

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	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number: 2020 CV 01 Division 1
ADMINISTRATIVE ORDER NO. 2020-17	
ADMINISTRATIVE ORDER REGARDING RESUMING JURY TRIALS	

The right to a jury trial in criminal cases is fundamental and guaranteed by the United States and Colorado constitutions, and it is of paramount importance to the judges in this district to resume jury trials in criminal and civil cases as soon as possible, but only when jury trials can safely resume. Due to serious public health issues related to the COVID-19 pandemic, jury trials throughout the state of Colorado have been suspended by the order of 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, precluding 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 determines that a jury pool can safely be assembled consistent with applicable executive orders and health directives.

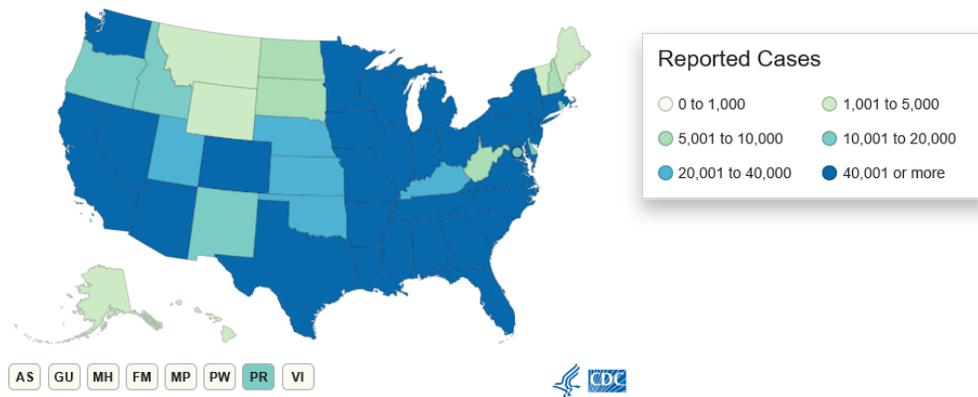
The judges of the Nineteenth Judicial District have met regularly since March 2020 to discuss plans to safely resume jury trials. We have considered information from the Centers for Disease Control and Prevention (“CDC”) and the Colorado Department of Public Health and Environment (“CDPHE”); information 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; and executive orders issued by Colorado Governor Jared Polis.

Surges in the number of COVID-19 cases and deaths related to COVID-19 have occurred in many states recently. Data updated on the CDC website on July 29, 2020, reflects that there are 4,339,997 total COVID-19 cases in the United States with 59,862 new cases reported on July 29, 2020. Nationally, 148,866 people have died from COVID-19 with 1,194 deaths occurring on July 29, 2020. The two maps and graph below were obtained from the CDC website on July 29, 2020 and these show the reported COVID-19 cases by jurisdiction, the deaths from COVID-19 by jurisdiction, and the new COVID-19 cases reported by day nationally.

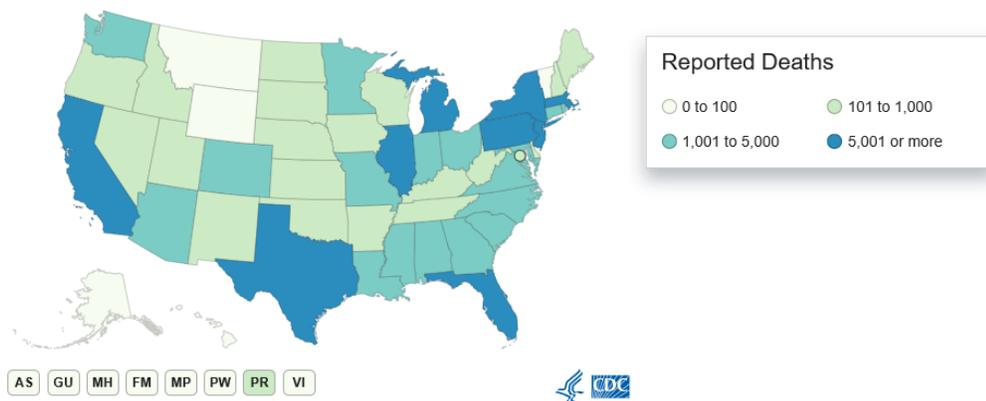
Cases by Jurisdiction

This map shows COVID-19 cases reported by U.S. states, the District of Columbia, New York City, and other U.S.-affiliated jurisdictions. Hover over the maps to see the number of cases reported in each jurisdiction. To go to a jurisdiction's health department website, click on the jurisdiction on the map.



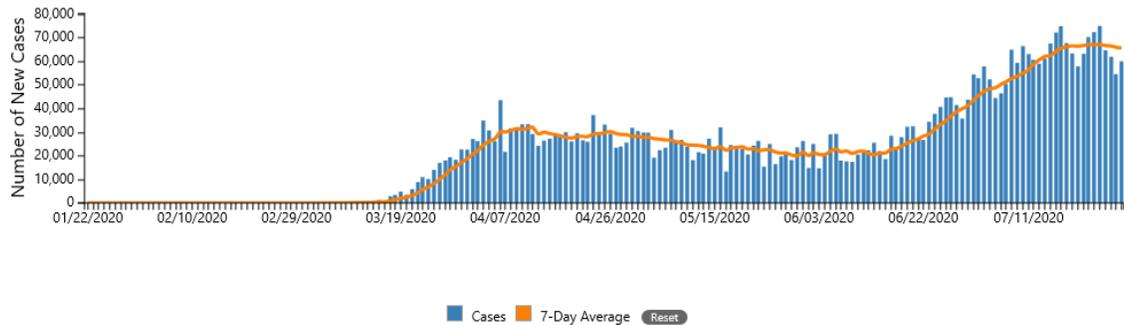
Deaths by Jurisdiction

This map shows COVID-19 cases reported by U.S. states, the District of Columbia, New York City, and other U.S.-affiliated jurisdictions. Hover over the maps to see the number of deaths reported in each jurisdiction. To go to a jurisdiction's health department website, click on the jurisdiction on the map.



New Cases by Day

The following chart shows the number of new COVID-19 cases reported each day in the U.S. since the beginning of the outbreak. Hover over the bars to see the number of new cases by day.



According to the CDPHE website, as of July 28, 2020 in the state of Colorado there were 45,789 cases of COVID-19, 6,398 people have been hospitalized, and 1,688 people have died due to COVID-19. In Weld County, there have been 3,462 positive cases and 141 deaths. Data kept separately by Weld County OEM reflects 3,478 positive cases (with 16 new confirmed cases between July 28 and 29, 2020) and 92 deaths.

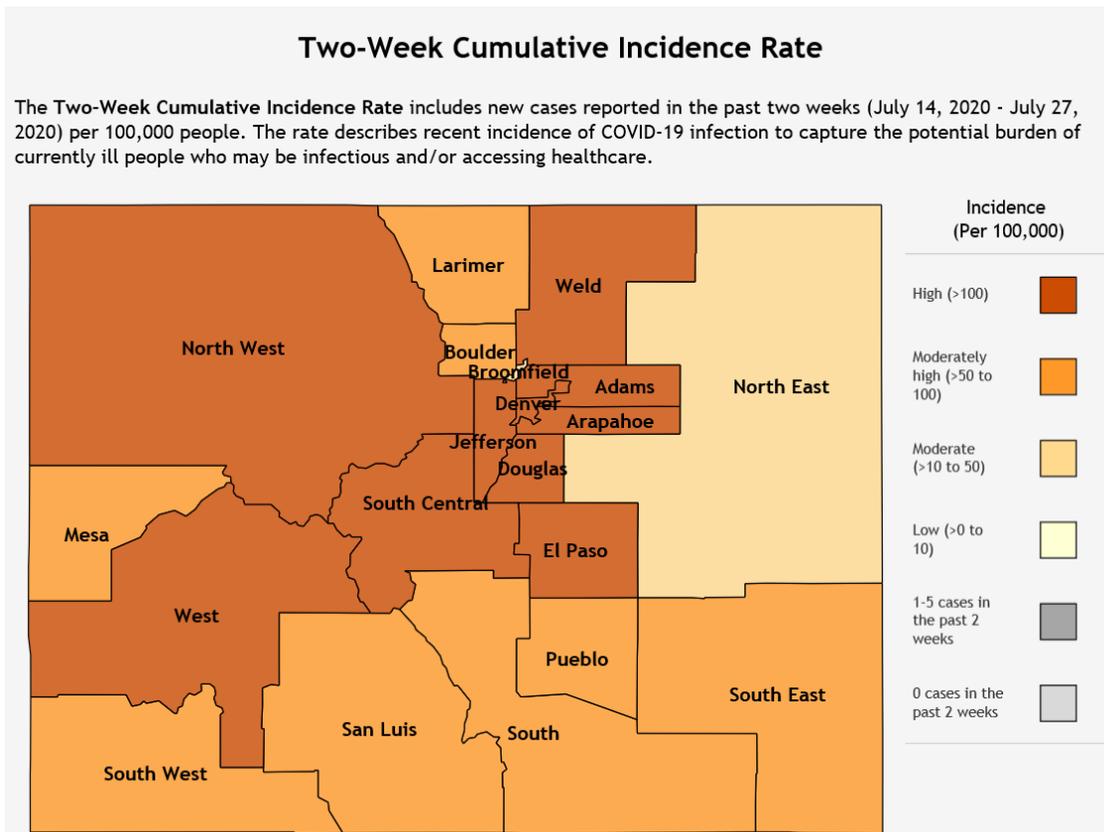
I have also considered the COVID-19 outbreak data maintained by the CDPHE, which is tracked weekly from information gathered at the following locations:

- Health care settings, including long-term care facilities, assisted living facilities, independent living facilities/senior communities that offer health care, inpatient rehab facilities, and long-term acute care hospitals.
- Correctional settings, including state prisons, county and city jails, community corrections, detention settings, work release facilities.
- In other settings, including factories, workplaces with crowded work conditions, camps, schools, child care centers, and independent living facilities/senior communities that do not offer health care.

A “confirmed outbreak” is defined by CDPHE as two or more confirmed cases of COVID-19 in a facility or group in a fourteen-day period. Once an outbreak is confirmed, CDPHE lists the status at the facility as either “active” or “resolved.” An outbreak is “resolved” when 28 days have passed with no new illnesses. Per data collected through July 22, 2020, there have been 447 outbreaks in Colorado with 185 still

listed as active. In Weld County, there have been 24 outbreaks with seven locations still active. The Weld County Jail is still listed as an active outbreak location.

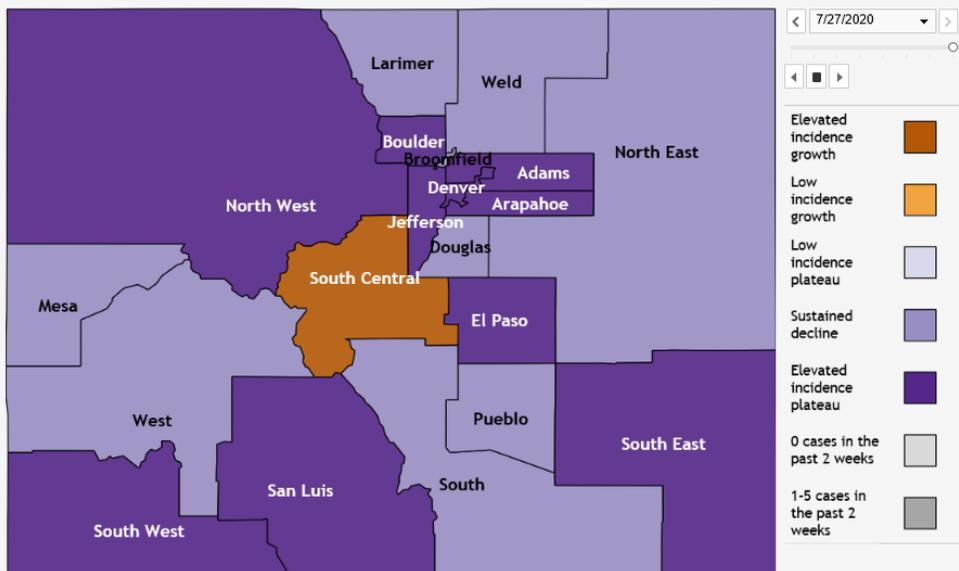
The CDPHE also prepares statewide tables of two-week cumulative incident rates and current epidemic curve. These tables are updated daily and can be viewed through the CDPHE website at <https://covid19.colorado.gov/data/incidence-epidemic-curve>. Weld County is listed as a “high” incidence rate and “sustained decline” for the most recent two-week period (July 14, 2020 - July 27, 2020), as shown on the tables below.



Current Epidemic Curve

The **Current Epidemic Curve** status for each region provides a detailed view into the burden of illness in each region, and the trajectory of new illness. Regions are categorized according to the total number of new cases in the past 2 weeks (July 14, 2020 - July 27, 2020) and the current day's change in daily case counts. Regions with elevated incidence have had more than 10 new cases per 100,000 in the past two weeks.

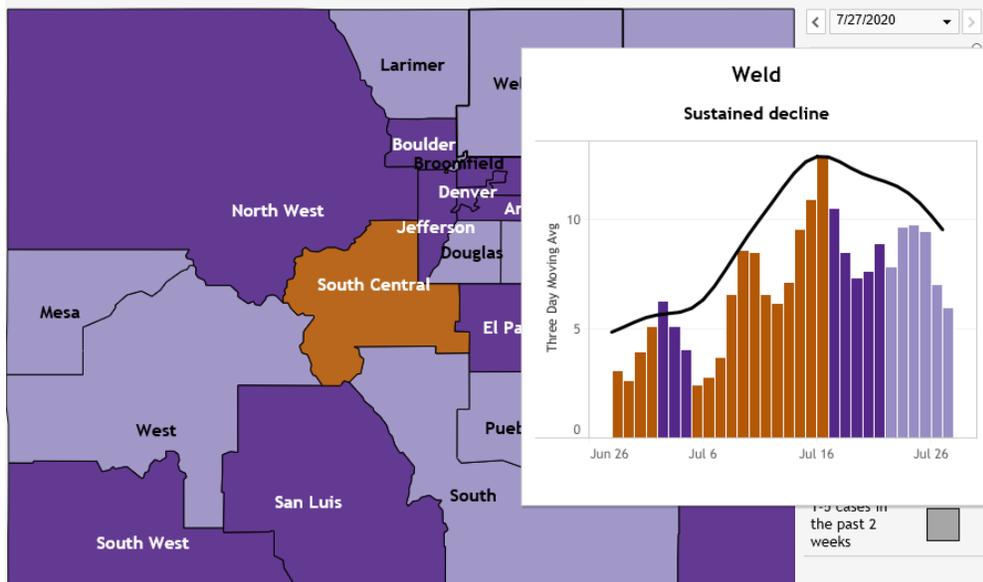
Hover over each region to see how its epidemic curve has changed over the past month.



Current Epidemic Curve

The **Current Epidemic Curve** status for each region provides a detailed view into the burden of illness in each region, and the trajectory of new illness. Regions are categorized according to the total number of new cases in the past 2 weeks (July 14, 2020 - July 27, 2020) and the current day's change in daily case counts. Regions with elevated incidence have had more than 10 new cases per 100,000 in the past two weeks.

Hover over each region to see how its epidemic curve has changed over the past month.



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

The CDPHE Safer at Home Guidance, updated May 29, 2020, allows certain organizations to operate indoors as long as the number of individuals inside of the business do not exceed 50% of fire code occupancy capacity or 50 people, whichever is less, as long as individuals maintain at least six feet of distance between one another and are wearing facial coverings. *See also* Executive Order D 2020-138, Order Individuals in Colorado to Wear Facial Coverings, and 19th Judicial District Administrative Order 2020-16 requiring facial coverings to be worn in all public indoor spaces of the Nineteenth Judicial District court and probation buildings.

While Executive Order D 2020-138 and Chief Judge Administrative Order 2020-16 are in effect, facial coverings must be worn in all indoor public spaces of the 19th Judicial District Courthouse and Probation buildings, and everyone entering the court buildings who is not subject to an exemption shall wear facial coverings. The Court will provide a facial covering to any juror, witness, or attorney who did not bring one.

To maintain a healthy environment, the CDC recommends taking the following measures:

- Intensify cleaning and disinfection of frequently touched surfaces;
- Ensure ventilation systems operate properly and increase circulation of outdoor air;
- Ensure all water systems are safe to use;
- Modify layouts to promote social distance of at least 6 feet between people – especially for persons who do not live together;

- Install physical barriers and guides to support social distancing if appropriate;
- Close communal spaces, or stagger use and clean and disinfect between use;
- Limit sharing of objects, or clean and disinfect between use.

I have also considered the increased risk of exposure when larger groups of people are gathered for extended periods of time, which would occur when persons participate in jury selection, as opposed to encounters of short duration, such as brief trips to the grocery store.

I have determined that the Nineteenth Judicial District can safely assemble, select, and empanel jurors for one six-person jury trial per week during the month of August 2020, subject to the provisions of this administrative order. Jurors will be summoned on Wednesdays only during the month of August. The judges in the 19th Judicial District will review the procedures used for the first few jury trials that are held to determine whether we can safely increase the number of trials and/or expand jury trials to twelve or thirteen-person jury panels for felony criminal charges, or whether to postpone further jury trials due to health concerns. We will continue to monitor and access available health data and trends to determine whether to postpone jury calls for public safety reasons.

Considering the existing health guidelines and as long as health concerns caused by the COVID-19 pandemic require wearing facial coverings, a limitation on the number of people in buildings, and six feet of social distancing between persons located indoors, the procedures set forth in this order shall be used for jury trials in the Nineteenth Judicial District.

I. COURTROOM CONFIGURATIONS AND PRIORITIZATION OF TRIALS

All twenty courtrooms in the district have been measured and assessed for jury trial use. The gallery sections of each courtroom have been measured to maintain six feet of social distancing and the maximum gallery seating capacity is posted on the public entry door to each courtroom.

Once the determination is made that the 19th Judicial District can safely resume felony jury trials, there are only two courtrooms that are large enough to select and seat twelve or thirteen person juries in district court criminal cases and, therefore, all district court criminal jury trials shall be heard in the Division 11 and 12 courtrooms when jury trials for felony cases can safely resume. When a jury trial is being heard by a judge assigned to Divisions 15, 16, or 17 in Division 11 or 12, the judge(s) normally assigned to

Division 11 and/or 12 may run their non-jury trial dockets in the courtroom normally occupied by the judge who is using Division 11 or 12 for the jury trial.

All four county court courtrooms—Divisions 6, 8, 9 and 13—are large enough to select and seat six person juries for county court trials. Four courtrooms—Divisions 1, 3, 4, and B—are large enough to select and seat six person juries for civil cases, including dependency and neglect adjudicatory trials. Courtrooms 5, 10, C and D are not large enough to select and seat a jury with six feet of social distancing.

Because of the limited number of jurors that can be summoned at one time, as discussed in more detail in Section II of this order, and the limited number of courtrooms available to safely and effectively seat juries, it is anticipated that multiple trials will be scheduled for use of those divisions at the same time. The judges shall confer with the other judges and consult with the jury commissioner regarding the cases set for jury trial scheduled on the same day to determine the priority of cases to be tried. The judges should consider the input of the attorneys and parties to the cases when establishing a priority list. Judges should also consider:

1. Whether the trials are criminal or civil cases;
2. Whether the defendant in a criminal case is in custody or has been released on bond;
3. The nature of the cases, including community safety issues and, in the case of criminal offenses, the age of the case, speedy trial considerations, the level of offense(s) charged, whether any of the charges involve the Victim's Rights Amendment, as well as potential penalties in each case;
4. Any other relevant factual or legal circumstance existing in the respective cases; and,
5. The public interest in completing one case prior to another.

If more than one trial is scheduled to begin on the same day, the judges shall create a priority list establishing the order in which each case will be tried. The jury commissioner shall consult with the presiding judges two business days before the trials are scheduled to designate which trial will be heard. If the presiding judges are unable to determine which case should have priority to be tried, the chief judge shall make the determination.

The reporter's station, counsel tables, the podium, and seating for jurors shall be rearranged, as necessary, to provide room to seat jurors both in the jury box and in the

well of the courtroom to allow at least six feet of separation between other jurors, counsel tables, the reporter station, and everyone else in the courtroom. Counsel tables and the reporter station shall also be placed so that they are at least six feet from the witness stand and all other persons in the courtroom.

The two photos below were taken in Division 11 to show how thirteen jurors could be seated with six feet of social distancing and the positioning of two chairs at each attorney table.



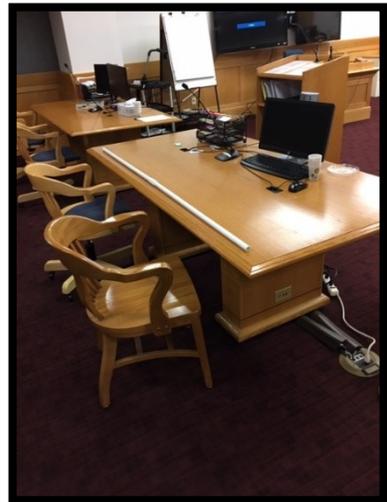
The podium was moved from its normal location in front of counsel tables for these photographs. The jury box could seat eight jurors and five must be seated outside of the jury box. During jury selection in Divisions 11 and 12, thirteen persons can be seated in the well area and 18 can be seated in the gallery section, for a total of 31 prospective jurors in the courtroom. This number would be reduced if non-jurors wished to be in the room and if deputies were present for security reasons.

A similar seating arrangement as shown in the photos of Division 11 can be accomplished in Division 12. In addition to social distancing when configuring juror seating, consideration was given to maintaining clear pathways to all exits and the ability for jurors to see and hear the evidence presentation.

I configured chairs in Divisions 15 and 17 to determine whether a twelve or thirteen- person jury could be seated in those courtrooms and photographs were taken. I did not rearrange chairs in Division 16 or take photographs because only five chairs can be arranged in the jury box and the initial measurements confirmed that far less than seven chairs can be placed in the well area for jury seating. I was able to arrange only

eleven (11) chairs in the well area of Divisions 15 and 17 with six feet of social distancing, maintaining exit pathways, and having a line of sight from each juror's chair to the witness box, the bench, and counsel tables. An additional chair could be placed in the well area if the podium in those courtrooms is moved; however, one (or two if the podium is moved) juror(s) would be seated just over six feet from the witness box and this could present an issue if there are security concerns for certain witnesses. Six jurors can be seated in the jury box in Division 15 and five jurors can be seated in the box in Division 17.

Division 15 Courtroom



The PVC measuring rod in the photographs above taken in Division 15 is six feet long. Attorney tables in Divisions 15, 16, and 17 are the same size and they are smaller than the tables in Divisions 11 and 12. The only way to effectively maintain six feet of social distancing at counsel tables is to seat either one or both occupants on the end of the table. The tables would need to be moved and this would result in less seating area for jurors in the well area.

Division 17 Courtroom



The maximum seating capacity of the gallery area of Divisions 15 and 17 are fifteen and thirteen persons, respectively, if the defendant is not in custody. The seating capacity will be reduced if the defendant is in custody to maintain an empty row in the gallery

behind the defense counsel table for security reasons, or non-jurors wish to be in the courtroom during jury selection. Division 16 has room for twelve persons in the gallery.

II. ASSEMBLING JURORS

- A. The Plaza West Jury Assembly Room has been configured to accommodate social distancing of six feet or more between chairs and the maximum capacity of the room is 33 jurors. Masking tape has been placed on the floor to mark chair placement to maintain six feet of social distancing. While social distancing and other health measures are in place, use of the Jury Assembly Room will be limited to jury trial use unless another use is preapproved by the Chief Judge or Court Executive.



- B. The jury commissioner will issue a sufficient number of summonses to reach the goal of having 25 jurors report at 7:30 a.m. on Wednesdays in August 2020 to empanel a six-person jury for one trial. Summonses for jury duty are sent five weeks ahead of the reporting date, so proper planning and coordination are essential to safely summon jurors.
- C. Prior to entering the designated building, jurors will be prescreened by court staff using a juror health assessment questionnaire (Attachment A) and the juror's temperature will be taken with a non-contact thermometer. Any juror having a

temperature at or over 100.4 or who answers yes to questions 1-3 (including a yes response to any of the symptoms listed in question 1) will be released before entering the building and the juror's service will be rescheduled for a later date. This administrative order provides authority for the jury commissioner and those assisting her 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, or a temperature of 100.4 or above provide 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.

- D. If a juror answers yes to questions 4 or 5 and the person is not asking to be excused from jury service, court staff will direct the juror into the building. If the juror is asking to be excused, court staff will notify the trial judge, who can then discuss this with the attorneys.
- E. Juror health questionnaires shall be maintained by the jury commissioner in a sealed format and shall not be a public record. A copy of juror health questionnaires will not be provided to the trial judge or counsel for use during jury selection. *See* C.R.S. §13-71-115(2) ("unless the court directs otherwise, the jury commissioner shall provide copies of the appropriate completed questionnaires to the trial judge and counsel for use during jury selection.").
- F. After initial health screening has been completed, prospective jurors will enter the building through the security station and present the completed juror summons questionnaire (the bottom part of the summons) to the jury commissioner in the Jury Assembly Room.
- G. Restrooms are available in the jury assembly room and with signs indicating the direction from the corridor to enter and exit the restrooms. We are requesting that only one person use the restroom at a time (one person in the men's restroom and one person in the women's restroom). 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.

- H. 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. The maximum capacity of 33 in the Jury Assembly Room cannot be exceeded at any time and the room must be cleared, sanitized, and aired out between uses by jury panels.
- I. 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 the need for the guest to assist the prospective juror in some manner.

III. 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 or return later at a specified time.
- B. Unless granted permission from the Court, attorneys shall conduct all aspects of the trial while seated at counsel tables. Attorneys must position and use the microphone to ensure an accurate record is made. The Chief Judge may assign a court reporter for six-person jury trials, depending on the needs of the district.

- C. Courtrooms using a hand-held microphone during voir dire must ensure that the microphone is disinfected by court staff between use by each juror and a new microphone cover is used for each person.
- D. Pursuant to Administrative Order 2020-16, prospective jurors, attorneys, witnesses, and court personnel must wear their facial covering at all times, unless an exemption exists or the person is otherwise granted permission by the Court to temporarily lower their facial covering.
- E. Bench conferences may be conducted through use of two-way radio, electronically through email, or through a method approved by the presiding judge that can be done while maintaining proper social distancing. If the two-way radio is used, the judge, attorneys, and court reporter will be equipped with a device set on the same channel. We have run a test with these radios and there is no interference with the radio frequencies used by the WCSO for their radios. We learned that channel 3 of the Court's radio picks up communication from outside the courthouse, so that channel should not be used for court proceedings. There are 16 channels on the Court's radios. The defense attorney and defendant will also have the use of the two-way radio to communicate privately and securely with counsel, if they so choose. 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.
- F. Maintenance personnel will disinfect daily all areas that the jurors, potential jurors, witnesses, and litigants will be occupying in the courtroom. The bailiff shall sanitize any area that may seat multiple individuals, including juror chairs during voir dire and the witness box. Each courtroom will be equipped with necessary personal protective equipment including hand sanitizer, disinfecting wipes, diluted bleach spray, disposable masks and gloves, and disinfected pens.
- G. 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 use.
- H. 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.

- I. Any person involved in the trial experiencing one or more symptoms of COVID-19 shall not report to court. 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.
- J. Due to social distancing requirements, the size and layout of the courtroom, locations that the jurors and parties will be seated, and the desire to limit multiple persons touching the same item (i.e. paper used for questions), it will be very difficult to allow jurors to ask questions of witnesses in an efficient and safe manner. Each presiding judge shall consider whether good cause exists to exempt that case from juror questioning. If unusual circumstances exist, the presiding judge may modify the provisions of this order so long as the health and safety of the participants and spectators at the trial is not compromised.
- K. When publishing exhibits, instead of handing exhibits directly to the jury, the standard practice shall be to have such exhibit displayed using existing courtroom technology, including digital display of exhibits through laptops to the projector screen and display of exhibits on the Elmo. Additionally, hard copies of the exhibits and media must be tendered to the Court. The presiding judge shall direct counsel how to display any exhibits that cannot be displayed electronically.
- L. The attorney admitting evidence shall ensure that each juror has their own paper copy of each exhibit and a photograph of each physical exhibit. 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.
- M. In order 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 video or audio connection to allow persons to listen to voir dire. After the jury is selected, more persons will be allowed in the courtroom so long as the total number of individuals in the courtroom does not exceed the allowable capacity to accommodate social distancing requirements.
- N. All county court criminal courtrooms shall be arranged to provide room to seat jurors in the jury box, in the well of the court, and on the benches in the gallery, and to allow at least six feet of separation from one person to another. 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.

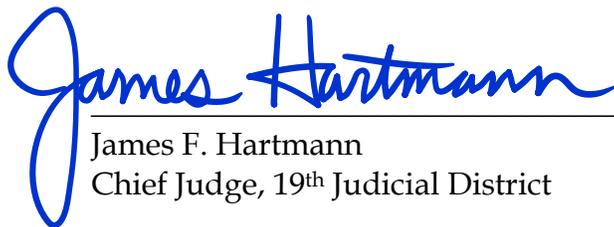
The provisions of Administrative Order 2020-17 shall apply to all civil and criminal jury trials held in the 19th Judicial District, and any judge requesting that any provision of the order be modified or waived for a specific trial shall seek approval of the Chief Judge.

This administrative order does not apply to grand jury proceedings and the procedures applicable to grand jury sessions will be provided by the Chief Judge directly to the District Attorney's Office.

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: July 30, 2020.

BY THE COURT


James F. Hartmann
Chief Judge, 19th Judicial District

Attachment A



**NINETEENTH JUDICIAL DISTRICT
JUROR HEALTH SCREEN QUESTIONNAIRE**

Juror Name (Print): _____

Juror # _____

Juror Phone # _____

1. Have you experienced any of these symptoms within the past three days, including today?

Symptoms	Yes	No
Fever of 100.4 or higher	<input type="checkbox"/>	<input type="checkbox"/>
Cough	<input type="checkbox"/>	<input type="checkbox"/>
Difficulty Breathing or Shortness of Breath	<input type="checkbox"/>	<input type="checkbox"/>
Muscle Aches	<input type="checkbox"/>	<input type="checkbox"/>
Sore Throat	<input type="checkbox"/>	<input type="checkbox"/>
New Loss of Taste or Smell	<input type="checkbox"/>	<input type="checkbox"/>
Chills	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No
2. Have you been diagnosed with or tested positive for COVID-19 within the past 14 days? If yes, please list the date: _____	<input type="checkbox"/>	<input type="checkbox"/>

3. Have you been exposed in the past 14 days to someone who has been diagnosed with or has shown symptoms of COVID-19?	<input type="checkbox"/>	<input type="checkbox"/>
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4. Are you or do you reside with a vulnerable individual?	<input type="checkbox"/>	<input type="checkbox"/>
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5. Have you traveled outside of Colorado within the past 14 days? If so, where? _____	<input type="checkbox"/>	<input type="checkbox"/>
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By signing this page, you are affirming under penalty of law that the above is true and accurate.

Signature

Date

Please note: Once completed, your questionnaire is not a public record and will be retained confidentially by the Court.