



Legislative Council Staff

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Memorandum

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TO: Interested Persons

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SUBJECT: Colorado Criminal Justice System Response to COVID-19

Summary

Coronavirus (COVID-19) has impacted almost every aspect of society, including the criminal justice system, leaving crowded courts, prisons and jails especially susceptible to the outbreak. This memorandum provides an overview of how courts and other sectors of the criminal justice system in Colorado are handling this public health emergency. Please note that the COVID-19 situation is rapidly changing, and staff will be monitoring changes and making updates.

Contents

Summary	Page 1
Colorado State Courts	Page 1
Judicial Updates	Page 3
County Jails	Page 4
Jail Updates	Page 5
Colorado Department of Corrections	Page 6
DOC Updates	Page 6
Juvenile Facilities	Page 7
Community Corrections	Page 8

Colorado State Courts

Courts in Colorado are scaling back services and taking measures to lessen exposure to COVID-19. The Chief Justice of the Colorado Supreme Court issued an order concerning court operations and COVID-19, and chief judges in each of Colorado's 22 judicial district are also making administrative decisions, as explained below.

The order also specifies that courts must remain open for essential public safety matters, including, but not limited to, petitions for protective orders, bond hearings for detainees in jails, detention hearings for juvenile defendants, and emergency mental health proceedings.

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The Supreme Court Order Regarding COVID-19 and Operation of Colorado State Courts, and the order extending the prohibition on jury calls can be accessed at the following links.

- Original order: [https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID19%20Order%2016Mar2020\(1\).pdf](https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID19%20Order%2016Mar2020(1).pdf)
- Extension order: <https://www.courts.state.co.us/userfiles/file/Media/SC%20-%20Cases%20of%20Interest/Order%20Extending%20Prohibition%20on%20Jury%20Calls.pdf>

Orders from chief judges in judicial districts. Chief judges in at least 15 judicial districts across the state have issued orders about court operations and COVID-19. The orders, along with information about court appearances for jurors, litigants, probationers, and others interested persons may be found at each judicial district's respective website, which are listed here:

<https://www.courts.state.co.us/announcements/COVID-19.cfm>

Court procedure rule changes. The Colorado Supreme Court adopted a number of rule changes to the Colorado Criminal Rules of Procedure to keep pace with the changing legal landscape due to COVID-19.

- **Rule 24.** This adopted change to Rule 24 regarding trial jurors allows the court to declare a mistrial if a jury pool cannot be safely assembled due to a public health crisis.
- **Rule 43.** Multiple changes have been made to Rule 43 since March 19, 2020, regarding the presence of a defendant. The adopted rule changes create a public health crisis exception for the presence of a defendant in certain court proceedings that do not involve a jury, as well as outline audio and visual communication methods for the defendant and counsel. The rule also addresses consent issues related to the defendant appearing remotely for a court proceeding, and access for victims and other interested persons.

The adopted rule changes may be found here:

https://www.courts.state.co.us/Courts/Supreme_Court/Rule_Changes/2020.cfm

Courthouse access. Colorado courts prohibit anyone who has tested positive or may have been exposed to coronavirus to enter a courthouse. Otherwise, no other courthouse restrictions are in place on a statewide basis, although individual judicial districts may impose their own limitations. The 20th Judicial District has closed its courthouse in Longmont, for example, and the 17th and 18th Judicial Districts have reduced hours and limited access.

Probation offices. Probation offices across the state remain open, but individuals on probation are increasingly being asked to report to their assigned probation officers by phone in an effort to slow COVID-19 spread. Probationers are encouraged to call or email their probation officers to discuss preferred methods of communication.

Judicial Updates as of April 10, 2020

- **Emergency petitions.** The Office of the State Public Defender, the Colorado Criminal Defense Bar, and the Office of Alternate Defense Counsel filed two emergency petitions on April 3, 2020, to the Colorado Supreme Court, asking for immediate action to limit the spread of COVID-19 in Colorado jails. The petitions ask the Court to immediately issue guidance to lower courts in an effort to safely limit the number of people arrested and booked into jail, held in jail pretrial on unaffordable money bond, and held on certain sentences. The Colorado Supreme Court denied the petitions without explanation.
- **Pro se parties.** The Colorado Supreme Court is accepting case filing of pro se parties by fax or email until further notice.
- **2nd Judicial District** (Denver County). The chief judge issued an amended administrative order regarding court operations, dated March 29, 2020, to extend certain court related delays or restrictions for jury calls and adult problem-solving court dockets, among other things. It also requires all district court criminal divisions to operate as “virtual courtrooms.”

The district and county courts in Denver issued a joint administrative order regarding arrest and bench warrants, which encourages law enforcement agencies to proceed by summons in lieu of initial arrest for low-level crimes.

- **4th Judicial District** (El Paso and Teller Counties). E-filing for domestic cases is available.
- **5nd Judicial District** (Clear Creek, Eagle, Lake, and Summit Counties). The chief judge issued an amended administrative order that vacates and continues all in-person hearings, except for matters concerning public safety, through April 17.
- **8th Judicial District** (Jackson and Larimer Counties). The Loveland Police and Courts building is closed, with limited hours and access at Larimer County courthouse.
- **11th Judicial District** (Chaffee, Custer, Fremont and Park Counties). The chief judge issued an order concerning summons in lieu of arrest and for quashing arrest warrants and proceeding with summons.
- **12th Judicial District** (Alamosa, Conejos, Costilla, Mineral, Rio Grande and Saguache Counties). The chief judge issued an order regarding shared parenting time during the statewide stay-at-home order.
- **14th Judicial District** (Grand, Moffat and Routt Counties). A temporary order was adopted allowing for expedited processing of a limited classification of persons arrested or jailed for low-level, low-risk offenses. The order also provides for the appropriate treatment of persons with verifiable medical conditions that put them at risk for the contraction of COVID-19.

- **18th Judicial District** (Arapahoe, Douglas, Elbert and Lincoln Counties). Courts and court-related services have limited hours through April 10, 2020, including Arapahoe District Courts, Douglas Combined Courts, and Elbert Combined Courts, closing at 2:30 pm daily, and Lincoln County Combined Courts closing at noon daily. All self-help centers and the Arapahoe County Courthouse in Littleton are closed until further notice.
- **19th Judicial District** (Weld County). Probation staff in Weld County compiled a page of state and local resources regarding COVID-19:
https://www.courts.state.co.us/Probation/County/Resources.cfm?County_ID=61.
- **20th Judicial District** (Boulder County). The Longmont courthouse is closed, with limited services at the Boulder Justice Center. Court staff produced a fact sheet about court functions and COVID-19:
https://www.courts.state.co.us/userfiles/file/Court_Probation/20th_Judicial_District/COVID%2019/Court%20Operations%20During%20COVID.pdf.
- **21st Judicial District** (Mesa County). The court outlined actions taken to mitigate the effect of COVID-19 on the jail population, including expeditiously reviewing motions to modify bond and allowing attorneys and others to appear by phone and video:
https://www.courts.state.co.us/userfiles/file/Court_Probation/01st_Judicial_District/20200402%20Actions%20Taken%20Incarcerated.pdf

County Jails

Jails across Colorado each develop their own protocols regarding COVID-19. La Plata County, for example, recently announced that access to the county jail has been restricted and that work release sentences have "been postponed until health risks subside." Additionally, the Jefferson County Sheriff's Office announced that eligible inmates who have served at least 50 percent of their sentences and meet all other early release requirements will be released early. Pueblo County is also releasing select inmates amid the COVID-19 crisis. Other jurisdictions are working with defense attorneys and prosecutors to decrease the jail population while still maintaining public safety.

Governor action. On Tuesday, March 24, 2020, Governor Polis issued guidance to prosecutors, public defenders, and law enforcement on how to decrease county jail populations and reduce police contact with citizens. The guidance calls on law enforcement to issue summonses instead of making arrests when possible and asks them to consider the severity of a possible crime when a suspect has a cold or flu-like symptom. The guidance also has recommendations to decrease the spread of COVID-19 in detention centers, which include ensuring that no more than ten people congregate at a time in jails, isolation of sick inmates, and sanitation protocols. Additionally, the Governor directed judicial districts to work with prosecutors and defense attorneys to issue personal recognizance bonds, rather than cash bonds, and to implement pretrial diversion and release methods to lower the number of individuals held in custody.

The Governor's guidance to local law enforcement and detention centers can be found here: <https://www.colorado.gov/governor/news/gov-polis-provides-guidance-local-law-enforcement-and-detention-centers>

Jail Updates as of April 10, 2020

- **Denver County.** According to city officials, a Denver County inmate tested positive for COVID-19 on March 30, 2020. Denver police have been issuing citations and summons rather than making arrests for certain crimes in an effort to reduce the jail population.
- **Fremont County.** Judges are granting personal recognizance bonds and reducing the sentences of certain inmates in order to limit the jail population.
- **Jefferson County.** The Jefferson County Sheriff's Office announced the release of inmates who have served at least half of their sentences and meet all other early release requirements. On March 31, 2020, the Jefferson County Sheriff's Office implemented two additional law enforcement actions in response to COVID-19 concerns in the county jail: the sheriff deputized all P.O.S.T.-certified peace officers employed by, and in good standing within the county; and, the office announced new arrest standards in order to avoid unnecessary community spread of COVID-19 and to reduce the potential for an outbreak in the jail. The full text of the announcement from the sheriff's office can be accessed here: [Jefferson County Sheriff COVID-19 Response Actions](#)
- **La Plata County.** Inmates who are at risk and pose a low risk to the community were released, lowering the jail population from 201 to 176 inmates. All work release sentences have been postponed until health risks subside.
- **Larimer County.** Larimer County closed the work release facility and released inmates serving a work release sentence on Friday, March 20, 2020. All released offenders will remain under supervision. Offenders currently serving sentences in Larimer County Community Corrections who are deemed high risk to contract COVID-19 will be moved to the work release facility.
- **Mesa County.** The Mesa County Detention Facility announced a 24 percent reduction in the inmate population. According to a recent statement, judges in the district are continuing to take measures to decrease the jail population. The statement can be accessed here: [Mesa County Actions to Mitigate Effect of COVID-19 on Incarcerated Persons](#)
- **Weld County.** Jail officials are currently screening inmates as they are booked into the facility and holding new offenders in dedicated housing units before intake. Additionally, the American Civil Liberties Union of Colorado and other state civil rights attorneys filed a lawsuit in the federal district court against the Weld County Sheriff for failing to follow social distancing guidelines in the Weld County Jail during the COVID-19 health emergency.

Colorado Department of Corrections

The Colorado Department of Corrections (DOC) has modified operations due to the spread of the coronavirus and has made the following temporary changes.

Visits. DOC has temporarily banned family visits. Other means of communication are being made more readily available to inmates and families, such as increasing the amount of phone time inmates are allowed and subsidizing some of the costs. The DOC is also exploring using video visits. Noncontact legal visits are still permissible.

Volunteers. Volunteers are not allowed inside prisons, impacting arts and religious programming. DOC is looking at other recreation options to fill the gap created by the temporary loss of volunteers.

Tours and events. All public tours and family reunification events are postponed.

Inter-facility travel. Inter-facility travel by staff will only be conducted if absolutely necessary and meetings between facilities will instead be conducted via phone or web conference whenever possible.

Parolees. Parolees who are sick, immune-compromised, over 60, and/or considered to be at a higher risk of infections will not be required to make in-person visits to the parole office. Parolees will still be required to maintain contact with their parole officers.

DOC coronavirus policies, frequently asked questions, and updates may be found here: <https://www.colorado.gov/pacific/cdoc/news/3-17-2020-updates-covid-19>

DOC Updates as of April 10, 2020

- **County jail transfers.** DOC has placed a temporary moratorium on receiving inmates from county jails pursuant to an executive order signed by Governor Polis on March 25, 2020. The order temporarily suspends certain regulatory statutes concerning criminal justice and is part of a broader plan to reduce the state's prison population in response to COVID-19. The order can be read in its entirety here: <https://drive.google.com/file/d/18o0yWHzZleHJ87hmgLuBmXwpM8R74Q5x/view>
- **Inmate with COVID-19.** An inmate at Buena Vista Correctional Complex tested positive for COVID-19 and has been in isolation after arriving to the facility in late March.
- **Quarantine.** Potential new arrivals to DOC are being quarantined in Centennial South Correctional Facility (CSP II).
- **Parole.** Twenty-five inmates have been released to intensive supervision parole (ISP) and another 200 inmates are being considered for release.

- **Staff with COVID-19.** Two staffers have tested positive for COVID-19, one who works at the Sterling Correctional Facility and the other at the Denver Reception and Diagnostic Center. A parole officer in Sterling has also tested positive for COVID-19 and has been put on administrative leave.
- **Staffing levels.** The number of staff in state prisons and parole officers are being temporarily reduced and will vary based on security levels and programs. DOC headquarters in Colorado Springs is closed, and staff are working remotely. Parole officers are also increasingly supervising parolees remotely.
- **Technical violations.** Inmates who are serving time for low-level infractions, or technical violations of probation or parole, are being released. Further, DOC is temporarily suspending arrests of parolees for low level technical violations.

Juvenile Facilities

The Division of Youth Services (DYS) in the Department of Human Services has instituted precautionary measures to prevent the introduction and spread of COVID-19 in state-owned and operated youth facilities. The related DHS policies are outlined below.

Health screening. DHS has implemented a comprehensive medical screening process for all new youth admissions, and a health screening for anyone, including staff, prior to entry into a youth center. This includes secondary screenings, if warranted, by medical personnel. DHS also conducts a daily review of any symptoms by youth or staff.

Visitation. In-person family visits are temporarily banned, and visits are instead being held via video conferencing or phone.

Meetings. Professional meetings, including daily staff meetings, are conducted using video conferencing or phone.

Court appearances. Video court appearances are being used, when possible, rather than in-person hearings, in an attempt to reduce in-person appearances in court and transportation outside of youth centers.

Furloughs. Staff is reviewing commitment youth between 30 and 90 days of parole to determine if they can be effectively furloughed with services until their parole dates.

Service providers. DHS is placing limits on outside service providers and volunteers, and instead meeting remotely to continue care where warranted (e.g., religious services).

Programming. DHS is continuing its programming with youth centers, including treatment and behavioral health support, and educational programming in commitment programs.

Staffing. The ratio of youth to staff has been lowered to the extent possible, and a daily review of staffing levels is conducted.

Hygiene. Proactive measures have been implemented to keep detained youth healthy and include cleaning and regular access to handwashing/soap, hand sanitizer, and ongoing reminders and signs posted to encourage youth to wash their hands and keep them from touching their face, nose, and eyes.

Cleaning. Facility staff are disinfecting and cleaning youth and staff areas on a daily basis.

Personal Protective Equipment (PPE). The division is maintaining ample stock of proper PPE to minimize exposure to hazards that cause workplace injuries and illnesses.

DYS Updates as of April 10, 2020

- **Release of youth.** DYS has released 22 young people on parole to lower its incarcerated population.

Community Corrections

Community corrections facilities operate on the local level supported by private and nonprofit organizations in accordance with state standards developed by the Office of Community Corrections, which is part of the Division of Criminal Justice in the Department of Public Safety. These facilities offer a sentencing or placement alternative, in lieu of prison, for eligible felony offenders, where the offenders live under supervision, but are allowed to leave for work, treatment for mental health issues and/or substance abuse, and family and community visits.

In an effort to limit the impact of COVID-19 in and outside these facilities, the Office of Community Corrections has issued guiding principles, or suggestions, to local community corrections providers. These guidelines cover contracts and standards, including creative alternatives to standard practice in regard to pat searches, social distancing, and trainings; nonresidential movements and furloughs to lower the census in facilities; and financial considerations. See Attachments A and B for more details.

Community Corrections Updates as of April 10, 2020

- **Intakes.** The Denver Department of Public Safety, which oversees eight halfway houses with a total of 600 residents, halted new intakes to Denver-based community corrections facilities.
- **Population management.** The Denver Department of Public Safety was granted the authority by the state to recommend furloughing, or releasing certain residents in community corrections facilities to parole, in an effort to free up space.