



Ohio Judicial Conference



Continuing Jury Operations

Prepared by the OJC Jury Service Committee

May 2020

The Jury Service Committee is:

Co-Chair Judges Gary Yost and James Stevenson

Members

Jean Atkin

Judge David Branstool

Judge J. Timothy Campbell

Judge Linda Jennings

Judge Reeve Kelsey

Judge Everett Krueger

Judge Thomas Marcelain

Marta Mudri, Esq.

Magistrate Matt Reed

Judge Matthew Reger

Magistrate Kenneth Roll

Judge Nick Selvaggio

Tom Shields

Judge Gregory Stephens

Judge Tygh Tone

A special thanks to Judge Matthew Reger for spearheading the effort, Judges Ron Forsthoefel and Nick Selvaggio for providing documents, Marta Mudri for coordinating the work group and drafting the report and to the following people for joining the work group: David Ballman, Judge Jessica D’Varga, Judge Frederick Dressel, Judge Jack Durkin, Tonya Dye, Judge Todd Grace, Judge Deirdre Logan, Judge David Matia, Judge Denise Moody, Judge Jeffrey Reed, Elizabeth Stephenson.

.....

May 1, 2020

Judges of Ohio,

COVID-19 is a respiratory illness caused by the novel coronavirus, which has caused a pandemic that reached the United States and Ohio in the early months of 2020. Governor Mike DeWine declared a state of emergency in Ohio On March 9, 2020 in conjunction with a stay-at-home order issued by the state's Director of Health, Dr. Amy Acton. As essential services, courts did not close on March 9 but drastically changed their operations to comply with guidelines from health professionals. At the time of writing this document, Ohio has reported thousands of cases of COVID-19 and hundreds of deaths.

The stay-at-home order is expected to be fully lifted in the near future, but the threat of COVID-19 has not yet been eliminated. In addition, COVID-19 may resurge in waves – again in the fall or next winter, possibly at the same time as the regular flu season, which will compound the problem for hospitals and may lead to another state lockdown. Courts operating in this environment of uncertainty need to do everything they can to both continue vital services and safeguard the health of court staff, visitors, and users. With statutory tolling periods soon expiring, it will be time to make the decision whether to move forward with jury trials and other court services.

Courts across Ohio have an astounding variety of available resources and it is a proven axiom that there is no one solution that can be implemented identically in all 88 Ohio counties. The purpose of this document is to provide suggestions – not directives – for any court to consider in the continuing operations of grand and petit juries. The first part of this document provides suggestions and checklists that comply with the general, and by now well-known, guidelines of keeping numbers low in meetings and public spaces, keeping distance between people, using personal protective equipment, and the like. In fact, one of our most important suggestions is useful to repeat here: rely on input from your local health director and get any new protocols approved through your local health director. The second part of this document provides some templates for communication with jurors, as one of the most important things to do is candidly provide information and assurance to jurors who are being morally courageous when completing their civic duties during a pandemic. It also includes sample protocols in use by judges. This document is still a work in progress and will be updated throughout the coming weeks. We welcome all input.

Juries perform a critical role in the American justice system and they safeguard one of the most important rights provided by our Constitution. The work of juries, both grand and petit, must go on and we hope that this document helps courts continue the fair administration of justice – safely – in these trying times.



ALL LOCAL PLANS SHOULD BE REVIEWED WITH LOCAL HEALTH EXPERTS. THIS DOCUMENT IS MEANT, IN PART, TO PREPARE A JUDGE OR COURT STAFF TO MEET WITH THE LOCAL HEALTH DEPARTMENT TO DEVISE OR APPROVE A PLAN.

Continuing Trials When Possible

1. To the extent possible, longer trials should be continued, as least until after the peak of an outbreak subsides, to avoid the possibility of extended recesses or even a mistrial if jurors become ill during trial.
2. Reduce the number of jury trials scheduled by postponing civil and other jury trials where there is not a speedy trial issue
3. If you summon jurors at the beginning of a pandemic, can you extend their length of service to after the pandemic? Alternately, can you excuse them but get them back quickly when needed (when the state of emergency has been lifted)?

Checklist:

- ___ Determine the status of the virus in your county (consult the health department)
 - ___ Is it safe to meet with social distancing or not?
- ___ Why does this jury trial need to go forward?
 - ___ Criminal case that has previously been continued
 - ___ Speedy trial issues that have Constitutional implications
 - ___ Civil case with time issues that could not be ameliorated if the case did not go forward
- ___ If the trial needs to go forward, contact the Sheriff – transportation of people in and out of jails has been complicated significantly by coronavirus protocols
- ___ If the trial needs to go forward, contact the County Health Department
 - ___ Consult with health department on voir dire procedures, conducting trial, and maintaining safe distances for all participants
 - ___ Create a diagram of the courtroom in consultation with health department that accommodates social distancing and creates an environment that is safe and instills confidence in jurors, staff, attorneys, witness, victims and all other participants that the Court has fully considered the health of all participants.
 - ___ Consider a pretrial with health department representative and counsel to discuss all procedures for conducting trial



_____ Create a press release from both the court and health department that approves the courtroom as practicing all procedures to ensure social distancing limit the spread of COVID-19

_____ Where will jury trial take place?

_____ If off-site, the following issues may need to be addressed:

- _____ Security
- _____ Internet
- _____ Bathrooms
- _____ Sound system
- _____ Easy to find location
- _____ Other considerations:

Staff and Others that Interact with Jurors

4. It is critically important that jury staff who are sick not come to work until they are completely well. Employee screening can include: What is your current temperature? Within the past 24 hours, do you have *new* symptoms consistent with a virus, such as a fever, a cough, or shortness of breath? Are you monitoring your health under the direction of the local health department?
5. An employee that comes in contact with someone with coronavirus or tests positive without symptoms should stay at home for at least 2 weeks.
6. The courtroom, jury room, etc. should be sanitized every night (or at the conclusion of the trial)
7. Attorneys should also be healthy. They should not approach the witnesses in court but ask questions from their seats. Consideration should be made about sidebars – how to keep them confidential and socially distant at the same time.
8. Documents, such as ID, should not be physically taken from a juror. Staff that checks IDs can look at an ID without taking it. Name badges should be temporarily avoided, perhaps replaced with stickers. Jury and grand jury members can be assigned numbers on pieces of paper that get thrown away after use.

Checklist:

- _____ Establish a daily regimen to check the health of staff, security, attorneys, jurors, witnesses, victims, press and anyone else entering the courtroom
- _____ Establish process for reviewing juror identification
- _____ Establish procedure with courthouse maintenance on cleaning courtroom every night



- _____ Establish rules for attorneys during trial:
 - _____ Limit access to the well of the courtroom
 - _____ Do not allow attorneys to approach witnesses
 - _____ Use electronic means for presenting exhibits if possible
 - _____ Require several copies of exhibits, marked appropriately, for witnesses, court, counsel, jury, court reporter, etc.
 - _____ Consider originals plus 12 copies of exhibits so that each juror has their own copy and do not have to share.
 - _____ Masks on except when speaking
 - _____ Remove all items from counsel table at end of the day
 - _____ Responsibility for advising all witnesses of courtroom procedures and ensuring witness is healthy
- _____ Voir dire for the entire first day: two sessions or three sessions?

Communications with Jurors

9. Use every possible communication medium (website, courtroom door signs, press release, twitter, etc.) to broadcast the message that the court is actively concerned about health and safety of everyone using the court.
10. A statement with the jury notice to inform prospective jurors of what we are doing to ensure their safety, how the process will work to address those safety concerns, and providing them the opportunity to inquire of the court if they believe they are in a high-risk category for COVID-19 infection
11. Do not just tell jurors you are protecting safety – make sure they see that that is true. If you remove the community coffeepot, for example, replace it with a sign that explains the reasons for removing it.
12. Telling jurors why we are holding a jury trial: If we tell them that the defendant has a right to a speedy trial it might be prejudicial to the defendant and cause jurors to believe the defendant is making them be present and not the court. Jury trials are essential and have to continue.
13. A recorded message to jurors assuring anyone calling in off hours of our juror procedures to ensure safety
14. Fully leverage the benefits of improved communications technologies. Many jury management systems now collect cell phone numbers and email addresses when jurors respond to summons. Use those to supplement telephone call-in messages and court websites to send alerts and to publicize any new court policies enacted to support state and local health and safety measures.
15. A press release outlining how jury trials will proceed under new processes to guarantee safety



16. If possible, try to get a story in local papers about the heroic jurors that possess the civic mindedness and moral courage to report to jury duty during a difficult time.

Checklist:

- _____ Create a joint letter that is signed by the Court and county health director stating that all precautions have been taken in cooperation with the health department to make the courtroom safe. Send that letter to all jurors in the panel before trial.
- _____ Create a statement about the long tradition of jury trials and how continuance of jury trials is inextricably linked to the continuance of our society.
- _____ Record a statement from the judge (not staff) for the juror call-in the day before trial that informs them that the trial will be proceeding and what precautions have been created.

Courthouse Entry

- 17. Taking temperatures before entry into the court
- 18. Providing hand sanitizer at court entrance
- 19. Providing masks to people entering the court; a hospital-grade mask (does not need to be N95) is fairly effective PPE and can be worn all day or reused until it is no longer effective
- 20. Limit public entry. Provide livestreaming for the public that is interested in court proceedings
 - a. *Keep in mind*, that something that is livestreamed can be accessed by anyone in real time, *including separated witnesses*. You may need to institute a policy to prevent this.
 - b. There are various live-streaming services; a camera will be needed (a web-cam can be mounted on the wall) as well as input with HDMI or a standard video/audio cable and output (CATV/CATVI computer cable)
- 21. Polycarbonate shields?
- 22. If the courthouse has an elevator, post a maximum number of people who can safely (within 6 feet of each other) use the elevator at one time

Checklist:

- _____ Make sure all of these precautions are established along with any other specific precautions.
- _____ If off-site, who will meet at door, what directions do you need to provide
- _____ What will be the rules for spectators?
- _____ Victim family: How extended?



- _____ Defendant family: How extended?
- _____ Press: How many different? Use of pool?
- _____ Others:
- _____ Providing masks upon entry if they do not have one?
- _____ Hand sanitizer available?

Jury Pools

23. The summons can contain screening questions specific to COVID-19.
24. Increase the number of jurors summoned to appear, noting that this increase must be balanced against the risk of calling more jurors than are realistically needed thereby unnecessarily exposing them to possible contagions. E.g. A pool of 50 as opposed to 40
25. Allow for deferring jury duty as much as possible, rather than excusing jurors from duty. The deferral policy could be, for example, that a potential juror can defer for any reason at all one time.
26. Allowing jurors in high-risk categories [specify: age, respiratory condition, diabetes ...] to defer. The policy should identify who has authority to approve deferment for jurors, the criteria for deferment, and whether any documentation will be required
27. Allowing up to two deferrals in a year so that anyone called in May who may have been called earlier in the year but is in a high-risk category can be deferred again
 - a. Second deferral for those who: have tested positive for COVID-19 or are in self-quarantine; person has high risk of infection [specify ...]; person living with others who have high risk of infection, is awaiting results of a test for coronavirus, or has tested positive for coronavirus; health care professionals
28. Using the BMV list in addition to the BOE list for creation of the jury pool results in more *younger* people in the pool.
29. The policy for jurors who fail to appear should be forgiving, but those failures should be followed up on – it is important that jurors know that deferrals are possible but that a juror cannot simply decide not respond to a summons.
30. The change to the composition of the jury because of the state of emergency could cause the jury to arguably NOT include a fair cross-section of the community. Courts should document the demographic characteristics of a jury during this time, as well as keeping track of the reasons that jurors were deferred or excused – presumably those reasons will be mostly pandemic-related. If a jury is later challenged, it will be helpful to have that documentation.

Checklist:

- _____ Is your community ready for a jury trial? (Each community has been impacted by COVID-19 in a different way. Be sensitive to the community.)
- _____ How many jurors do you call? 10 more, 20 more, twice as many



- _____ Has a deferral policy been created and articulated to potential jurors?
- _____ Create record of deferrals; consult with counsel about deferral policy
- _____ Health questionnaire can screen some jurors remotely

Jury Reporting

31. Some courts may find it more effective to have jurors report later in the day (e.g. after lunch) and retain morning calendars to accept plea agreements, settlements, and motions for continuance. For such a policy to be truly effective, there must be very clear communication between jury staff and the individual courtrooms. It will not work if the judges are informed about the parties' intent but that information is not shared with the jury office in time to inform jurors not to report.
32. Avoid having jurors report if the court anticipates a civil settlement or guilty plea, with consideration given to having the jurors report later than the scheduled trial time to allow the court to accept pleas or settlements or to continue cases in time to provide notice (posted outside courthouse and on phone recording) to jurors so they do not needlessly appear;
33. When a jury selection does begin, the smaller the jury panel, the less likely the risk of infection. A technique the court may wish to consider is to have each panel report directly to the assigned courtroom rather than to the jury assembly room.
34. Another technique is to have jurors report for service on a staggered schedule during the day.
35. Voir dire could be divided into morning and afternoon thereby allowing one day for voir dire in smaller panels, e.g. 25 in the morning and 25 in the afternoon
36. Would it be possible to send case-specific voir dire questionnaires that jurors complete online or on paper? The lawyers can review the responses and ask the court to summon only those jurors who would survive a challenge for cause or peremptory challenges.
37. Initial screening for jury selection can be remote – done through email and a service like Qualtrics or SurveyMonkey. Questions could screen jurors that will end up being excused because of time, hardship, or a for-cause conflict.
38. Judges might also consider impaneling extra alternates or extending service for grand juries so that new people are not needed.
39. Grand juries may be able to meet remotely (this is not a possibility for petit juries for constitutional reasons). As long as the secrecy of the grand jury deliberations can be safeguarded (e.g. each member of the grand jury agree to use a computer in a private room and the technology used is secure), this is a possibility.

Checklist:

- _____ Voir dire procedure established and communicate to staff, security, attorneys, others



- _____ Press release on initial trial procedures
- _____ Online survey: Is this technically possible?
- _____ Create separate protocol for grand jury

Social Distancing in the Courthouse

40. Moving jury deliberations to a larger room or to a nearby larger facility (such as a school gym).
41. Use the gallery of the court instead of the jury box. Leave the jurors in the courtroom, locked, for deliberations rather than using the jury room.
42. Restrict access to the jury room if it is a small one that does not allow for social distancing. Items touched by everyone, such as coffee pots, should be removed from the jury room.
43. If the jury room contains puzzles or games for waiting jurors, remove them. However, jurors can be informed that they can bring their own puzzles or games to occupy them while they wait.
44. Jurors can be seated every other chair or spaced 6 feet apart around the courtroom. Painter's tape can be used to make an "X" marking 6-foot intervals.
45. Courtroom processes: Having wipes at the witness chair and wipe down each time a witness is completed with testimony; Wipe down the microphone; Require facemasks for witnesses; Hand sanitizer at each counsel table; Require face masks for attorneys
46. Consider where witnesses will wait before they testify
47. Utilize Nomad for all exhibits. Attorneys must wipe down Nomad between each use.
48. Make copies of all exhibits so that one document is not handled by everyone.
49. Avoid passing exhibits between jurors
50. Jurors provided with pens that are not to be collected or returned to anyone.
51. Jurors must put their phones on a paper towel on the floor under their chairs to ensure they are not using their phones inappropriately without anyone else having to touch the phone.
52. Testimony can be made via video
53. Jurors cannot eat lunch together

Checklist:

- _____ Pros and Cons of off-site written down and considered
- _____ Cleaning process established during trial with tasks assigned
- _____ Courtroom etiquette created
- _____ Seating locations marked 6 feet apart



- _____ Cleaning supplies, hand sanitizer, and other cleaners available and in place
- _____ Established procedure for witnesses and where they will wait
- _____ Electronic exhibit display equipment is operational and clean
- _____ Exhibit process established
- _____ Establish process for cell phones and other electronics
- _____ Video equipment operational and any remote connections tested
 - _____ Is everyone knowledgeable about how system works?
 - _____ Is there a protocol for use of remote video system?
- _____ Jury instructions completed for COVID-19 processes
- _____ Jury deliberations procedure established to fit location
- _____ Everything in jury trial protocol communicated to everyone



SAMPLE STATEMENT FROM THE COURT:

The Court takes public health and safety seriously and has implemented aggressive policies to prevent the risk of infection for jurors and other court users.

SAMPLE EMPLOYEE DAILY HEALTH REVIEW:

- Current temperature _____
- Within the past 24 hours, do you have NEW symptoms consistent with a virus, such as a fever, a cough, or shortness of breath?

SAMPLE VISITOR SCREENING QUESTIONS:

- What is your purpose for coming to the courthouse today?
 - Do you have personal business in court today? (Are you an attorney, a plaintiff, juror, witness, etc?) You will be asked to wear a mask at all times that you are in populated areas of the courthouse.
 - Are you a visitor to the courthouse? (Are you accompanying a family member? Are you a member of the public interested in court proceedings? Etc) We ask that you not enter the building to minimize the number of people in the courthouse and the risk to those people. Please consider watching any proceedings through live stream.
- We need to check your temperature. Is temperature 100.0F or higher?
- Have you been on a cruise or international travel in the last 14 days?
- Have you had a fever, a cough, shortness of breath, or loss of taste or smell over the last few days?
- Have you been in close contact with anyone who has been confirmed to have Coronavirus/COVID-19?
- Have you been tested for or diagnosed with Coronavirus in the last 14 days?
- Have you previously been tested for Coronavirus but have now been cleared?



Personal Protection Masks

What You Should Know

In our efforts to prevent the transmission of COVID-19, we are implementing a policy of mandatory masks for all courthouse visitors, starting May 4, 2020. This follows CDC guidelines. When people enter the courthouse, they will be given an isolation mask, to be worn for the duration of their time in the courthouse, along with a paper bag in which to store the mask. If a person arrives at the courthouse with a homemade mask, that person will be asked to remove the homemade mask and wear a hospital-grade isolation mask.

When people should get a mask:

Upon entry into the courthouse, each person should receive a mask, hand sanitizer, a paper bag for storing the mask when it is not in use, and this information sheet. The mask should be worn by people using the courthouse whenever the person is in a populated area of the courthouse.

How to properly put the mask on:

- Wash or sanitize hands.
- Using the elastic pulls or cloth ties, adjust the mask to the face.
- Cover both mouth and nose with the mask.
- Try to avoid touching the center of the mask while wearing it.

How to properly take the mask off:

- Wash or sanitize hands.
- Touch only the elastic pulls or cloth ties that keep the mask on the face. Do not touch the front of the mask.
- If the mask is to be reused, fold the mask carefully so that the outward surface is held inward and against itself to reduce contact with anything during storage.
- Place the mask in a paper bag labeled with a name.
- Wash or sanitize hands.

A medical grade mask can be reused by the original wearer unless it is known to be contaminated with blood or other body fluids, it is visibly soiled, or it is damaged or impedes breathing. If throwing a mask away, please dispose of in a trash can.



Dear Potential Juror,

You have been summoned for jury duty. Jury duty is important because it safeguards one of the most crucial rights of the American legal system. As trials continue to take place, the court must continue to rely on civic-minded jurors like you for help in ensuring fairness and providing impartial viewpoints in cases.

The Court takes public health and safety seriously and has implemented aggressive policies to prevent the risk of infection from coronavirus for jurors and other court users. We would like to assure you that the court has done everything it can to safeguard your health during your time in the courthouse. We have taken the following precautions:

1. Masks and gloves will be made available for jurors who do not have their own
2. Jurors will never be in groups larger than ___ and will have enough space to distance themselves from other people in the room by at least 6 feet
3. Jurors will not be asked to touch any surfaces, documents, or objects that have previously been touched by another person without being sanitized
4. The overall number of people inside the courthouse and the courtroom will be restricted
5. The courtroom and the courthouse will be sanitized daily
6. Jurors will be able to sanitize or wash their hands as often as they feel is necessary
7. Nobody who has tested positive for coronavirus or exhibits any symptoms will be permitted onto the jury
8. Jurors will be encouraged to share any concerns with JURY ADMINISTRATOR, JUDGE, BAILIFF

We have collaborated with the local health department and the steps the court has taken have been approved by the local health department.

Please note that it is possible to defer your jury duty for six months (that means you will be called again in six months). You do not need to provide a reason the first time you defer jury duty [or: you will need to provide a reason for deferring, and that reason can be related to the coronavirus pandemic].

Although you are able to defer jury duty, you cannot simply ignore a summons to jury duty – you must respond to a jury summons. You can respond either by reporting for jury duty or by calling the court and deferring jury duty one time for 6 months.

We're all in this together,

COURT SIGNATURE

HEALTH DEPT SIGNATURE



IN THE COURT OF COMMON PLEAS,
CHAMPAIGN COUNTY, OHIO

FILED
S. UNDERWOOD
COMMON PLEAS COURT
CHAMPAIGN COUNTY, OHIO

2020 APR 22 AM 8:03

FILED

STATE OF OHIO,

Case No. 2019 CR 269

Plaintiff,

Judge Nick A. Selvaggio

- vs. -

CLIFTON ISAAC MOXLEY, JR.,

Defendant.

**JOURNAL ENTRY SEEKING PARTY RESPONSE
TO COURT CONSIDERATION OF MOVING TRIAL LOCATION**

The Champaign County Court of Common Pleas, General Division makes the following Findings of Fact:

1. On March 9, 2020, Ohio Governor Mike DeWine issued Executive Order 2020-01D "Declaring a State of Emergency" in response to the growing COVID-19 public health crisis.
2. On March 11, 2020, the World Health Organization officially declared COVID-19 to be a global "pandemic" requiring "urgent and aggressive action" to control the spread of the virus.
3. On March 11, 2020, the first "community transfer" positive case of COVID-19 in the State of Ohio was confirmed to be in Stark County.
4. On March 13, 2020, President Donald J. Trump declared the COVID-19 virus pandemic a "national emergency beginning March 1, 2020".
5. From March 13, 2020 through the filing of this entry, Ohio Governor DeWine, after consultation with the Ohio Department of Health, has issued an number of additional executive orders, and mandated the closure of schools, private businesses and public agencies such as the Bureau of Motor Vehicles in order to

protect the health of all Ohioans. Through televised news conferences, Ohio Governor DeWine has also encouraged Ohio's public and private sector employers to monitor its workforce and enact protocols to reduce the possibility of the "public spread."

6. On March 13, 2020, the Champaign County Common Pleas Court, General Division and the Champaign County Municipal Court issued a joint press release noting that in order to preserve the public health all upcoming jury trials would be postponed and rescheduled to late April, 2020. *See, Urbana Daily Citizen*, publication date March 14, 2020.
7. On March 16, 2020, the Champaign County Common Pleas Court, General Division, the Champaign County Common Pleas Court, Family Court Division and the Champaign County Municipal Court issued a joint press release noting that the courts would remain open in order to maintain essential court functions while modifying individual court operations in order to promote the public health, prioritize public safety and uphold the rule of law. *See, Urbana Daily Citizen*, publication date March 17, 2020.
8. On March 16, 2020, Ohio Department of Health Director Amy Acton issued a Director's Order that mandated the closure of polling locations in the State of Ohio on March 17, 2020 "to avoid the imminent threat with a high probability of widespread exposure to COVID-19 with a significant risk of substantial harm to a large number [of persons]", thus effectively postponing the scheduled March 17, 2020 Ohio Primary Election.
9. On March 20, 2020, the Champaign County Common Pleas Court, General Division, issued a temporary emergency order governing its operations in order to protect the public health and reduce the size of public gatherings and unnecessary travel, while maintaining essential court functions during this period of the COVID-19 pandemic. *See, In Re: Temporary Emergency Order Resulting from the Declared COVID-19 Public Health Emergency*, Champaign Case No. 2020 MS 007.

10. The Centers for Disease Control and Prevention (CDC) and other national and State of Ohio health authorities have advised people to take precautions to reduce the possibility of exposure to the COVID-19 virus.
11. Specifically, the CDC and Ohio health officials are recommending that people attempt to keep physical distance between themselves and other people. This technique, known as social distancing, is especially important for people who have a higher health risk should they contract the disease.
12. The CDC is also recommending employers try to minimize exposure between employees and the public and to consider the public health and safety when scheduling group or public events.
13. On March 22, 2020, Ohio Department of Health Director Amy Acton issued a Director's "Stay at Home Order," effective at 11:59 p.m. on March 23, 2020 to 11:59 p.m. on April 6, 2020, unless rescinded or modified by the Ohio Department of Health, in order to prevent the spread of COVID-19 into the State of Ohio.
14. On March 28, 2020, Governor Mike DeWine signed Am. Sub. H.B. 197, which tolls various time requirements established by statute (i.e., statute of limitations and speedy trial requirements from March 9, 2020 to July 30, 2020 or until the emergency order expires, whichever is sooner).
15. On March 28, 2020, the Ohio Supreme Court issued *In re: Tolling of Time Requirements Imposed by Rules Promulgated by the Supreme Court and Use of Technology* ("Order") to complement Am. Sub. H.B. 197. The Order tolls time requirements found in the "Rules of the Court" promulgated by the Ohio Supreme Court.
16. On March 30, 2020, President Donald J. Trump announced during a press conference that that the peak in the death rate from the COVID-19 virus is likely to occur within the "next two weeks" and therefore extended the White House Coronavirus Task Force recommended guidelines for "social distancing" to April 30, 2020 in the effort to "slow the spread."

17. On April 2, 2020, Ohio Department of Health Director Amy Acton issued an Amended Director's "Stay at Home Order," in effect to 11:59 p.m. on May 1, 2020, unless rescinded or modified by the Ohio Department of Health, in order to prevent the spread of COVID-19 through the State of Ohio.
18. On April 16, 2020, Governor Mike DeWine announced during a press conference that he intends to lift restrictions for Ohioans when the current Stay-At-Home Order expires on May 1, 2020. On that same day, Governor DeWine issued the following "tweet" at 3:00 p.m.:
 - a. "We have a plan to start opening Ohio back up. It's going to be gradual – one thing after another. We want to do this in a thoughtful way that engenders confidence and ensures customers and employees are safe."

THEREFORE, in order to protect the public health and comply with social distancing requirements, while maintaining essential court functions and operations, **the Court has determined the threat to the public health continues to outweigh the present necessity conducting the Defendant's jury trial at the Champaign County Courthouse.**

The Court finds, however, that like its development of "COVID-19 protocol" for sessions of Grand Jury, the Court is able to develop "COVID-19 protocol" for jury trials in such a manner that protects the public health and promotes public confidence in the judicial proceeding. Thus, the Court is therefore considering the following alternative sites that will enable the Court to comply with social distancing recommendations:

1. The Champaign County Community Center auditorium for the trial and the Champaign County Community Center conference room C for the jury room (provided that the facility is available on the scheduled trial dates);
2. The Champaign County Fairgrounds, specifically the 4H building for the trial and the adjoining kitchen for the jury room (provided that the facility is available on the scheduled trial dates);

So that timely summoning of the jury can take place with the ability to give the potential jurors appropriate notification of compliance with social distancing recommendations, the Court is soliciting both parties to this action to provide the Court with a written response as to the following questions:

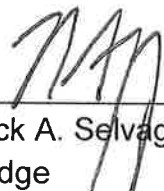
1. Is the case resolved that consideration of moving the trial is not necessary? If the answer to this question is yes, it is not necessary to answer Questions 2, 3, and 4.
2. Do you object to the trial being moved from the Champaign County Courthouse? If so, state the basis for your objection.
3. Notwithstanding your position on question 1, do you object to the Court considering the Champaign County Community Center or the Champaign County Fairgrounds for an alternative location?
4. Do you have another location that you would recommend?

Each party shall provide the Court with a written response no later than Thursday, April 30, 2020.

Prosecutor and Defense Counsel have been notified through telephone by Court Staff on the date of the filing of this entry. Defense Counsel shall notify the Defendant.

No costs for this entry.

IT IS SO ORDERED.



Nick A. Selvaggio
Judge

NAS

Copies to: Kevin S. Talebi, Prosecuting Attorney
Christopher M. Bucci, Defense Counsel



NICK A. SELVAGGIO, JUDGE
Champaign County Court of Common Pleas, General Division

Scott D. Schockling, Magistrate
Sandi G. Perry, Court Administrator

Janelle L. Bey, Judicial Assistant
Jennifer L. Demarco, Judicial Assistant
Christie L. Harrigan, Judicial Assistant

To: Kevin S. Talebi, Prosecutor
Matthew M. Melvin, Sheriff
Penny S. Underwood, Clerk of Courts

From: Nick A. Selvaggio, Judge *NAS*

Re: COVID-19 Grand Jury Protocol

Date: April 3, 2020

COVID-19 GRAND JURY PROTOCOL

Due to the declared COVID-19 public health emergency, and after speaking with the Deputy Jury Commissioners, Janelle Bey and Christie Harrigan, Prosecutor Kevin Talebi and the Clerk of Courts, Penny Underwood, the Court hereby sets the following protocol for managing the upcoming April 13th Grand Jury session and for successive grand juries until the public health emergency declaration is rescinded.

In order to minimize the amount of time prospective jurors spend in the courtroom during jury selection, the Deputy Jury Commissioners have sent out jury questionnaires to the prospective list of grand jurors with instructions to return them to the Court.

Of those who return questionnaires, eleven will be asked to report for Grand Jury service. As you may be aware, of the eleven that report, nine will ultimately be selected for jury service.

The remaining individuals who have returned questionnaires but are not asked to report for service will be asked to remain "on-call" at their homes from 8:15 a.m. – 9:30 a.m. in case the Deputy Jury Commissioners need to call them because one of the original eleven have not appeared. This is being done in the effort to reduce the large number of prospective jurors typically sitting in the courtroom during the jury selection process.

The Court is asking the Sheriff's Office to direct the reporting eleven jurors directly to the second floor and not to report to the Clerk's Office. This is being done in the effort to keep the eleven jurors from having unnecessary contact with the Clerk's Staff.

Upon arriving on the second floor, the eleven jurors will be asked to have a seat in the hallway at the staggered chairs marked with a blue "X". This is being done to prevent people from gathering too closely.

There will be a table in front of the Courtroom One entrance staffed by either Janelle or Christie. The jurors will be asked to approach the table one at a time and lay their identification on the table. The juror will be asked to step back while the Court Staff verify the ID. Once verified, Court Staff will step back, ask the juror to pick up their ID and then proceed into the courtroom and be seated at a location marked with a blue "X".

In order to minimize the number of people in the courtroom, it will not be necessary to have a member of the Clerk of Courts Staff or the Sheriff's Office in the courtroom during jury selection. Court Staff will advise the Clerk's Office of the names of those selected.

The Prosecutor's Office may enter the Courtroom only after all eleven jurors are seated. Court Staff will call the Prosecutor's Office to come to the courtroom once all eleven jurors are seated. The Prosecutor's Office shall sit at the counsel table closest to the jury box.

In order to comply with "social distancing" requirements, the Court Reporter will be moved from the Court's bench area and be seated in between the Bailiff's desk and the table traditionally used by the Prosecutor's Office for court hearings. The Court Reporter will have the same opportunity to use the Prosecutor's "hearing" table just like the Court Reporter uses the current Court Reporter table.

After the Court provides the selected nine jurors with the instructions of law, the Court will leave the courtroom and all grand jury testimony and all deliberations will take place in Courtroom One.

During the presentation of testimony, the Court will move the podium up to the Court's bench nearest to the jury box. The Prosecutor will present the State's case from that location. The Prosecuting Witness shall testify from the Witness Stand. This is being done to comply with "social distancing" requirements.

If exhibits are needed to be shown to the grand jury, the Prosecutor's Office shall use the installed courtroom technology to present the exhibit to the jury on the television screen. The Prosecutor's Office shall not pass exhibits between jurors. The Prosecutor's Office shall advise Court Staff of the need to use the technology prior to grand jury so that preparations can be made for its use.

During jury deliberations, the Prosecutor, Court Reporter and Prosecuting Witness shall depart the courtroom through the main court doors. Jurors are not to retire to the jury room to deliberate.

Law enforcement officers and lay witnesses who are waiting to testify are expected to adhere to the “social distancing” requirements on the second floor hallway. The Court orders the Prosecutor’s Office to communicate this directive to anticipated grand jury witnesses ahead of the grand jury session and to monitor the hallway during grand jury in order to ensure that this directive is being complied with.

The jurors will be provided with disposable number cards that correspond to their names. If jurors desire to ask questions of the Prosecuting Witness, jurors can raise their card so that the Court Reporter will have an identification reference point for the juror asking the question.

The jurors will be provided with a bottle of water with permission to drink the water in the courtroom. The jurors will be permitted to enter the jury room one at a time to use the restroom. No other use of the jury room will be permitted.

The jurors will be provided with pens that will not be collected back from them. Any paper notes will be shredded by the jurors at the shredder provided by the Court on their way out of the courtroom.

The Court will not ask the jurors to place their phone in the Court’s secured pouches. Instead, they will be provided with a paper towel to lay their cell phones on the floor under their seat. This will ensure that people will be able to notice whether someone is attempting to use their cell phone during the taking of testimony or during deliberations.

All of the instructions above are designed to adhere to recommended “social distancing” practices, minimize the opportunity for the “public spread” and put people, in particular, our jurors, at ease during this difficult time.

While I’m sure that you want to chide me for the detail, in the end there’s no substitute for good planning and proper execution.

As for jury trials, all jury trials for the month of April have been postponed and continued. As for plans regarding upcoming jury trials scheduled for the month of May, I am currently working on a couple of ideas on how to handle that in the event trial is deemed necessary or postponing the trial becomes impractical.

I thank you in advance for your anticipated cooperation.

Nick A. Selvaggio
Judge, Champaign County Common Pleas Court

cc: Chris Phelps, Jury Commissioner
Bart Ward, Jury Commissioner
Lt. Chris Copeland, Court Services Division
Board of Champaign County Commissioners, c/o Andrea Millice
Gabe Jones, Director, Champaign County Health District

EXHIBIT 1

IN

09:49 am, Apr 15, 2020

DEBORAH A. MYERS

CLERK OF COURTS

ASHLAND COUNTY, OHIO

**IN THE COURT OF COMMON PLEAS, ASHLAND COUNTY, OHIO
GENERAL DIVISION**

STATE OF OHIO,

Plaintiff,

CASE NO. 19-CRI-114

vs.

SETH M WHITED,

Defendant.

**JUDGMENT ENTRY
Special COVID-19 Procedures**

This matter is before the Court *sua sponte* to establish special procedures for the jury trial scheduled April 28, 2020, necessitated by current social distancing and other personal protective policies established by both the State and Federal governments. In accordance with those policies, the practices set forth below shall be observed during the April 28, 2020 jury trial:

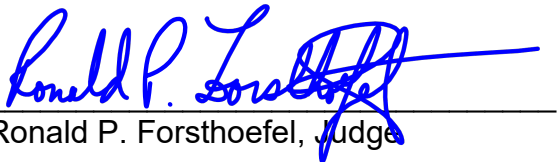
1. Jury *voir dire* shall be conducted in three (3) sessions on Tuesday, April 28, 2020. The first session will commence at 8:00 a.m. with juror orientation and will be for those designated as Group A jurors. Group A shall not exceed a total of 18 persons. Counsel and parties shall not be required to report to Courtroom One until 8:30 a.m. Group A jurors who are not excused for cause shall be temporarily excused until 3:00 p.m., at which time they shall appear and be present to participate in the third session (the exercise of challenges for cause).

2. The second session will commence at 1:00 p.m. with juror orientation and will be for those designated as Group B jurors. Group B shall not exceed a total of 18 persons. Counsel and parties shall not be required to report to Courtroom One until 1:30 p.m.
3. The third session will commence upon the conclusion of Group B *voir dire* (approximately 3:00 p.m.). The third session shall be for the purpose of exercising peremptory challenges. The session shall commence with the first 18 jurors collectively from Groups A and B seated in the courtroom. Any remaining jurors shall remain in the hallway outside Courtroom One until called to fill a seat opened by any juror excused. When one of the first 12 jurors is excused, only the juror replacing one of the first 12 will rotate seats, and the juror called from the hallway shall fill the seat of the juror moved to one of the first 12 seats.
4. There will be 12 jurors seated as well as two alternates.
5. No evidence nor witness testimony will be presented on Tuesday, April 28, 2020. The day will be used only for jury selection.
6. After the jury is selected, during the start of each day of trial, jurors shall report to the main entrance of the courtroom, and shall move directly to their assigned seats in the gallery, unless otherwise accessing water or refreshments, which will be made available for jurors in the courtroom.
7. Day Two of the trial will commence on Wednesday, April 29, 2020 at 8:30 a.m. with opening statements of Counsel.

8. The Courtroom One gallery shall be used for seating the jurors.
9. Counsel table shall be facing each other, with the State's table situated in front of the existing jury box.
10. A temporary witness stand will be placed in the middle of the courtroom well, between counsel table, located at a point where counsel and all jurors can observe the witness.
11. Counsel shall remain at counsel table when questioning witnesses but may otherwise move through the well of the courtroom to access evidence and presentation tools.
12. The Court will attempt to have a free-standing monitor connected to the courtroom evidence presentation system for witness use.
13. Should there be any issue requiring discussion outside the presence of the jury, the judge, counsel and the court reporter shall retire to the jury to engage in that discussion, and the jurors will remain in the courtroom.
14. Face masks for personal health protection may be worn by any juror, the defendant and counsel; provided however, that the defendant will be required to remove any face mask he may be wearing when requested for the purpose of witness identification. Witnesses may wear face masks when not testifying but shall lower or remove or lower them when testifying. It is recommended that counsel also lower or remove their masks when asking questions of any witness or when addressing the Court, so that their speech may be accurately recorded by the Court Stenographer.

15. The Court Stenographer shall be permitted to set up at a location where the faces of both the witness and counsel are capable of being observed.
16. During jury deliberation, the jurors shall be instructed to knock on the glass entrance door of the courtroom when needing the assistance of court personnel. Court security officers shall respond from their office which is located near the courtroom entrance door.
17. Additional procedures such as restroom protocol, and other logistical matters shall be addressed during the trial as circumstances dictate.

It is so ordered.



Ronald P. Forsthoefel, Judge

Glossary of terms

Contact – an opportunity for acquiring an infection through association with an infected person or animal

Epidemic – the occurrence in a community or region of cases of an illness that is clearly in excess of normal expectancy

Essential needs – basic human needs for sustenance including food, water, and health care

HIPAA – the Health Insurance Portability and Accountability Act of 1996 are federal regulations that require protecting patient privacy by regulating the way certain healthcare groups, organizations, or businesses (“covered entities”) handle protected health information

Immunization – a procedure that increases the protective response of an individual’s immune system to a specified pathogen (like a virus)

Incubation period – the time (in hours, days, or weeks) between the initial exposure to an infectious organism and the first appearance of symptoms of the infection

Infected individual – A person that harbors an infectious agent who either manifests the disease or does not have an apparent infection

Isolation – physical separation of an individual who is infected or reasonably suspected to be infected; it can be complete, modified (designed to meet particular needs), or protective (designed to separate an uninfected individual who is highly susceptible)

Mode of transmission – the mechanism by which an infectious agent is spread among humans; it can be direct, indirect, or airborne

Outbreak – the occurrence of more cases of a disease than expected

Period of communicability – the time (in hours, days, or weeks) during which an infectious agent may be transferred from an infected person to another person

Personal protective equipment (PPE) – items that act as a barrier against hazards, including diseases; the appropriate PPE for a communicable disease depends on the characteristics of the disease

Quarantine – see isolation

Self-shielding – self-imposed exclusion from infected people

Susceptible individual – a person who is vulnerable to a disease or potentially able to contract a disease or condition; factors can be genetic, age, physical characteristics, medications, or chronic exposure





**65 S Front St, 4th Floor
Columbus, Ohio 43215-3431**

**614-387-9750 (phone)
800-282-1510 (toll free)
614-387-9759 (fax)
www.ohiojudges.org**