

<p>NINTH JUDICIAL DISTRICT, COLORADO  Court Address:       Garfield County Courthouse                                109 Eighth St., Suite 104                                Glenwood Springs, Colorado 81601</p> <p>Phone Number:       970-928-3065</p> <hr/> <p>ADMINISTRATIVE ORDER</p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p>
<p>The Honorable James B. Boyd</p>	<p>Administrative Order 21-08</p>
<p style="text-align: center;"><b>AMENDED JURY TRIAL PLAN DURING PANDEMIC  NINTH JUDICIAL DISTRICT: HEALTH METRICS MODIFICATION</b></p>	

**This amendment modifies the role of health metrics in the Jury plan for the Ninth Judicial District.**

Since the beginning of the worldwide COVID-19 pandemic, the courts and courthouses in the 9<sup>th</sup> Judicial District (“the District”) have remained steadfast in our commitment and responsibility to protect constitutional rights and to provide a forum to address matters essential to the safety and well-being of all. In pursuit of this objective, the District has adopted health-safety protocols for jury trials as set forth in the District’s Jury Plan as adopted by Administrative Order 20-06, as amended by Administrative Orders 20-07.01, 21-02, 21-05 and 21-06.

The health and safety of the public, including but not limited to prospective jurors, empaneled jurors, other courthouse users, witnesses, parties, counsel, court

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staff, and judges continue to be of paramount concern. The Jury Plan confirmed it was subject to revision upon changed circumstances. The District has monitored changing health regulations and guidance, evolving health conditions, and operations and jury trials around the State of Colorado. Consultation has been ongoing with other judges and judicial districts throughout the state, jury commissioners, the court executive, clerks of court and representatives of the District Attorney's office, the Public Defender's office, the Office of Alternative Defense Counsel, the Garfield County Public Health department and the Garfield County Attorney's office. Circumstances have changed further since the last order and guide the amendments adopted here to preserve health criteria as a factor for determining the propriety of individual jury trials going forward but to terminate their use as an automatic bar to any trial going forward.

The consistent metrics kept and published by the Colorado Department of Public Health and Environment (the CDPHE) continue to include the one-week incidence rate (new cases per 100,000 people), the one-week test positivity rate and the duration of decreasing or stable hospital admissions. The CDPHE still publishes its DIAL with color-coded risk levels although it no longer sets an overall risk level.

When the District adopted the last jury plan amendment on October 20, 2021,

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health circumstances had deteriorated since the prior order of July 15, 2021. The October 20 order reinstated some health metrics that could prohibit and has prohibited some trials from going forward without consideration of other factors. After further consultation with local health officials and the District's Jury Planning group, it has become apparent that the guidance available from health metrics has grown more refined. The metrics used in the last order were the one-week incidence rate, the one-week positivity rate and hospital admissions data. In counties of small or modest size such as those in this District, the total number for each of these metrics can fluctuate significantly based on individual incidents, such as outbreaks in a single facility or type of facility and such as outbreaks associated with gatherings that do not follow recognized safety measures such as masks and distancing. Depending on their details, such individual incidents may or may not have a predictable impact on the ability of the courts to safely assemble a jury. Masks and distancing remain significant, proven mitigation measures. Also, vaccines are now available for anyone age 5 or older. Anyone who desires the vaccine has had, and continues to have, the opportunity to take this evidence-based safety measure. Vaccination rates continue to climb albeit slowly.

Courts around the state are conducting jury trials without reported adverse outcomes

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linked to local health metrics.

Based on these circumstances, health criteria will no longer be dispositive standing alone but shall be considered in assessing the propriety of going forward with individual trials in the manner set forth below.

For each county in the 9<sup>th</sup> Judicial District, the following metrics shall be considered in determining whether or not a jury trial shall not go forward:

the one-week incidence rate as reported by the CDPHE;

the one-week positivity rate as reported by the CDPHE;

the duration of stable or decreasing hospital admissions as reported by the CDPHE.

If the CDPHE reports any one or more of the above metrics to be in the concern color range of yellow, orange, red or purple, the presiding judge shall confer with the Chief Judge about the circumstances of the particular case and the details of health conditions, and the Chief Judge will determine if the jury trial may proceed.

If the CDPHE reports each of the above metrics to be in the Green Protect Our Neighbors or Blue Cautious level, the trial may go forward without further consultation with the Chief Judge.

All jury trials that do proceed shall follow the requirements of the Jury Plan as established in prior administrative orders. However, even if the health criteria or the Chief Judge authorizes a jury trial to proceed, nothing in this order limits the authority

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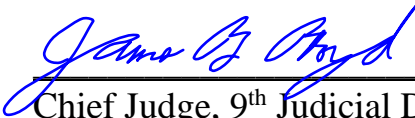
of the presiding judge in individual cases from ruling in a particular case, based on motions or otherwise and based on facts particular to the case, that a particular jury trial should not proceed as scheduled for health-safety reasons.

As before, this order may be updated or modified as circumstances continue to evolve.

Nothing in this order changes the District's Jury Plan except as specifically set forth in this order. Nothing in this order changes the District's health-safety protocols for all operations as most recently set forth in Administrative Order 20-05 as amended by Administrative Order 21-05.

Done on December 14, 2021.

BY THE COURT

  
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Chief Judge, 9<sup>th</sup> Judicial District