendations from health experts and the advice and counsel of the members of our bench, I have determined that it is appropriate to revise Administrative Order 2021-03 pursuant to the provisions of this administrative order, effective immediately.

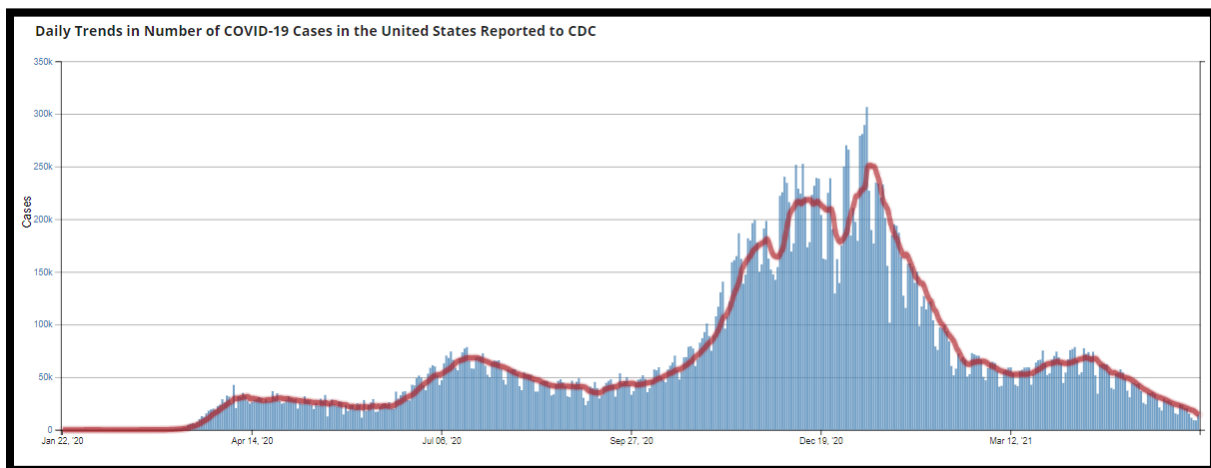
I. DATA FROM THE CDC, CDPHE, AND WCDPHE

It is important to consider the data regarding COVID-19, over the course of the pandemic, to determine whether we have reached the point when summoning an increased number of jurors may safely occur. We have now passed the one-year anniversary of the date COVID-19 was first detected in Eagle County, Colorado. I have considered information related to the original strain (“SARS-CoV-2” or “COVID-19”) and the new variants that have been identified globally and in the United States, and how these new variants may cause new and different health concerns from COVID-19. The information I have gathered from the CDC and included in this order can be found at the CDC website:

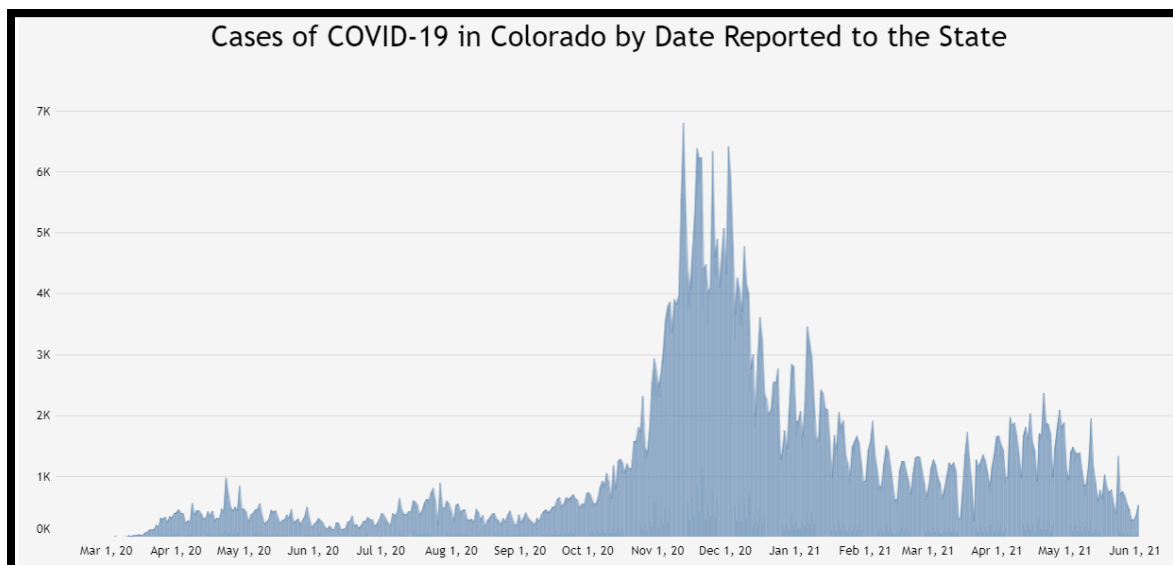
https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases

Data posted on the CDC website on July 29, 2020, just days before we resumed jury trials last summer, listed a total of 4,339,997 COVID-19 cases in the United States and 148,866 deaths. By October 24, 2020, the number had climbed to 8,469,976 COVID-19 cases nationally, with 441,644 new cases reported over a seven-day period between October 17-24, 2020. The nation-wide death toll had risen to 223,393 on October 24, 2020. On February 25, 2021, the total number of COVID-19 cases was at 28,138,938, with 503,587 deaths. On June 3, 2021, the total number of COVID-19 cases nationwide was 33,130,027 and there were 592,776 deaths.

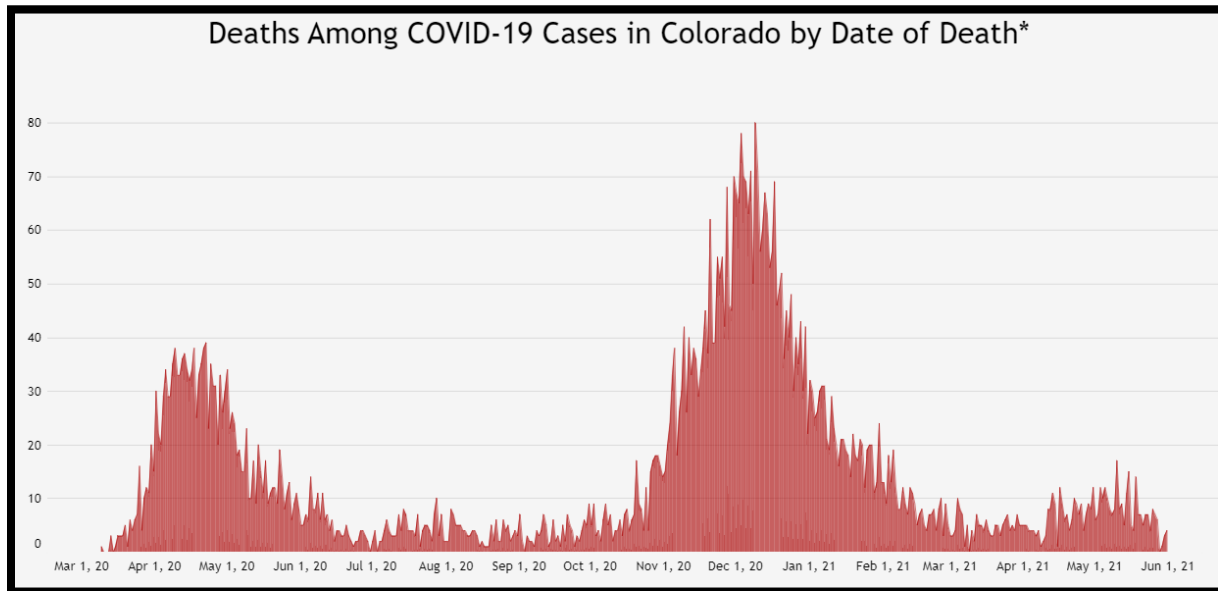
The graph below obtained from the CDC website provides the rate of new cases diagnosed nationally.



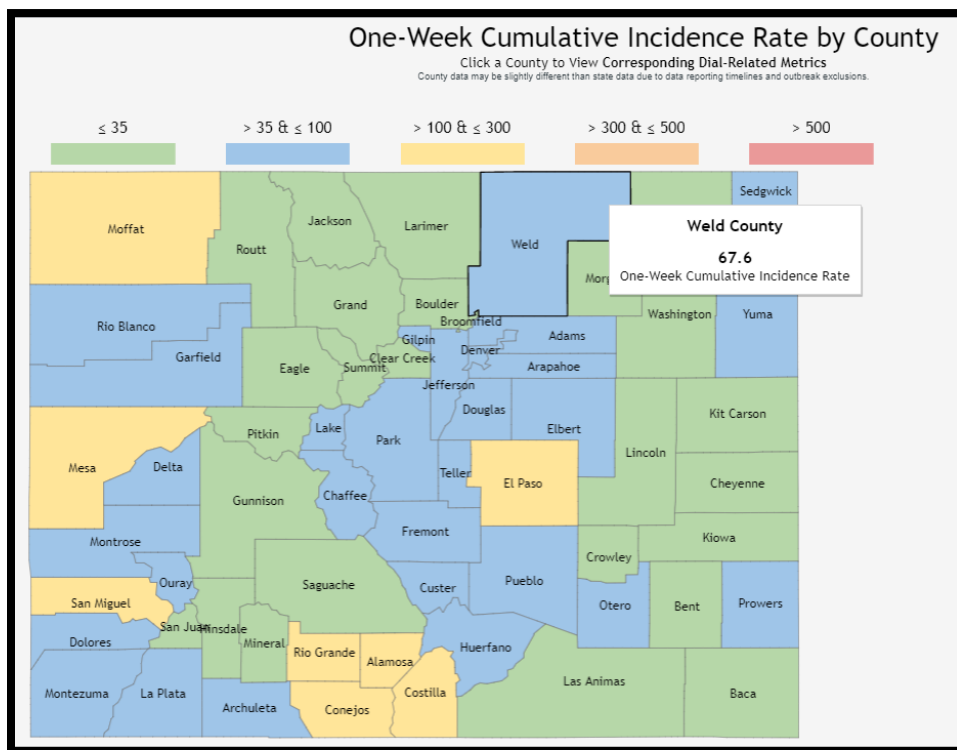
The CDPHE reports that there have been 545,002 cases of COVID-19 in Colorado and 32,710 in Weld County. The graph below shows the number of new COVID19 cases reported per day in Colorado since the pandemic began:



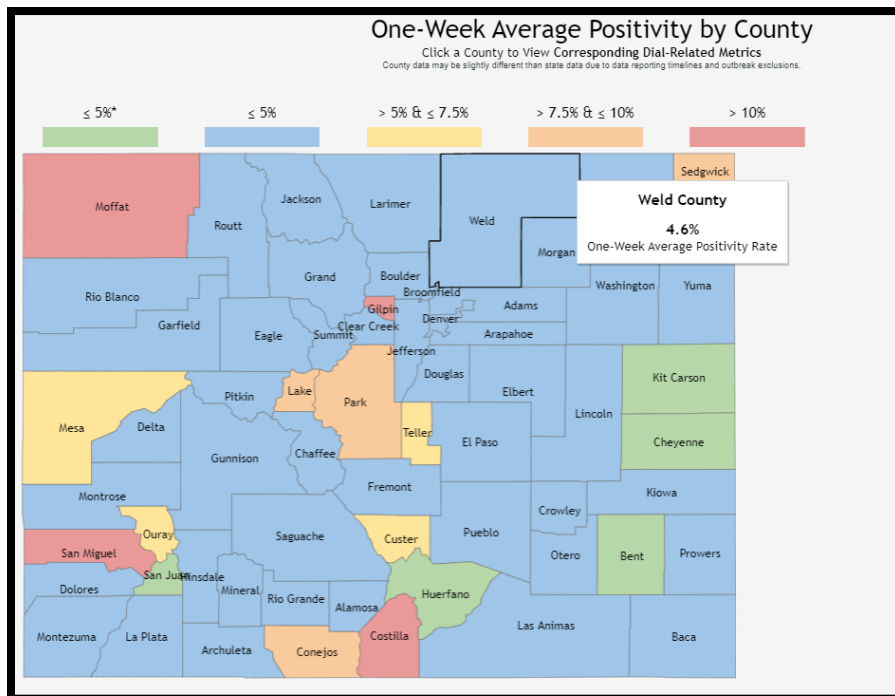
The CDPHE reports 6,753 deaths due to COVID-19 statewide and 298 deaths in Weld County. The graph below shows the number of deaths in Colorado since the pandemic began:



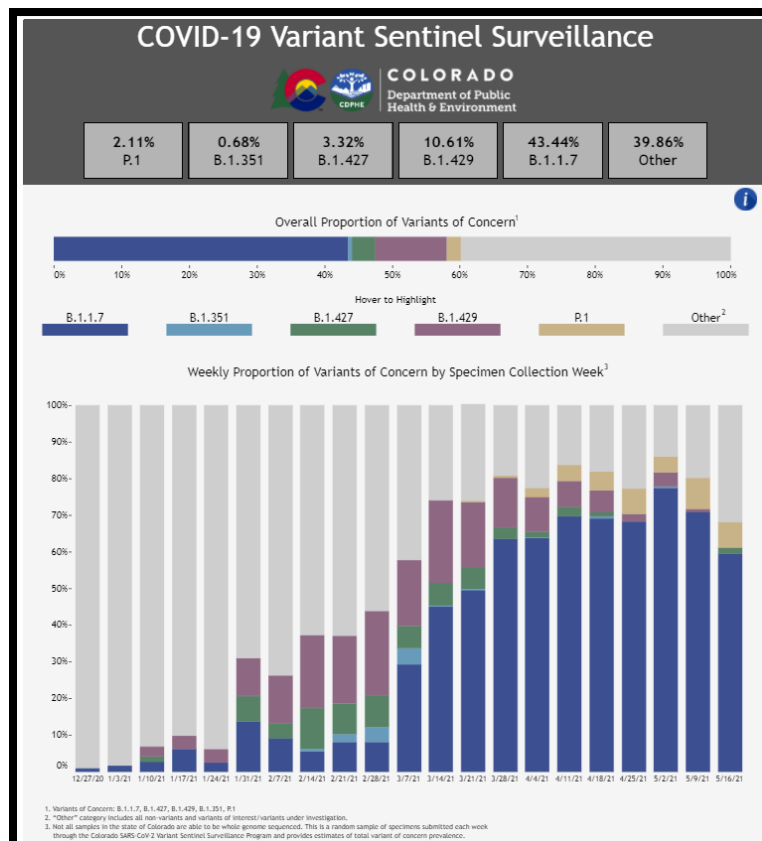
The map below from CDPHE shows the one-week cumulative incidence rate by county, with Weld County's rate highlighted.



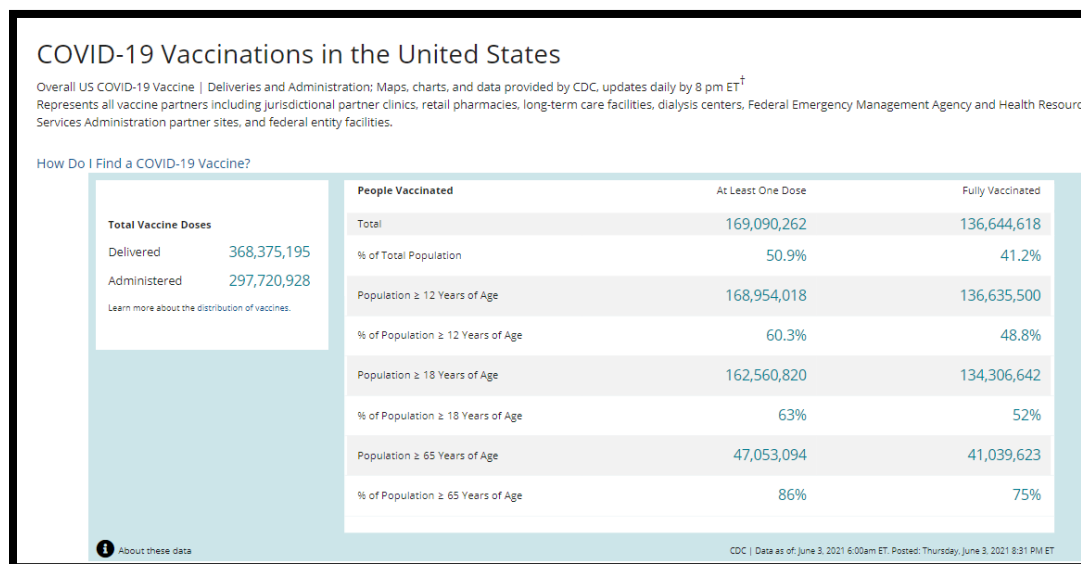
The map below from CDPHE shows the one-week positivity rate by county, with Weld County's rate highlighted.



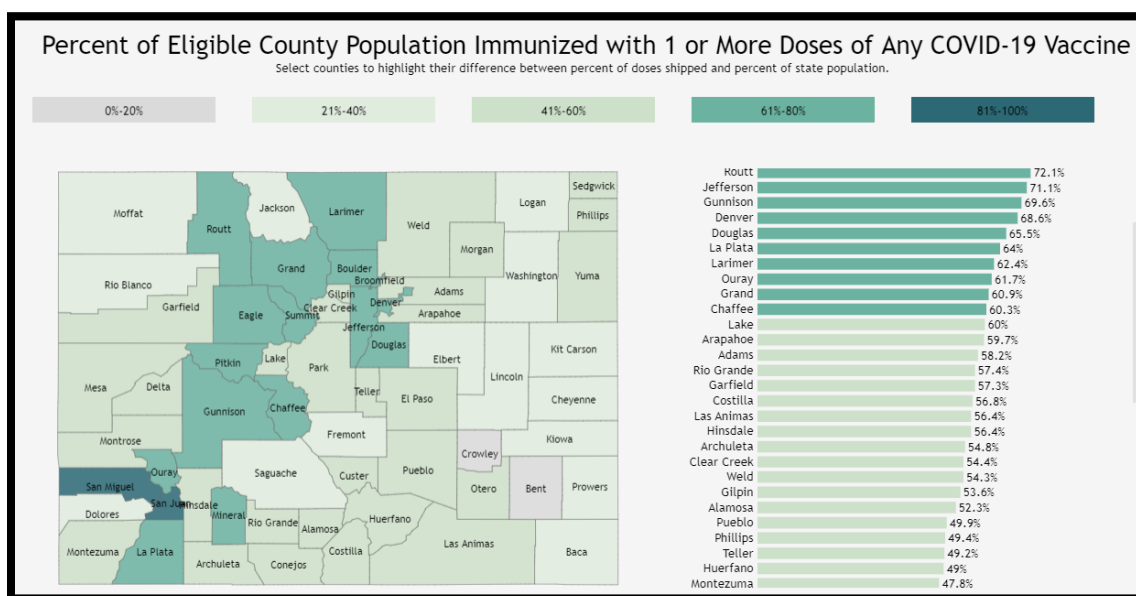
This graph from the CDPHE shows the overall proportion of each COVID variant:



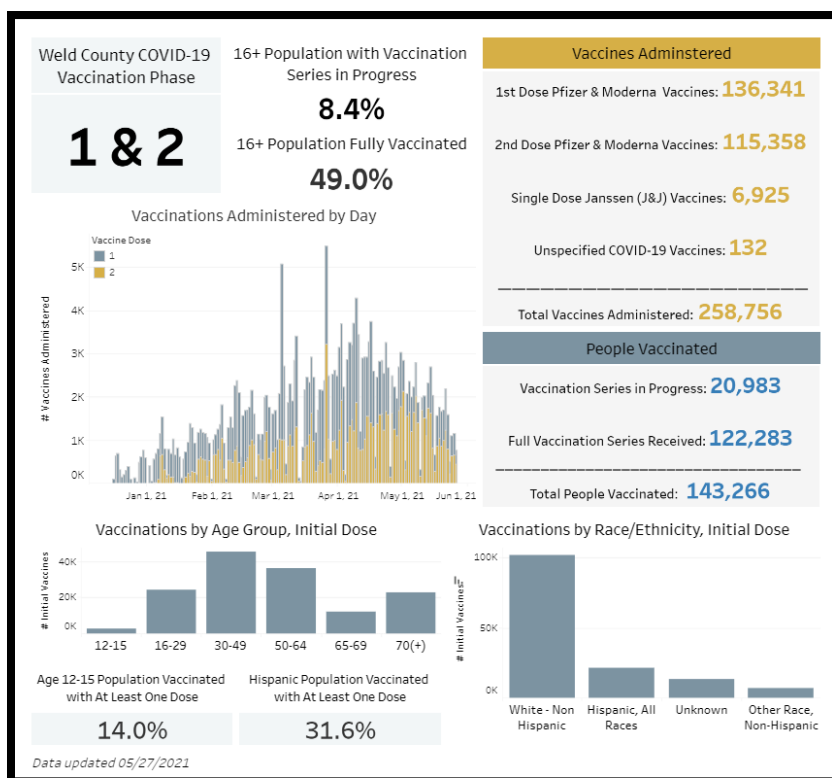
Vaccines have been available since January 2021 in certain parts of the country and the table below from the CDC shows the number of vaccinations administered in the United States, as well as the percentage of the population nationally that have received the first and second dose of the vaccination.



The CDPHE tracks vaccination rates for each county in Colorado, as reflected below for June 3, 2021:



The WCDPHE also maintains a dashboard for vaccination data, with the most recent information (May 27, 2021) found below:



The information included in this order from the CDPHE was obtained from the website <https://covid19.colorado.gov/covid-19-dial> and the WCDPHE information was obtained at <https://www.weldgov.com/Government/Departments/Health-and-Environment/2019-Novel-Coronavirus-COVID-19/Vaccine-Information/COVID-19-Vaccination-Dashboard>.

II. ADDITIONAL CONSIDERATIONS

The Nineteenth Judicial District explored the possibility of holding jury trials at alternative locations, such as at an indoor exhibition area at Island Grove Regional Park, school or university auditoriums/gymnasiums, or conference centers at hotels. We conferred with the Weld County Sheriff's Office (WCSO) to determine whether security could be provided at an alternative location. We were informed by Captain Matt Turner that the WCSO does not have the personnel to provide security beyond the three court buildings and the WCSO does not have funding to hire more officers. In addition, alternative locations we contacted charge a fee and the Nineteenth Judicial District does not have funds available to rent space. After receiving this information, we turned our

focus to how we can conduct jury trials under the current health guidelines using the available space within the three court buildings.

On March 11, 2020, Governor Jared Polis issued *Executive Order D 2020-03*, declaring a disaster emergency in Colorado due to the presence of COVID-19 in the state. That order remains in effect. On May 31, 2021, Jill Hunsaker Ryan, Executive Director of the CDPHE, issued *Third Amended Public Health Order 20-38 Limited COVID-19 Restrictions* removing previous limitations on the number of persons who may safely gather indoors and persons are encouraged to maintain six feet of social distancing. Under Sections I.A and I.B of the *Third Amended PHO 20-38*, which went into effect on June 1, 2021 and expires on July 1, 2021, unvaccinated persons and those not fully vaccinated must wear facial coverings in certain locations including areas where governmental entities conduct business. In addition, Chief Justice Boatright's Courthouse Safety Order of May 17, 2021, facial coverings are required in all public areas of court and probation buildings through June 18, 2021.


I have considered that vaccinations are now readily available to Weld County residents who are medically able to receive the vaccination, that over 57% of the population in Weld County have received at least one dose of the vaccination and 49% are fully vaccinated, and data showing that vaccination rates are declining. I have also considered the decline in the positivity and incident rates in Weld County, as reflected in the maps above, since we resumed jury trials in the 19th Judicial District in March 2021.

I conferred with our judges *en banc* on Wednesday, June 2, 2021, and giving due consideration to all factors set forth in this order, I have determined that the 19th Judicial District can now safely assemble, select, and empanel a larger number of jurors pursuant to the provisions of this order.

III. ASSEMBLING JURORS

- A. Prior to entering the designated building, weather permitting, or immediately upon entering the building in inclement weather, jurors will be prescreened by court staff using placards containing juror health assessment questions, shown on the following page. Any juror who answers "yes" to any one or more of the first three questions on the placard, including a "yes" answer to any of the symptoms listed in the first question, will be released before entering the jury assembly room and the juror's service will be rescheduled for a later date. This administrative order provides authority for the jury commissioner and those assisting the jury commissioner to excuse the juror without any further actions taken by the judge

presiding over the trial, because it is this Court's finding that an answer of "yes" to any of these questions provides a sufficient basis to excuse the juror to reduce the possible risk of exposure to other persons. *See* C.R.S. §13-71-115(3) ("if a person's answers to a questionnaire indicate that the person is disqualified or disabled from performing jury service ... or, in the opinion of the court, state grounds sufficient to be excused from jury duty ... the person's name shall not be included in the jury pool and the court shall notify the person that he or she is excused from jury service."). The staff member shall note on the person's health questionnaire that the prospective juror was excused prior to entering the building.



**NINETEENTH JUDICIAL DISTRICT
WELD COUNTY COMBINED COURTS
JUROR HEALTH SELF ASSESSMENT**

Are you currently experiencing one or more of any of the following symptoms that are not common for you (or related to an underlying condition you have)?

- Fever of 100.4 or higher
- Cough
- Difficulty breathing or shortness of breath
- Muscle or body aches
- Sore throat
- New loss of taste or smell
- Fever or Chills
- Fatigue
- Headache
- Congestion or runny nose
- Nausea, vomiting, or diarrhea

Have you been diagnosed with or tested positive for COVID-19 within the past 14 days?

Have you been exposed in the past 14 days to someone who has been diagnosed with or has shown symptoms of COVID-19?

Are you or do you reside with a vulnerable individual?

Have you traveled outside of Colorado within the past 14 days?

If you answer YES to any of the questions above, please inform court staff!

19JD – Juror Health Screen – Questions only (rev. 10 23 2020)

- B. If a juror answers yes to the question pertaining to residing with a vulnerable individual and the prospective juror is not asking to be excused from jury service, court staff will direct the juror into the jury assembly room. If the juror requests to be excused for this reason court staff will notify the trial judge, who may then discuss this with the attorneys.

- C. After initial health screening has been completed, prospective jurors will present the completed juror summons questionnaire (the bottom part of the summons) to the jury commissioner.
- D. Restrooms are available in the jury assembly room and with signs indicating the direction from the corridor to enter and exit the restrooms. The drinking fountains in the jury assembly room have been turned off and signs posted that the drinking fountains are inoperable. Drinking water is available to jurors through a sink and faucet in the room, and the court will provide bottled water to empaneled jurors. Jurors are permitted to bring their own plastic bottles or reusable containers of drinking water.
- E. Jurors will be brought to the courtroom as expeditiously as possible after they view the orientation video and any preliminary matters for the trial are completed outside their presence. The judge presiding over the case will work with the jury commissioner on any matters that require special procedures, such as completing a case-specific questionnaire or individual juror questioning, as this will likely require jurors to remain in the jury assembly room for extended periods of time. Coordination will occur between division teams, including the judge presiding over the trial, and the jury commissioner to discuss the use of the jury assembly room for breaks and jurors reporting after recesses or on the subsequent days of trial.
- F. Due to the limited available space in the jury assembly room, persons who are not summoned for jury duty will not be allowed to accompany a prospective juror into the room, absent a showing of a need for the guest to assist the prospective juror in some manner.

IV. TRIAL PROCEDURES

- A. Because the number of litigants, attorneys, staff for attorneys, and security officers will vary by trial, the presiding judge may need to limit the number of prospective jurors in the courtroom at one time to stay within the room occupancy limits. Depending upon the nature of the trial, the judge presiding over the trial will have the bailiff inform any prospective jurors not allowed into the courtroom to wait in the jury assembly room, return later at a specified time, or participate in jury selection by video from an overflow room.

- B. The judge presiding over the trial will determine whether attorneys will conduct all or part of their trial presentation while seated at counsel tables or using the podium. Requests to use the well area of the courtroom to make presentations should not be granted, absent special circumstances. Attorneys must position and use the microphone to ensure an accurate record is made.
- C. Absent a separately and subsequently issued order from the Chief Judge, prospective jurors, attorneys, witnesses, and court personnel must wear their facial covering at all times unless an exemption applies or the person is otherwise granted permission by the Court to temporarily remove their facial covering to ensure an accurate record is made or to ensure constitutional rights are maintained. The requirement to wear a facial covering applies regardless of whether the person has been fully vaccinated for COVID-19.
- D. Bench conferences may be conducted through use of two-way radio, electronically through email, through the FTR, or through a method approved by the presiding judge—including a traditional sidebar if the attorneys, judge, and court reporter are all comfortable with this process—to ensure that an accurate record is made. If the two-way radio is used, the judge, attorneys, and court reporter will be equipped with a device set on the same channel. If the defense attorney and defendant choose to communicate in a way other than verbally at counsel table, they are welcome to use the two-way radio or a private intercom telephone that are available from the court to communicate privately and securely. The attorney and client may also communicate in writing by passing notes. Any other method of communication must be cleared first with the presiding judge before use at trial.
- E. Maintenance personnel will disinfect daily all areas that the jurors, potential jurors, witnesses, and litigants will be occupying in the courtroom each evening. Each courtroom will be equipped with necessary personal protective equipment including hand sanitizer, disinfecting wipes, diluted bleach spray, disposable masks and gloves, and sanitized pens.
- F. Microphone covers will be used on all microphones and changed between microphone use by different persons (i.e. between witnesses). Microphone covers will be discarded after a single use.
- G. Prior to coming to court, the jury, attorneys and their staff, parties, witnesses, and court personnel shall self-screen to determine whether they have any symptoms of COVID-19 and shall inform the court if anyone is experiencing symptoms.

- H. Any person involved in the trial experiencing one or more symptoms of COVID-19 shall not report in person to the courthouse. Instead, such person shall contact and inform the court, bailiff, or appropriate attorney that they did not pass their self-screening protocol. Such person need not disclose their specific symptom(s) and the person that such individual has contacted shall not ask them to do so.
- I. The presiding judge may allow juror questions in her or his discretion, giving due consideration to the circumstances of the case and the health of the participants and spectators at the trial.
- J. It is encouraged that exhibits be displayed using existing courtroom technology, including digital display of exhibits through laptops to the projector screen, display of exhibits on the Elmo, or a method pre-approved by the judge presiding over the case that doesn't require multiple people to handle the same item; however, the judge presiding over the case may decide to permit exhibits to be passed to the jury, after giving due consideration to the circumstances of the case and the health of the participants.
- K. Physical exhibits shall be kept in a sealed plastic exhibit bag as much as practicable, so that the bag can be sanitized without compromising the contents of the bag.
- L. To maximize the utilization of limited courtroom space, public seating may be limited in the courtrooms during jury selection. If there are persons who wish to be present who cannot because of space limitations, the judge presiding over the case shall arrange for a WebEx or Polycom video and audio feed, preferably a closed feed to an observation room in the courthouse. More persons will be allowed in the courtroom once the jury is empaneled, provided the total number of individuals in the courtroom does not exceed the maximum capacity with proper social distancing.
- M. All county court criminal courtrooms shall be arranged to provide room to adequate seating of prospective jurors in the jury box, in the well of the court, and on the benches in the gallery. The presiding judge shall limit the number of individuals within the courtrooms to no more than what has been designated as capacity at any one time.

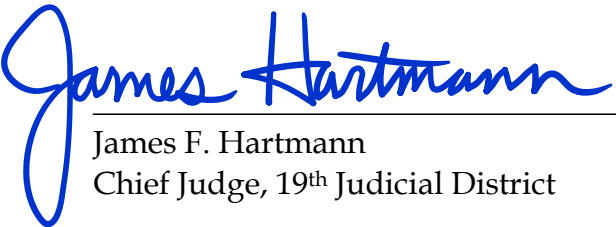
N. A judge presiding over a trial may apply more restrictive procedures than set forth in this order, based on facts and circumstances considered by the judge and articulated on the record.

The provisions of this *Amended* Administrative Order 2021-03 shall apply to all civil and criminal jury trials held in the 19th Judicial District, as well as grand jury proceedings, until further notice. A judge requesting modification or waiver of any provision of the order for a specific trial shall seek prior approval of the Chief Judge.

I reserve the right to modify, revise, or vacate this order at any time to meet the health and safety needs of the public.

Dated: June 4, 2021

BY THE COURT



James F. Hartmann
Chief Judge, 19th Judicial District