



Legislative Council Staff

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Memorandum

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March 27, 2020

TO: Interested Persons

FROM: Juliann Jenson, Research Analyst, 303-866-3264
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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.

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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 change. On March 19, 2020, the Colorado Supreme Court adopted a rule change to Colorado Criminal Rule of Procedure 43. The change adds a public health crisis exception regarding the presence of the defendant in certain court proceedings. The exception requires defendants to appear by contemporaneous audio communication, such as telephone, at arraignment hearings and other proceedings, if the court finds that a public health crisis exists. The rule requires that defense counsel be in the physical presence of the defendant unless permitted by the court to participate from a different location. The rule also specifies that the defendant may appear via interactive audiovisual devices for a preliminary hearing, entry of plea, sentencing, and other similar proceedings.

The text of the rule change may be found here:

[https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2020/RULE%20CHANGE%202020\(04\).pdf](https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/2020/RULE%20CHANGE%202020(04).pdf)

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.

Week of March 23, 2020 - Judicial Updates for COVID-19

- **2nd Judicial District (Denver County).** No criminal dockets scheduled for the week of 3/23/20.
- **4th Judicial District (El Paso and Teller Counties).** E-filing for domestic cases is available.

- **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.
- **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 provides for the appropriate treatment of persons with verifiable medical conditions that put them at risk for the contraction of COVID-19.
- **20th Judicial District** (Boulder County). The Longmont courthouse is closed, with limited services at the Boulder Justice Center.

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>

Week of March 23, 2020 - Jail Updates COVID-19

- **14th Judicial District.** A preliminary agreement between the 14th Judicial District, the State Public Defender's Office, law enforcement and the district attorney's office allowed for the release of some low-risk offenders and those with medical issues that put them at risk for COVID-19. A temporary emergency order was adopted regarding the risks of further spread of COVID-19 in county jails.
- **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.
- **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.

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>

Week of March 23, 2020 – DOC Updates COVID-19

- **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>
- **Staff.** 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.
- **Inmates with COVID-19.** Nine people in state prisons have been tested, of which six came back negative and three are pending.
- **Staff with COVID-19.** A parole officer in Sterling has tested positive for COVID-19 and has been put on administrative leave.

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 DYS policies are outlined below.

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

Programming. DYS 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.

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.



COLORADO
Department of Public Safety

Division of Criminal Justice
Office of Community Corrections
700 Kipling Street, Suite 1000
Lakewood, CO 80215

Memorandum

To: All Community Corrections Partners

CC: Joe Thome, Director, Division of Criminal Justice

From: Katie Ruske, Manager
Office of Community Corrections

Re: COVID-19

Date: March 20, 2020

Community Corrections Partners,

These are difficult and trying times as we all work together to try to limit the impact of COVID-19. We understand that you have a great responsibility to manage for your communities, staff, and clients for public health and safety. Thank you to everyone that has been communicating your Emergency Disaster Management Plans (EMDP), responses, questions and information about the situation at hand.

The Colorado Department of Public Safety's Office of Community Corrections (OCC) has been working with stakeholders to identify processes and steps to support you during this time. We have seen plans, for example, that rely on the principles of social distancing for some facilities and quarantining (or shelter in place) in others. **OCC reached out to the Colorado Department of Public Health and Environment (CDPHE) which has advised that 24/7 facilities should make accommodations for social distancing, as much as possible.**

CDPHE also advised that providers should work with their local public health agency (LPHA) and proper authorities in the development of EMDPs and other related strategies. The following link provides contact information to all LPHAs across the State. [Colorado Local Public Health Agencies](#)

With those recommendations as guiding principles, we are proposing the following as ways for your programs to ameliorate potential impacts from the COVID-19 spread.

Contracts and Standards



OCC recognizes some obligations in the specialized scope of work contracts and the Colorado Community Corrections Standards may pose challenges to social distancing. We also recognize the balance between supervision strategies and protecting the health and safety of your staff, residents and the community. Attached to this email is a list of Standards and contract obligations that may be impacted by social distancing. The list also includes some *potential strategies* for altering practices during this time.

Given CDPHE's guidance that strategies and responses will be specific to local communities and situations in individual facilities, our office will not be setting specific expectations or alternative practices for statewide application. We understand that this can lead to somewhat different responses across the state, but we believe it is important to follow this recommendation. Again, these are only *suggestions* and advise you to seek guidance from public health officials and/or your LPHA . Any other questions related to procedures/practices your agency utilizes that are a concern with regard to protecting the health of your staff and/or residents should be directed to your LPHA

The bullets below provide some additional information and/or requests:

- **Please provide a copy of your local board approved EDMP.** This allows our office to be informed and knowledgeable of the strategies being utilized across the state. Please indicate in the plans what agencies or resources were consulted for the development of the plan. If altering any Standards requirements, please indicate what alternative practice(s) will be utilized to try to meet the intent of the Standard.
- Given the constantly changing situation in front of us, we recognize provider responses also will be changing. To accommodate for this, **our office is easing the waiver process.** Specifically, for any policy or practice changes not included in the EDMP that affects the ability to meet contract or Standards obligations, send the request to your local Community Corrections Board. Again, please indicate what alternative practice(s) will be utilized to try to meet the intent of the standard.

Community Corrections Boards, please create a process to manage urgent requests and to review all COVID-19 related approaches as timely as possible. The request and supporting documentation shall be sent to OCC upon completion of the established board review process. If our office identifies any concerns, we will reach out with those concerns.

- As part of incident reporting, **all presumptive cases and positive tests for COVID-19 for clients and staff must be reported to our office.**

Non-Residential Movements and Furloughs

In support of social distancing, we understand that health department guidelines have recommended lowering census in 24/7 facilities to the extent possible. Our office supports the move of appropriate diversion clients onto non-residential status for this purpose. An example could include a client on Level IV, with an outstanding homework assignment or short on their savings goal. To meet Standards, our office only asks that the level moves and case plan goal



override be documented. Similarly, please work with the Department of Corrections for any client movements to ISP-I.

As for furloughs, the Division encourages the use of furloughs as part of EDMPs, with the support of your local community corrections board and the supervising agency (Department of Corrections or the Judicial Branch). Furloughs can be authorized for a period of up to four weeks with the following precautions:

- (1) subject to authorization by the local community corrections board;
- (2) transition cases authorized by DOC;
- (3) no furloughs are allowed for those who would be homeless during their time out of the facility;
- (4) no furloughs are allowed for clients in Intensive Residential Treatment;
- (5) the board and provider identify criteria for eligible residents (e.g., no sex offenders or serious violent crimes; those who would be furloughed homeless would not be eligible);
- (6) all furloughs are subject to victim notification requirements of the Victim Rights Act and state statute;
- (7) providers will develop a system of vigilant client monitoring that is approved by their board; and
- (8) new intakes will be suspended until the modified furlough process is terminated to ensure population stays well below capacity to apply social distancing plans.

If you are unable to meet the Standards related to furloughs, submit those practice/policy changes to your local community corrections board as noted above. Additionally, it is requested that planning and consideration be put into the reintegration of furloughed clients back into the program. Please work with medical and health experts to create a process for reintegration. Our office is working on creating a new movement in CCIB for the tracking of emergency COVID-19 related furloughs. Once we are able to accomplish this, we will send directions.

Financial Considerations

At this time there is no plan or directive to reduce the per diem rate for clients on furlough. Providers will be paid the entire per diem rate throughout the furlough to ensure proper staffing and operations can be maintained, this includes both regular residential and differential rates. However the Division is asking that the \$17 a day subsistence be waived for clients unable to work during this difficult time. Additionally, we are requesting that food, hygiene items, and other basic needs be provided by the program however possible for clients unable to obtain these necessities. We ask that financial assistance be considered for both clients that remain in the facility and those on furlough or nonresidential status.

Again, the State thanks you for all of your work during this difficult time to reduce the risk to clients, staff, and the community. Continue to reach out with your plans, waivers, and questions. Our office is also working on setting up a virtual meeting for stakeholders where you can share ideas, ask questions, and get support related to your responses to COVID-19.

We are working on additional methods to provide flexibility and safety. Details to come.



Attachment B

KEY		Universal Assumptions:
Affected by COVID		Allow for 6' distances between individuals where possible
Not Clearly Affected by COVID		Use gloves where possible and sensible
Possibly Affected by COVID		Sanitize common surfaces where sensible
		If any client is symptomatic/ill, distancing becomes a priority
Colorado Community Corrections Standards (rev. 2017)	Pg #	Creative Alternatives to Standard Practice
CS-010: Random Headcounts and Facility Walkthroughs	14	Aim for 6' distance while conducting walkthroughs and headcounts
CS-020: Client Property	14	Limit to essential drop offs
CS-030: Contraband	14	Pat Search: Staff stand 6' away, have client pull clothes very tight to body, lift up pant legs, run fingers around waist of pants on inside, turn out pockets, remove outer layers (sweatshirts, jackets, etc.). Room Search: If client is present for room searches, stand 6' away
CS-044: Home Visits	17	If in house, keep 6' distance, wear gloves. Consider lessening frequency where necessary. Consider not entering home, but meeting on the porch. Consider virtual home visits where applicable and possible (Skype, etc.). If not entering home, increase phone contact.
CS-060: Substance Testing Processes	18	Thorough pat search procedure described above, keep door cracked while urine is flowing to accommodate watching from afar. Visual pat search after as well. Stop client/staff traffic while UAing, or create privacy curtain to "extend" bathroom. Consider changing to a different bathroom if possible. Check urine temperature if not witnessed. Reduction of UAs may be considered. Non-Residential: May still require coming in, but develop ways to apply social distancing; autonomy for facilities to determine how best to do this. (idea: creating times when clients can come in, possibly separating by alphabet).
CS-061: Entry Urine Sample	19	See above for collection
CS-080: Medications	23	6' distancing where possible; Self-administering meds; Possibly sitting bottle down, stepping away, allowing client to put meds in a cup, staff verifies it; Both staff and clients wear gloves; Possibly relocating to a different space
EF-010: Facility Service/Tasks	26	Allow for 6' distancing while chores are being conducted
OMA-020: Milieu Management	32	Allowing for staff to spread out more during peak times (i.e. stationed outside of the office to keep greater distances); navigate based on own facility logistics and physical plant.
SD-070: Staff Training	38	Allow for training of staff to be postponed and facilities to alter policies/schedules related to training to allow for social distancing as needed. It is understood that IMPACT staff, who are supposed to be trained in 6 topics areas within 6 months hire, may be unable to complete trainings on time during this period. Changes related to COVID should be documented
SD-071: Training Events	38	Live trainings will be postponed. Online training events can be arranged if necessary.
SD-072: Ancillary Staff Training	38	Same as SD-070
SD-080: Sex Offender Supervision Training	39	Same as SD-070
SD-090: Coaching and Fidelity	40	Same as SD-070
SD-100: Leadership Development	40	Same as SD-070
Specialized Scope of Work Considerations		
IRT Scope of Work		
		Continue to utilize IRT Length of Stay Waivers
		Provide make-up groups when possible with less than 10 people with whatever healthy staff is available
		Make up sessions can be done 1:1 as well
		Increase 1:1 sessions in lieu of groups as appropriate
		If a client is not feeling well they should not be attending group

If client is not feeling well, family support services should be suspended		
Pats/contraband/UAs/meds etc - follow recommendations for Standards		
Follow OBH guidelines for COVID-19		
<u>SOSTCC Scope of Work</u>		
Pats/contraband/UAs/meds etc - follow protocol for Standards		
Follow to SOMB COVID-19 recommendations (our scope just refers to SOMB for treatment protocols etc and does not have dosage requirements)		
<u>RDDT Scope of Work</u>		
Provide make-up groups when possible with less than 10 people with whatever healthy staff is available		
Increase 1:1 sessions in lieu of groups as appropriate		
If a client is not feeling well they should not be attending group		
Pats/contraband/UAs/meds etc - follow protocol for Standards		
Follow OBH guidelines for COVID-19		