THIRTEENTH JUDICIAL DISTRICT, COLORADO Court Address: Logan County Justice Center 110 North Riverview Rd., Room 105 Sterling, Colorado 80751 Phone Number: 970-522-6565 ADMINISTRATIVE ORDER	COURT USE ONLY
The Honorable Michael K. Singer	Administrative Order 2020-H

UPDATED ORDER: SUSPENSION OF JURY TRIALS DURING COVID-19 PERIOD
in
LOGAN, MORGAN, SEDGWICK, PHILLIPS AND WASHINGTON COUNTIES

This order supplements prior Administrative Orders on the sole issue of conducting jury trials in the Thirteenth Judicial District during the COVID- 19 period.

The public health crisis of COVID-19 continues to exist and to worsen in some areas. For many persons participating in jury trials in Thirteenth Judicial District courthouses, the COVID-19 pandemic poses a serious threat to their health and safety. The decision to suspend the summoning of jurors to 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 to resume and conduct criminal and civil jury trials but only when the circumstances allow us to do so with appropriate mitigation of the pandemic risk.

Administrative Order 20-H
COVID 19: Update re Jury Trials

Due to the ongoing public health issues related to the COVID-19 pandemic, as discussed below, it is inappropriate at this time for the courts of the Thirteenth Judicial District to hear felony jury trials in Logan, Morgan, Phillips, Sedgwick and Washington counties. The reasons for this suspension follow.

On July 24, 2020, the Chief Justice of the Colorado Supreme Court adopted an updated order regarding COVID-19 and court operations. It orders, "no person shall be summoned to assemble for jury service in a state court without the authorization of the Chief Judge of the particular judicial district, following his or her determination that the jury pool in question can be safely assembled consistent with applicable executive orders and health directives." This led to ongoing meetings including judges and stakeholders to develop the plans for jury trials in each of the discrete counties of the Thirteenth Judicial District. This Court's Administrative Order 20-F allowed jury trials to proceed in accordance with those plans.

At the time Administrative Order 20-F was adopted, reported COVID-19 active cases were lower statewide, and lower in all seven Thirteenth District

counties. However, at this time, active cases on a fourteen-day rolling average are greater than 1.0% of the population in each county, with the exception of Yuma County (0.5962%) and Kit Carson County.

When the District determined a written jury plan was appropriate, a wide variety of guidelines were implemented in an effort to ensure a reasonable level of safety for participants. These were adopted following close consultation with representatives of the Northeast Colorado Health Department (NECHD).

At that time, on June 7, 2020, Logan County had 631 positive cases of COVID-19, cumulatively, most of which were found at the Sterling Correctional Facility. At that point, five persons had died whose deaths had some association with COVID-19. Now, as of November 22, 2020, Logan County has experienced 2,028 cases, with 28 associated deaths, cumulatively. Also noteworthy, the County now has 476 active cases, excluding incarcerated patients, and while hospitalizations have decreased, thankfully, but new cases over the last fourteen days have increased over the previous fourteen by over 44.9%.

The four other counties which are subject to this Order have seen increases in case numbers which are even more dramatic in some instances, ranging from 33% in Sedgwick County, 46% in Phillips County, 61% in Washington County to 68% in Morgan County. By contrast, the number of new cases in Yuma County increased less significantly, by 12.8%, as did the cases in Kit Carson County.[1]

A separate Administrative Order provided additional guidelines for re-establishing more customary operations, while noting: "PLEASE KEEP IN MIND THIS ORDER IS A LIVING DOCUMENT AND THE INFORMATION MAY CHANGE. See Administrative Order of May 7, 2020. As noted above, the circumstances have changed.

The pandemic also has been the subject of numerous executive orders from the Colorado Governor and public health orders from the Colorado Department of Public Health and Environment (CDPHE). A recent public health order, Public Health Order 20-36, was issued November 2, 2020. PHO 20-36 confirmed that, as of November 2, there had been 112,147 known COVID cases in Colorado,

[1] Data for Kit Carson County is not maintained through the NECHD. The "Dashboard" for NECHD has much more complete information available for comparison than that which is maintained by the CDPHE for Kit Carson County.

9,114 hospitalizations and 2,126 deaths attributed to or associated with the virus.[2] Just one day later, November 3, 2020, the number of cases rose by more than 2,000 to 114,709 and the number of hospitalizations rose by 66 to 9,180. PHO 20-36 has since formally modified the preexisting COVID-19 Dial Dashboard into a color-coded dashboard that uses health-related metrics to place individual counties in one of five levels of risk and safety—from lowest risk to highest risk, Level Green, Protect Our Neighbors; Level Blue, Safer at Home—Cautious; Level Yellow, Safer at Home—Concern; Level Orange, Safer at Home—High Risk; and Level Red, Safer at Home--Severe Risk, and Level Purple--Stay At Home—Extreme Risk. The overall risk is determined by three metrics—the number of new COVID-19 cases per 100,000 people over a 2-week period (the incidence rate), the percent of positive test results over a 14-day period (the positivity rate), and hospitalization rates over a 14-day period.

The Dial provides information for all seven countries in the Thirteenth Judicial District.

[2] The Court recognizes that this figure may be the subject of some dispute, as the virus may not have been the actual cause of death for many of the deaths so reported.

The next two months include a shift in seasons when indoor activities grow more common and social distancing grows more challenging. The next two months also include major holidays when adherence to risk-mitigation guidelines is more difficult.

The disease trends in Logan, Morgan, Phillips, Sedgwick and Washington Counties and the additional information above cause the Chief Judge to conclude, for the period of time ordered, that jury pools for felony trials cannot be safely assembled in these five counties for felony trials. The Dial in Kit Carson remains orange, and Yuma County remains yellow; it is proper to allow jury trials to continue there under the requirements of the Jury Plan.

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 Thirteenth Judicial District that sit in **Logan, Morgan, Phillips, Sedgwick and Washington Counties** hereby suspend the summoning of jurors for felony jury trials set through **January 8, 2021. No person will be summoned to report for jury service in these courts before January 11, 2021.**

Any persons with a summons to report for felony jury duty in those Counties during this time period are not required to appear. Any juror appearing in person on a summons through January 8, 2021, shall be informed by the court or security team that the person's jury service has been cancelled and that person may return home.

Misdemeanor jury trials do not require the calling of as many jurors as do felony cases. Further, some felony cases require an enhanced number of jurors to be called due to the nature of the cases, for example, those cases in which children are alleged to be victims. Also, the level of risk for jury participants is lower for trials which are shorter in duration. In almost every instance, a misdemeanor trial can be concluded in one day. Finally, as noted above, the right to a speedy trial is an important one, both for accused and alleged victims.

Balancing these considerations, this Order does not suspend misdemeanor trials in any County in the 13th Judicial District. Of course, it is expected that parties and the presiding judicial officers proceed cautiously with such trials, adhering to the guidelines set forth in the jury plans of the respective counties.

Nothing herein shall impair the ability of a judicial officer to continue any trial under circumstances in which that officer determines, in her or his discretion, that a jury trial cannot be safely conducted under a given set of circumstances.

Jury commissioners shall continue to summon jurors for any jury trials scheduled to begin on or after January 11, 2021. Jurors who have a jury summons for a date to appear commencing on or after January 11, 2021, should continue to monitor the Court's website for updates.

This Order creates **no change in Kit Carson or Yuma Counties** where jurors may be summoned and jury trials may proceed under the terms of those Counties respective jury plans.

Except to confirm jurors will not be summoned and juries will not be available for the time and locations covered by this order, this order by itself does not change any trial settings; specific changes shall only be by order of the judge presiding over a particular case.

This order is subject to further review and revision in accordance with ongoing pandemic trends and public health guidelines.

Administrative Order 20-H
COVID 19: Update re Jury Trials

Done on November 23, 2020.

BY THE COURT:

sdg

Chief Judge