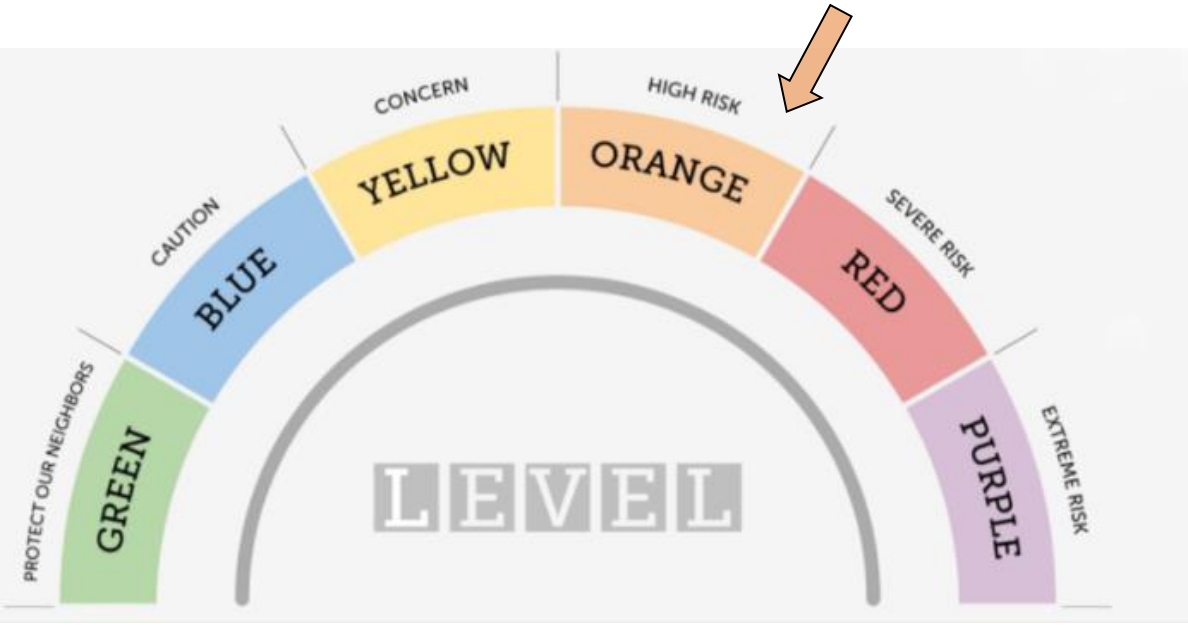
ADMINISTRATIVE ORDER REGARDING JURY TRIALS AND COURT OPERATIONS UNDER COVID-19 ADVISORY

THIRD JUDICIAL DISTRICT
20-14

Due to the public health risk posed by COVID-19 and the advisories and orders from the Centers for Disease Control, the Colorado Department of Public Health and Environment, and local public health departments, the Chief Judge of the 3rd judicial district issued an order on March 19, 2020, March 26, 2020, May 5, 2020, June 22, 2020, June 25, 2020 and September 25, 2020 with guidelines on the operations of cases through the courts.

Governor Polis's office, the Colorado Department of Public Health and Environment and the Las Animas Huerfano County Health Department have issued amended orders as time has progressed. Over the past month COVID positive cases have been spiking in the 3rd Judicial District. As of December 2, 2020, Las Animas County has 101 active cases and 2 deaths and Huerfano County had 88 active cases with 7 deaths. The positive case numbers have been increasing significantly weekly. Additionally, both counites have been moved on the COVID dial: November 24, 2020 Huerfano County was moved to Level Yellow Concern; on November 25, 2020 Las Animas County was moved to Level Orange High Risk.



The Governor's Order stated that the judicial branch operations, including attorneys, are critical government functions. Thus, the 3rd judicial district has continued to operate with jury trials and in person hearings, in person probation supervision and open clerk's counters. Due to the recent spike in COVID 19 cases the ongoing current order must be modified.

A. Jury Trials

On July 24th, 2020, Chief Justice Coats issued an updated order regarding the operation of Colorado state courts. In this order, the Chief Justice stated "… until further modification of this order, 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 application executive orders and health directives". The judges of the 3rd Judicial District recognize that the right to a jury trial in criminal cases is fundamental and guaranteed by the United States and Colorado constitutions. Further both defendants, victims and the People of the State deserve to have expeditious determinations of guilt and innocence. Civil trials are no less important to the parties waiting for the resolution of their disputes. Therefore, in the recent months, the 3rd Judicial District has successfully held jury trials.

However, given the spike in cases and after consultation with Ms. Kim Gonzales, Executive Director of the Las Animas Huerfano County Public Health Department and the Judges in the 3rd Judicial District, it has been determined that a jury cannot safely be summoned at this time. Therefore, all scheduled jury trials for Huerfano and Las Animas counties are vacated until January 19, 2021. Each individual Judge will meet with all attorneys to resolve.

If you are scheduled for jury service before January 19, 2021, please do not appear. This order will be evaluated and updated prior to January 19, 2021.

B. Court Operations

a. The 3rd Judicial District Courts and Probation will remain open at this time, Monday through Friday, 8 AM to 12 noon and 1 PM – 4 PM. with a reduced staff. Due to lack of security both courthouses will be closed December 24 and 25, 2020 and December 31, 2020 and January 1, 2021.

b. The courts will continue to operate with reduced staffing (with a portion of staff working remotely) reduced dockets and staggered settings within dockets as coordinated by the Clerks of Court and the Court Executive, with the approval of the Chief Judge, until such time it is deemed safe to return to a full staffing level.

c. All jury trials scheduled for December and through January 15, 2021 are vacated. See above.

d. The court will accept electronic filings through ICCES for all case types in the ICCES system and by mail or through the clerk's office for all case types. The public may also drop off filings and all paperwork at each courthouse through a lockbox at the security station at the front door.

e. Self-represented parties may also file pleadings through email:
   - Trinidad: LasAnimasCaseFilings@judicial.state.co.us
   - Walsenburg: HuerfanoCaseFilings@judicial.state.co.us

f. In order to reduce the foot traffic at the judicial clerk counter all parties wishing to file documents with all courts in each location shall utilize the drop box at the security station. Additionally, all parties wishing to meet with any judicial employee shall make an appointment for an in-person meeting.

g. All criminal court cases as described in amended rule Crim.P. 43 (f) will be held by WebEx with all other cases held by WebEx with permission of attorney and/or defendant. All civil cases will be held by WebEx.

C. Limitations on Entry to Facilities:

a. Persons who meet any of the following criteria are PROHIBITED from entering either courthouse and instead should call the court to reschedule their court date, request to appear by phone, or receive further instructions:

(1) Persons who have been diagnosed or tested positive for COVID 19 and are still experiencing symptoms and/or are within the 14-day quarantine time period.

(2) All persons are required to submit to health screening completed at the front door of each courthouse

D. Authorization for Remote Proceedings and Limited In-Person Proceedings:

a. Matters of public safety will continue to be held in the Courthouse with appropriate safeguards in place for social distancing. Some matters of public safety may be held via WebEx at the discretion of each Judicial Officer and to comply with Crim.P 43.

b. It is the intention of this order that beginning December 7, 2020 all cases set on the docket will go forward as scheduled via WebEx.

c. All Counsel of record will work with the respective Judge to determine if the case cannot be held by WebEx and alternate means will be explored with the discretion of each Judicial Officer and to comply with Crim.P. 43.

E. Public safety matters include:

a. Preliminary hearings unless Counsel contacts the Court to continue and to waive any time frames.

b. All criminal motions hearings that are set for trial unless Counsel contacts the Court to continue and to waive any time frames to include jury trials which are already set.

c. All temporary or permanent protection order hearings to include TRPO and ERPO.

d. All Criminal Procedure Rule 5 advisement for incarcerated persons and the initial setting of bail.

e. Revocation hearings on complaints to revoke probation involving an incarcerated defendant;

f. Proceedings necessary to protect the constitutional rights of criminal defendants including bond-related matters and plea agreements for incarcerated individuals.

g. Detention hearings for juvenile delinquency cases.

h. Emergency shelter hearings in Dependency and Neglect matters.

i. Petitions for appointment of an emergency guardian and/or special conservator

j. Hearings on motions to restrict parenting time and parental abduction prevention and other Emergency Domestic Relations cases.

k. Emergency mental health proceedings.

l. Any other operations or matters that in the discretion of the Chief Judge are deemed necessary to prevent an imminent risk to the health, safety or welfare of an individual or the community at large, or to prevent the risk of imminent financial hardship, which shall be determined by the Chief Judge on a case-by-case basis after consideration of the circumstances existing for a particular case.

F. Protocol for In-Person Proceedings

a. All in person proceedings shall be limited to no more than 10 participants in the courtroom (including judicial officers, clerks, deputies, attorneys, witnesses, professionals, parties and spectators) at all times, in compliance with the Governor's and local Health Department guidelines and may be subject to change if those guidelines are modified or additional guidelines are instituted by future orders of the Governor and health department.

b. In individual cases, the presiding Judge has the authority to enter orders to address issues specific to the needs of the case, so long as those orders are not less restrictive than the mandatory procedures for all cases set forth in this Order or in the Chief Justice's Orders of March 16, 2020, March 20, 2020, April 16, 2020 and May 5, 2020.

c. All parties are encouraged to maximize the use of electronic means to permit the remote appearance of counsel, parties, witnesses, and other persons interested in the proceeding, even during in-person hearings, subject to the orders of the judicial officer.

d. Social Distancing: Social distancing shall be maintained with respect to all in-person activities within the courthouses.

e. Prohibition on Group Gatherings: There shall be no gatherings for groups larger than ten (10) persons in the courts area of each courthouse for any purpose. Social distancing shall be observed for all gatherings.

f. Civil Monetary Cases, FED, CRCP 120, Small Claims and Name Change: All cases under this section will be accepted as filed; however, hearings will be set out at least 60 days from the date of filing. Attorneys are encouraged to set the summons return date at least 60 days from the date of filing. If a summons is already served, attorneys will be required to prepare a notice of rescheduled hearing and file such with the Court. Writs of restitution that have been filed will be issued.

g. Bond Forfeitures: An automatic stay will be placed on all professional bond forfeitures through February 1, 2021.

h. Truancy: All hearings in truancy cases are to be held by WebEx.

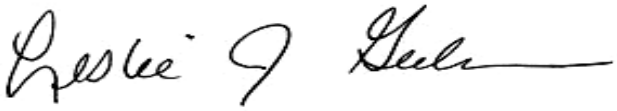
i. Probation: the 3rd Judicial Probation Department will continue to operate as currently doing so. Pre-Sentence Investigation Reports will continue to be generated as possible and supervision of clients will continue. Drug testing and treatment services for clients which are currently reduced will be increased based upon community availability.

As a reminder, persons coming to court are required through Governor Polis's Executive Order D 20-110 as well as the Las Animas Huerfano County Health Department, Huerfano County Commissioners and Las Animas County Commissioners order to wear masks, surgical, cloth or otherwise (and gloves in the courts and probation offices if they so desire) until further notice. Additionally, all persons are permitted to bring small plastic containers of hand sanitizer into the courts and probation offices.

If you have any questions please direct them to Mr. Bob Kreiman, Court Executive at 719 846-3316.

Dated: December 3, 2020.

BY THE COURT:



Chief Judge, Third Judicial District