

IN THE COURT OF COMMON PLEAS  
GENERAL DIVISION  
CUYAHOGA COUNTY, OHIO

FILED

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CLERK OF COURTS  
CUYAHOGA COUNTY

In Re:

UPDATED ORDER REGARDING CONTINUITY OF  
OPERATIONS, INCLUDING JURY TRIALS,  
DUE TO COVID-19 PANDEMIC

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JOURNAL ENTRY

The Judges of the Cuyahoga County Court of Common Pleas, General Division, make the following findings of fact:

1. Whereas the Court issued its first order regarding continuity of operations to maximize social distancing due to COVID-19 pandemic on May 26, 2020; and,
2. Whereas the Court continued its stay on jury trials by order dated August 3, 2020, and February 9, 2021; and
3. Whereas community spread of COVID-19 continues at extremely high rates; and,
4. Whereas to continue court operations in a safe manner for the Court's employees and the citizens of Cuyahoga County;

**IT IS THEREFORE ORDERED:**

1. The prior Administrative Orders of the Court remain in full force and effect and are incorporated herein by reference. Where there is any discrepancy, this order supersedes any previous order. The local rules of court for the General Division may be temporarily amended or suspended to allow court flexibility, within constitutional limits, in response to the public health emergency;
2. The Court's security policies may be temporarily amended or supplemented to protect public health while maintaining essential court functions;
3. The Court's Personnel Policies and Procedures Handbook and other usual and customary human resources provisions may be temporarily adjusted to maintain essential court operations and functions;

4. The Court authorizes the use of audio-visual devices and technologies for all actions and proceedings, except for a trial by jury in a criminal matter. Any official proceeding held by a judge on the record and using audio-visual technology, will be held from the courtroom with all other parties appearing remotely unless otherwise authorized by the Administrative Judge;
5. Continued remote work will be encouraged when possible and feasible within the continued operations of the Court;
6. The following measures will be taken to reduce the community spread of COVID-19:
  - a. Personal Care:
    - i. Pursuant to this Court's April 28, 2020, order, all persons entering the Justice Center must wear a mask covering both their nose and mouth at all times except when they are alone in their designated work areas. Staff in the Justice Center may remove their face covering while in an enclosed, private work area;
    - ii. Staff shall maintain the recommended 6 foot distance from others, to the extent possible, while in the building;
    - iii. It is recommended that all staff wash their hands once per hour during the work day;
    - iv. Sanitizing wipes or hand sanitizer will be provided in high-traffic areas for staff and public use;
    - v. Temperature screening will continue at each Justice Center entrance which is open for employee or public use;
    - vi. Staff are encouraged to perform a daily symptom assessment, which includes monitoring for fever, coughing or trouble breathing.
    - vii. Any Court employee who exhibits signs of illness must notify his/her direct supervisor and the Deputy Court Administrator, Director of Human Resources, by telephone or email and shall not come into the Justice Center or report for duty. Any individual within the Justice Center who exhibits signs of illness will be directed to report to his/her direct supervisor, or, for public, non-Court/County employees, will be directed to leave the building immediately and seek medical advice before being permitted to re-enter the building at a later date.
    - viii. Any Court employee who is awaiting COVID-19 test results must notify the Deputy Court Administrator, Director of Human Resources, and shall not report for duty.
  - b. Building Care:
    - i. To comply with social distancing guidelines, the maximum occupancy for persons in an elevator is limited to six, with the exception of jurors being escorted to the courtrooms. Those people visiting the 1<sup>st</sup> through 4<sup>th</sup> floors must use the escalator, unless unable to do so;
    - ii. All individuals must follow signage to maintain proper 6 foot distancing and directional signage in hallways and/or high-traffic areas;
    - iii. All high-traffic areas will be thoroughly disinfected on a daily basis;
    - iv. Other than essential Court staff, no people should congregate in the "back hallways" near the Judicial Bailiff desk area. Parties must call bailiffs to handle all scheduling matters.

7. All persons entering the Justice Center will be required to submit to a temperature screening, and will be required to wear a mask covering the nose and mouth.
  - a. Because the Court is attempting to follow social distancing and in an effort to maintain the health and safety of all individuals and to limit community spread of COVID-19, persons whose appearance is not required by the Court should attempt to limit their visits to the Justice Center;
  - b. It is strongly encouraged that children wait outside of the Justice Center with another caregiver adult, unless the child is necessary to the hearing of a case;
  - c. Queues will be established using proper social distancing;
  - d. Persons accessing floors 1-4 will be directed to use the escalators, or for those persons needing an ADA accommodation, the lower level elevators may be used;
  - e. Elevators will be limited to six occupants per ride to accommodate social distancing;
8. The Judges will continue responsible operations in the Justice Center. Responsible operations contemplate that case management and hearings of civil dockets may be conducted remotely in a manner determined by the assigned judge.
9. Jury Trials:
  - a. No jurors were called-in for the week of January 3, 2022, in order to limit a post-holiday COVID-19 spread. Despite the caution previously exercised by this Court, community cases continues to remain high.
  - b. As such, due to the recent surge of COVID-19 cases, a meeting of the judges was held and attended by Prosecutor Michael O'Malley, Public Defender Cullen Sweeney, Public Safety Chief Robert Coury, Sheriff Christopher Viland, Dr. Julia Bruner (MetroHealth), and representatives of the Cuyahoga County Defense Lawyers' Association (CCDLA).
  - c. In a letter addressed to the Judges of the Court the CCDLA specifically requested, "Due to Constitutional and safety issues we would encourage the Court to limit in person hearings and jury trials at this time." (Letter to the Cuyahoga County Court of Common Pleas Judges dated January 2, 2022.)
  - d. Jury trials will continue to be suspended until February 7, 2022, and no jurors will be called-in until that date. This date will be re-evaluated on an ongoing basis.
    - i. To accommodate trials and the effect of public health recommendations on trials, the period of the continuances implemented by this Order are excluded under O.R.C. 2945.72 and Ohio Constitution I, Sec. 10. The Court specifically finds that the ends of justice served by ordering the continuances outweigh the interest of the public and any defendant's right to a speedy trial.
    - ii. Further, this Court finds that a continuance of trial which supersedes a defendant's speedy trial right is hereby considered permissible by all judges of the General Division under the Ohio Constitution and O.R.C. 2945.72 (H) as a "reasonable continuance granted other than upon the accused's own motion", due to current pandemic levels.
    - iii. Any continuance of a criminal jury trial will be docketed with the COVID-19 Trial Continuance Order, as follows:
      1. "The trial of this matter is continued to a future date. This continuance is required for the administration of justice. Due to the continued risk of community spread of the COVID-19 virus, and in order to maintain the safety of the public, court employees, litigants, attorneys, and

others whose business is at the Justice Center, the Court, by a vote of the Judges, and upon consultation with the Prosecutor, Public Defender, CCDLA and local health experts, will not call-in jurors until February 7, 2022. This is intended to allow the court to safely and reasonably continue operations, while maintaining the safety of jurors and litigants. The Court has considered reasonable alternative to conducting jury trials in areas other than the Justice Center. However, the serious threat to the public health is good cause to continue this jury trial. Cases of COVID-19 are at high levels, and Cuyahoga County has the highest per capita rate of cases in the state. Cuyahoga County is third in the country for COVID spread. Further, on October 28, 2020, Chief Justice Maureen O'Connor provided guidance to the courts and stated, "Your first consideration as a judge is the health and safety of your employees and the public who enter the courthouse." This order considers both the Defendant's statutory and constitutional rights to a speedy jury trial, and determines that a continuance of trial which supersedes a defendant's speedy trial right is hereby considered permissible by all judges of the General Division under the Ohio Constitution and O.R.C. 2945.72 (H) as a "reasonable continuance granted other than upon the accused's own motion." Based upon the foregoing, and for good cause shown, 1) if a trial date has been journalized, the time between the journalized trial date through the day before the next scheduled trial date will not be counted when calculating defendant's speedy trial time, or 2) if a trial date has not previously been journalized, the time between the date of the last journalized pre-trial, including a video-conferenced or teleconferenced pre-trial, or any other pre-trial hearing, through the day before the next scheduled trial date will not be counted when calculating defendant's speedy trial time."

- e. At such time that the judges determine that COVID-19 community spread has declined enough to resume jury trials, the following procedure will be used to determine which cases will be set for trial.
  - i. The call-in jury system will be maintained.
  - ii. Trials for jury will be submitted to the jury department the day prior to the start of trial.

10. Jury Trial Procedure:

- a. All petit jurors summoned for jury duty will report to the Global Center for Health Innovation. Once all jurors have arrived for service and juror orientation is complete, panels will be drawn for the assigned trials.
- b. The bailiff and/or staff attorney for the assigned judge will escort the jurors from the Global Center to the Justice Center for trial.
- c. After a jury panel has been selected, during the start of each day of trial, jurors shall report directly to the Jury Assembly room on the 4<sup>th</sup> Floor of the Justice Center, unless instructed otherwise by the court.

- d. Once the jurors have arrived on the courtroom floor, they will remain there for the duration of the day, unless directed otherwise by the assigned judge.
- e. Any open and available courtroom on the trial court floor will be used for juror breaks and lunch. During comfort breaks, jurors shall have no communication with anyone other than fellow jurors and will observe social distancing requirements. Additional procedures such as restroom protocol and other logistical matters shall be addressed during the trial as circumstances dictate. The court will encourage proper personal hygiene, including frequent washing of hands.
- f. The secured back hallway may also be used for juror breaks. All other members of the public, including counsel, shall be restricted from those areas.
- g. Jurors may use the restrooms located in the juror deliberation rooms for the trial courtrooms.
- h. At the beginning of trial, jurors will be reminded by the judges to follow social distancing guidelines and to wear face coverings, i.e. masks, unless directed otherwise by the court.
- i. A request for jury view should be made at least two weeks in advance of trial, as the court will arrange for transport of jurors in accordance with social distancing.
- j. If a case resolves prior to the start of trial, but after a panel is drawn, those jurors will have completed their jury service to the court;

11. Arraignment Docket:

- a. Jail First Appearances and arraignments will continue to be held in the 12<sup>th</sup> Floor arraignment room each day beginning at 8:30 am;
- b. Bail First Appearances are suspended until further notice;
- c. Bail arraignments will be held Monday through Friday immediately following Jail arraignments;
- d. For any person placed on Court Supervised Release, necessary contact information will be obtained, the assigned Probation Officer contact information will be provided, and the initial instruction of the rules of CSR will be completed before that person leaves the Justice Center;
- e. All persons appearing for arraignment will be provided a form to opt-in to the Court's text messaging service for future court appearances;
- f. Within 10 days of arraignment, or as otherwise directed by the court, state and defense counsel will confer with each other, commence discovery and submit a pretrial status to the court via email; status should include the status of discovery, any pending motions, any anticipated issues and the status of any plea negotiations.

12. Civil Stalking Protection Orders (CSPO):

- a. Ex parte CSPO hearings will be conducted by the assigned judge or by the magistrate on rotation;
- b. If the assigned judge or magistrate is unavailable, the arraignment room judge will conduct any ex-parte CSPO hearing;
- c. Full CSPO hearings will be conducted by either the assigned judge or a magistrate.

13. The Court Psychiatric Clinic will continue to conduct evaluations, with a priority on incarcerated defendants.

14. The Dispute Resolution Department will conduct mediations utilizing audio-visual devices and technologies, and may conduct mediations in person using appropriate social distancing.

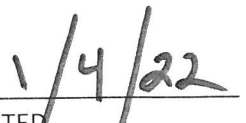
Mediations may be held in the Justice Center or in the Global Center for Health Innovation.  
Arbitrations may be held in the Global Center for Health Innovation.

15. This Order shall be provided to the Supreme Court of Ohio, Ohio Judicial Conference, Municipal Courts in Cuyahoga County, Cuyahoga County Clerk of Courts, Cuyahoga County Adult Probation Department, Cleveland Metropolitan Bar Association, Cuyahoga County Prosecutor's Office, Cuyahoga County Public Defender's Office, Cuyahoga County Sheriff, Cuyahoga County Board of Health, Cuyahoga County Executive, Cuyahoga County Council, the website of this Court, and distributed to the media.

***IT IS SO ORDERED.***

CUYAHOGA COUNTY COMMON PLEAS COURT, GENERAL DIVISION

  
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HON. BRENDAN J. SHEEHAN  
ADMINISTRATIVE & PRESIDING JUDGE

  
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DATED