

Jury Resource Manual



Compiled by the Jury Service Committee
of the Ohio Judicial Conference

Last Updated: September 30, 2021

A BASIC JURY TRIAL RESOURCE LIST

This list compiles a number of important basic resources relating to jury trials. All materials mentioned are available online and links to access them are provided. Pertinent provisions of these materials have also been incorporated into this document, as appendices, to facilitate access. While these materials are not subject to major or frequent changes, keep in mind that the most current versions of the materials will be online.

In response to the Covid-19 pandemic, the Jury Service Committee of the Ohio Judicial Conference prepared a document titled [Continuing Jury Operations](#), which provides suggestions for consideration in conducting jury functions during a pandemic.

APPENDIX 1: CONTINUING JURY OPERATIONS

Additionally, trial courts judges are well-advised to pay special care to how we deal with citizens called upon to serve as jurors. Since juries are critical to the proper functioning of the justice system, jury service should be a positive experience. It's not enough to say that jury duty is a civic obligation. Jurors who have had a good experience when called to serve will help strengthen the confidence of the community in the justice system.

Some judges see jury trials as opportunities to interact directly with constituents, who generally are voters. Within common sense ethical norms, this is not a bad thing per se. Warm, friendly, welcoming behavior by the judge can help jurors feel more relaxed and comfortable undertaking a responsibility that most of them, frankly, would rather not have to do.

Jury service will often be an unfamiliar experience for the jurors and the judge should allay fears and concerns from the outset. Let jurors know that they should not hesitate to make the court aware of their problems or needs. Make sure that court staff are also attentive to the needs and concerns of jurors at all times.

Sometimes the subject matter of a trial can be difficult and even traumatic for jurors. After a trial, some sort of debriefing by the judge can be very helpful for jurors. The nature and scope of a debriefing will necessarily be guided by ethical constraints and the probabilities of whether the case will be appealed. At a minimum, jurors will appreciate hearing that the judge understands and is sensitive to the challenges of jury service. It is a final opportunity to reaffirm for them the valuable role they play in the administration of justice.

With regard to the many practical considerations surrounding jury service, an excellent resource that judges will find helpful is the [Ohio Jury Management Association \(OJMA\) Jury Management Manual](#). In addition to much sound advice, the OJMA Jury Management Manual also contains links and references to other excellent jury resources. Because of the wealth of practical information, the manual is reproduced here in full.

APPENDIX 2: OHIO JURY MANAGEMENT ASSOCIATION 2021 JURY MANAGEMENT MANUAL

APPENDIX 3: STATEMENT ON PROTECTING JUROR PRIVACY

Practical information regarding legal aspects and logistics surrounding jury issues is well-covered in the [Ohio Common Pleas Judges Association Bench Book](#). Only pertinent provisions are included here.

APPENDIX 4: OHIO COMMON PLEAS JUDGES ASSOCIATION CRIMINAL BENCH BOOK

The [Association of Municipal and County Court Judges of Ohio Bench Book](#) contains helpful information on jury trials, nearly all of which would apply to trial courts of any jurisdiction. Only pertinent provisions are included here.

APPENDIX 5: ASSOCIATION OF MUNICIPAL AND COUNTY COURT JUDGES OF OHIO BENCH BOOK

Trial court judges should familiarize themselves with the [Ohio Trial Court Jury Use and Management Standards](#).

APPENDIX 6: OHIO TRIAL COURT JURY USE AND MANAGEMENT STANDARDS

The Ohio Jury Instructions, Civil and Criminal, include extensive model instructions, covering virtually every issue a judge will typically confront in a jury trial. Chapter 101 of both the Civil and Criminal volumes is titled Law of the Instructions. It is an excellent discussion of the overall purposes and principles of jury instructions. Only some of the chapter is made available here, as this work is copyrighted, but judges are encouraged to locate and read the entire chapter.

APPENDIX 7: OHIO JURY INSTRUCTIONS, VOLUME 1, CHAPTER 101: LAW OF THE INSTRUCTIONS

APPENDIX 1:

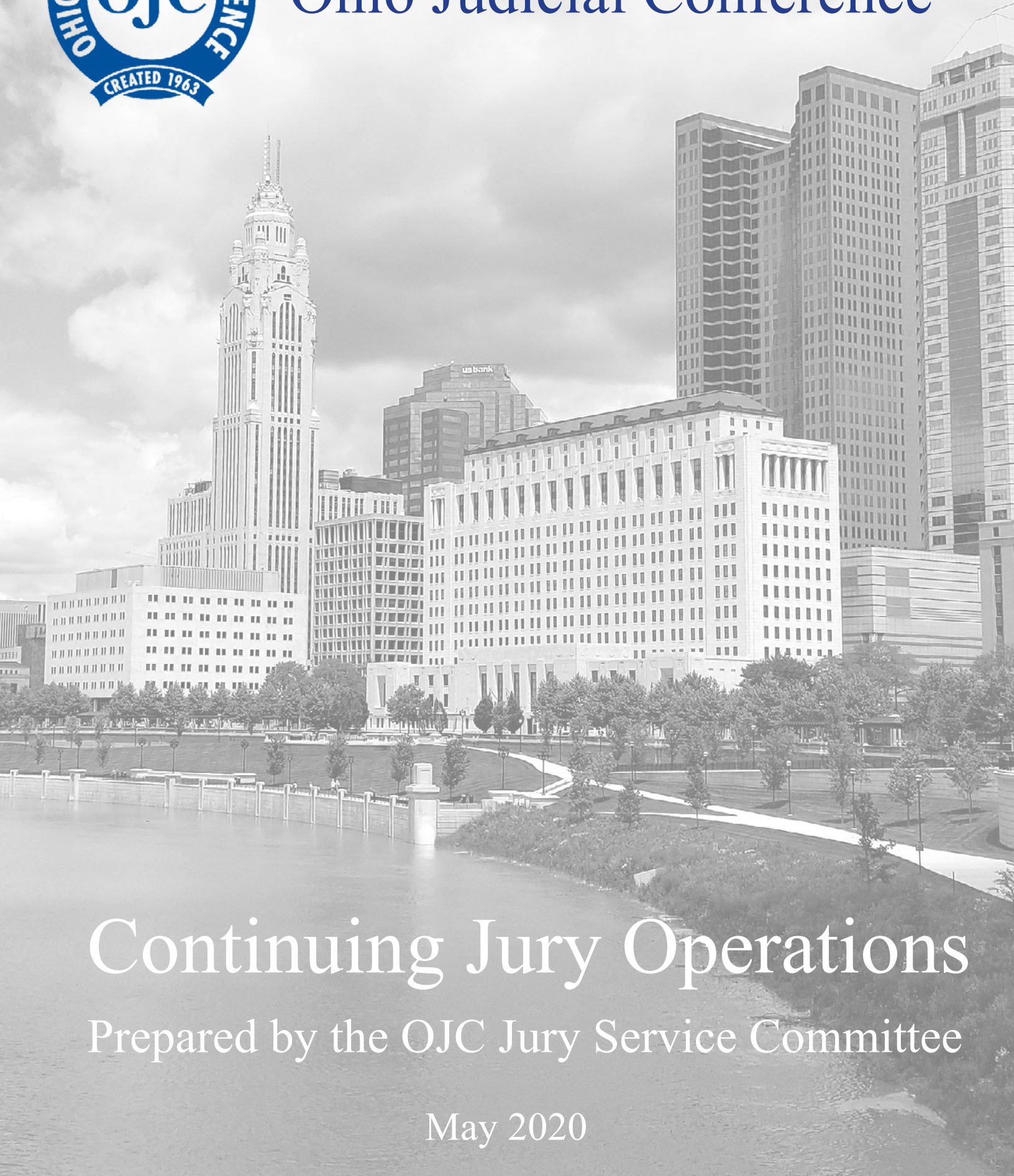
CONTINUING JURY

OPERATIONS





Ohio Judicial Conference



Continuing Jury Operations

Prepared by the OJC Jury Service Committee

May 2020

The Jury Service Committee is:

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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.



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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. **A jury may not need to have 12 jurors**¹
26. 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.
27. 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
28. 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; 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
29. Using the BMV list in addition to the BOE list for creation of the jury pool results in more *younger* people in the pool.
30. 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.

¹ In *State ex rel. Warner v. Baer* (1921), 103 Ohio St. 585, the Ohio Supreme Court noted that the while the Ohio Constitution confers a jury trial right, “this right may be waived, and accused persons may, with the approval of the court, consent to be tried by a jury composed of less than 12 men.” *Id.* at paragraph two of the syllabus; see also *State v. Brooks* (March 30, 2000), Cuyahoga App. Nos. 75711 & 75712, unreported, 2000 WL 337600 at * 5-6 (holding that felony defendants had impliedly waived claim that they were convicted by an 11-person jury and concluding that the claim did not rise to the level of plain error). Moreover, in *State ex rel. City of Columbus v. Boyland* (1979), 58 Ohio St.2d 490, the Supreme Court noted that the Criminal Rule 23(B) “in no way attempts to alter a defendant’s substantive constitutional right to trial by jury. It merely prescribes the method by which the substantive right is to be exercised.” *Id.* at 492-93. Therefore, while Crim.R. 23(B) clearly implements the constitutional right to a jury of twelve for felony cases, that right may be waived by “consent” and “with the approval of the court.” *Baer*, 103 Ohio St. 585 at paragraph two of the syllabus. Here, the defendant expressly waived his right to a 12-member jury on the record.



31. 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

32. 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.
33. 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;
34. 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.
35. Another technique is to have jurors report for service on a staggered schedule during the day.
36. 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
37. 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.



38. 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.
39. Judges might also consider impaneling extra alternates or extending service for grand juries so that new people are not needed.
40. 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

41. Moving jury deliberations to a larger room or to a nearby larger facility (such as a school gym).
42. 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.
43. 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.
44. 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.
45. 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.
46. 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
47. Consider where witnesses will wait before they testify
48. Utilize Nomad for all exhibits. Attorneys must wipe down Nomad between each use.
49. Make copies of all exhibits so that one document is not handled by everyone.
50. Avoid passing exhibits between jurors
51. Jurors provided with pens that are not to be collected or returned to anyone.



52. 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.
53. Testimony can be made via video
54. 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°F 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?

SAMPLE ELEVATOR SIGN:

Due to social distancing guidelines, MAXIMUM of 2 PEOPLE PERMITTED

SAMPLE BUILDING ENTRY SIGN:

For health safety, and in accordance with the Ohio Department of Health guidelines, please observe social distancing. Six-foot lengths are marked on the floor. Face coverings are highly recommended for all who enter the building.



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.



Sample Joint Letter from Court and Local Health Department



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



Sample Journal Entry Moving Trial Location & Sample Jury Protocol



IN THE COURT OF COMMON PLEAS,
CHAMPAIGN COUNTY, OHIO

FILED
2020 APR 22 AM 8:03
JULIA S. UNDERWOOD
COMMON PLEAS COURT
CHAMPAIGN COUNTY, OHIO

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 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:

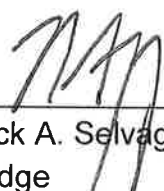
1. Is the case resolved that consideration of moving the trial is not necessary? If the answer to this question is yes, it is not necessary to answer Questions 2, 3, and 4.
2. Do you object to the trial being moved from the Champaign County Courthouse? If so, state the basis for your objection.
3. Notwithstanding 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

IN THE COURT OF COMMON PLEAS,
CHAMPAIGN COUNTY, OHIO

FILED
2020 MAY 11 AM 8:13
JESSICA S. UNDERWOOD
CLERK OF COURT
CHAMPAIGN COUNTY, OHIO

STATE OF OHIO,

Case No. 2019 CR 269

Plaintiff,

Judge Nick A. Selvaggio

- vs. -

CLIFTON ISAAC MOXLEY, JR.,

Defendant.

**JOURNAL ENTRY GRANTING STATE OF OHIO'S ORAL MOTION TO DISMISS
THE STATE OF OHIO'S WRITTEN MOTION TO DISMISS [INDICTMENT],
JOURNAL ENTRY ORDERING ALTERNATE LOCATION OF JURY TRIAL
DUE TO COURT INABILITY TO COMPLY WITH "SOCIAL DISTANCING"
SPACING RECOMMENDATIONS FOR COURTROOM FACILITIES,
NOTIFICATION OF BOND VIOLATION ALLEGATION AND
ATTACHMENT OF CHAMPAIGN COUNTY COVID-19 JURY TRIAL PROTOCOL**

On May 4, 2020, hearing was held on the State of Ohio's Motion to Dismiss [Indictment]. Prosecutor Kevin S. Talebi, Defense Counsel Christopher M. Bucci, and the Defendant were present. The hearing was audio recorded.

The parties informed the Court that the Defendant "changed his mind" about accepting the proposal outlined in the State of Ohio's Motion to Dismiss [Indictment], whereby the State of Ohio would ask for dismissal of the F3 Domestic Violence indictment¹, and the Defendant would agree to enter a plea of guilty to a M1 Domestic Violence in the Champaign County Municipal Court.

The parties informed the Court that the Defendant desired to proceed to trial. The Court elected not to pursue questioning as to the change of heart, as it did not want it to be interpreted that the Court was attempting to "strong-arm" a plea resolution.

¹ The Defendant is charged with felony three Domestic Violence due to four prior convictions of domestic violence.

The Court **GRANTS** the State's oral Motion to Dismiss the State of Ohio's written Motion to Dismiss.

The Court then reviewed the trial location responses ("Response") as ordered by the Court. Because the Prosecutor's Office believed the case to be resolved, it had not answered the remaining questions as set forth in the entry.

Upon inquiry by the Court, Prosecutor Talebi indicated that the State of Ohio did not object to the trial being moved to a different location. Defense Counsel Bucci maintained the Defendant's objection to moving trial location as set forth in Defendant's Response.

The Court makes the following findings:

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 Dr. 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. In a March 19, 2020 press conference with Ohio Governor DeWine, Ohio Supreme Court Chief Justice Maureen O'Connor, building on her March 13, 2020 declaration to judges that "closing the courthouse and disrupting services is not a plan", emphasized that "[c]ourts must be open to address emergency and time sensitive matters...[m]easures can be taken to ensure access to justice while safeguarding the health."
10. 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.

11. 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.
12. 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.
13. 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.
14. The current physical facility housing the Champaign County Common Pleas, General Division courtroom:
 - a. Is the largest space in the Champaign County Courthouse (approximately 30' x 48') and houses immovable furniture hosting the courtroom bench, the witness stand, the jury box itself and public seating area;
 - b. Has wi-fi accessibility and projection screen capability;
 - c. Has a jury box consisting of two rows of side by side swivel chairs. The ability to expand the space between the jury chairs is impeded by a two-sided wooden bar that encases the jury box and by a wall on the other side of the jury box. Immediately adjoining the jury box on the non-wall side is the public entry way into the courtroom;
 - d. Has one counsel table located three feet away from the jury box.
 - e. Has counsel tables located in the center of the courtroom with two and one-half feet of space between the tables.
 - f. Has eight, four person rows of pews in the public seating area. The pews normally can seat thirty-two persons, but with "social distancing" spacing implementation, can only accommodate a maximum of eleven persons (i.e., eight persons in the pews plus the addition of three chairs strategically placed around the pews)

- g. Has an adjoining jury room (approximately 20' x 15') with a large immovable conference room-styled table, sturdy credenza and thirteen chairs placed side-by-side.
15. On March 22, 2020, Ohio Department of Health Director Dr. 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.
16. Since March 23, 2020, this Court has timely and thoughtfully continued the Defendant's trial date twice during this declared pandemic.
- a. By journal entry filed March 23, 2020, the Court continued the Defendant's initial trial date from April 7-8, 2020 to April 28-29, 2020.
 - b. By journal entry filed April 1, 2020, the Court continued the Defendant's second trial date from April 28-29, 2020 to May 21-22, 2020.
 - c. In both journal entries granting trial continuance, and notwithstanding the Defendant's bond violation of testing positive for using methamphetamine and cocaine on March 5, 2020, the Court evaluated the availability of local resources that could address the Defendant's risks of engaging in criminogenic behavior that threaten his ability to prepare for trial as well as his compliance with attendance at counseling sessions.²
17. 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).
18. 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

² Subsequent thereto, the Defendant is alleged to have violated bond by testing positive for marijuana on April 24, 2020. See *Notification of Bond Violation Allegation*, below.

requirements found in the “Rules of the Court” promulgated by the Ohio Supreme Court.

19. 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.”
20. On April 2, 2020, Ohio Department of Health Director Dr. 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.
21. 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.”
 - i. Manufacturing, distribution, construction and general business operations were approved for opening on May 4, 2020.
 - ii. Consumer, retail and service businesses were approved for opening on May 12, 2020.
 - iii. Outside dining operations and hair salon operations were approved for opening on May 15, 2020.
 - iv. Inside dining operations were approved for opening on May 21, 2020.
22. On April 16, 2020, the Champaign County Common Pleas Court, General Division, convened a Grand Jury Session and implemented eleven changes to the traditional procedural protocol used by Court Staff to conduct Grand Jury. The changes were designed to reduce the number of unnecessary gatherings,

comply with the social distancing recommendations and minimize the risk of exposure to the COVID-19 virus.

- a. The protocols involved changing the location where grand jury would be conducted (i.e., in the main courtroom as opposed to in the jury room), enhancing juror seating spacing, enacting witness presentation spacing to ensure social distancing for all “presentation of evidence and recording of testimony” participants, and providing disposable jury materials to jurors.
- b. The Court advised the Champaign County Health District Commissioner of the procedural changes to conducting grand jury, and no objection to the new protocols were raised.
- c. No reports of juror discomfort with the protocol were reported to the Court. The Court had eleven jurors willing to appear and approximately six more on “stand-by.”
- d. The Court will use the same protocols for the May 11, 2020 session of Grand Jury.

23. On April 30, 2020, Ohio Department of Health Director Dr. Amy Acton issued a Director’s “Stay Safe Ohio Order,” in effect to 11:59 p.m. on May 29, 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” and continued the previously imposed “stay at home” order “...unless they are engaged in Essential Activities, Essential Governmental Functions, or to operate Essential and Unrestricted Businesses and Operations as set forth in [the] Order.”

24. On April 30, 2020, the Champaign County Common Pleas Court, General Division and Family Court, consistent with Ohio Governor Mike DeWine’s COVID-19 Responsible Protocols for Getting Ohio Back to Work, filed entries ordering “Courthouse Compliance” with wearing facial coverings for employees working in the courthouse or anyone entering the courthouse.

25. On May 4, 2020, signs were posted at the Champaign County Community Center ("Community Center") stating "[a]ll persons entering this building are required to wear a mask."

- a. The Community Center is a county-owned facility that formerly housed a "retail anchor store" with a string of adjoining storefront bays. The County purchased the facility in 1997 and renovated the facility to house non-judicial county offices.
- b. The "anchor store" area of the Community Center houses county offices within the structure that include the Health District, Department of Jobs and Family Services, Child Support Enforcement Agency, Board of Elections, 911 Dispatch Center, and includes a large auditorium ("Auditorium"). The "adjoining bays" separately house the Board of Commissioners, Recorder, Auditor, Treasurer, and Conference Room C among others.
- c. The proposed courtroom, the Auditorium, is located off the main lobby as one immediately enters the "anchor store" area of the Community Center.
 - i. The Auditorium is a large, flat-floored, open spaced room area, (approximately 58' x 61') with wi-fi accessibility, projection screen capability and no permanent fixtures. All tables and chairs within the auditorium are moveable. The Auditorium is approved to hold a maximum of 237 persons. Separate gender specific restrooms are located across the hallway from the Auditorium.
- d. The proposed jury room, Conference Room C, is located in one of the bays down an enclosed hallway from the Auditorium. Conference Room C is an open room area, (approximately 19 ½' x 32') with a kitchen sink and counter top fixed to one corner of the room. All tables and chairs within the room are moveable. Conference Room C can be secured through locked doors. Separate gender specific restrooms are accessible through a back door to Conference Room C. Public access to the restrooms can also be restricted to the public through installation of a hallway gate.

26. On May 5, 2020, the Court and Court Staff met with the Champaign County Health Commissioner at the Auditorium to review traditional trial procedural protocol and proposed changes to trial procedural protocol in light of COVID-19 “social distancing” recommendations. The Court and Court Staff laid out proposed *voir dire* placement for 40 prospective jurors and trial participants, and then reconfigured the Auditorium for trial involving 13 jurors and trial participants.

- a. The Health Commissioner indicated that he would be reviewing the proposed layouts with his infectious disease personnel and also consult state health officials.
- b. On May 7, 2020, the Court emailed the Court’s proposed “COVID-19” Jury Trial Protocol for conducting *voir dire*, trial and deliberations in the Auditorium, and for housing the trial jury during breaks in Conference Room C, to the Health Commissioner for review and comment.
- c. On May 8, 2020, the Health Commissioner, in concert with his Director of Nursing and a second Registered Nurse, engaged in a telephone conference with the Court to review the proposed spacing distancing layout in the Auditorium and Conference Room C, and to discuss the proposed COVID-19 Jury Trial Protocol provided by the Court.
- d. Additional recommendations from the Health Commissioner were accepted by the Court and a COVID-19 Jury Trial Protocol was approved by the Health Commissioner.
- e. A copy of the approved Champaign County Common Pleas Court COVID-19 Jury Trial Protocol is attached hereto.

27. On May 5, 2020, the Court and Court Staff met with the Champaign County Sheriff and his deputies to review court security concerns associated with the proposed placement of *voir dire* and trial layout at the Auditorium and proposed placement of the jury room in Conference Room C.

- a. On that same date, additional recommendations from the Champaign County Sheriff for jury screening and security were accepted by the Court, and the Auditorium and Conference Room C were approved for

conducting *voir dire* and the trial, and for housing the trial jury, respectively.

28. The Court's exercise of conducting its functions and operations have been deemed to be essential governmental functions.

29. In matters of criminal justice, the Court is charged with providing responsible access to justice for those complaining of criminal conduct and those accused of criminal conduct. For those convicted of criminal offenses, the Court is charged with protecting the public, punishing the offender and rehabilitating the offender.

30. To continually delay an essential function of the Court, like a trial, materially and adversely effects the ability of the Defendant and the Alleged Victim to having their cases fairly and timely adjudicated. As such, access to justice is denied.

31. While any reasonable continuance, particularly one during a declared pandemic is necessary at times, the perpetual need for trial continuance when normal business and governmental operations are resuming should be balanced against the seriousness of the offense and the potential occurrence of impediments to a fair adjudication of the dispute resulting from ongoing delay, such as:

- a. Fading witness memories.
- b. Witness who become uncooperative over time due to facing socio-familial pressures of intimidation.
- c. Witnesses who, due to economic instability, become transient and difficult to track.
- d. Witnesses who suffer severe health complications or die unexpectedly before trial.

- i. The case file reveals that the Alleged Victim in this case is a 75 year old male who requires a walker to be ambulatory.

32. Although lengthy trial continuances do not fit the "perpetuation of testimony" circumstances as contemplated by Crim.R. 16(G), the Court acknowledges that some of these general impediments could be addressed where the parties jointly agree to pursue "Perpetuation of Testimony" involving potentially forgetful, transient, or vulnerable witnesses.

33. Specific to the charge of domestic violence, the Court is familiar with the “cycle of violence” as testified to by individuals in abusive relationships. Depending on individual circumstances, the dynamics of “power and control” may be projected through acts of “isolation”, “denial and blame”, “economic abuse”, or “coercion and threats” to serve as the catalyst for a victim’s fraudulent recantation of the initial allegation (e.g., as the victim experiences emotional or financial pressures during the pendency of the case, the victim looks for ways to appease the accused, appease the accused’s family / friends, or appease children shared with the accused in the effort to keep the family unit together or maintain needed economic stability).

- a. The Court finds that to perpetually continue the prosecution of a charge of domestic violence principally and materially risks the ability of the State of Ohio to present a truthful picture of the alleged dispute from the eyes of its witnesses.

34. The Governor’s Protocols, as specifically set forth in the Ohio Department of Health’s “Stay Safe Ohio” Order and adopted by this Court, lessen any negative stigma associated with facial coverings worn or required in professional and social settings, thereby placing those asked to wear facial coverings in less of a unique or socially uncomfortable position.

35. The Defendant’s claimed Response that moving the trial location will cause prejudice against the Defendant for “putting [the jurors] in a situation that may be harmful to their health” is speculative.

- a. The Defendant’s Response presumes that the Court will require prospective jurors who express opposition to serving due to COVID-19 health concerns will be required to serve. The Court has not given any indication of such requirement.
 - i. To the contrary, at the time of receiving their summons, prospective jurors are being told that “any person who wants to be excused from jury service because they are either in a high-risk category for contracting the virus or feels scared about contracting the virus

during their jury service, should call Court Offices immediately (937-484-1000) and the juror will be excused from jury service.

Champaign County Common Pleas Court COVID-19 Jury Trial Protocol, ¶2(b)(i).

- b. Second, like the protocol changes developed for grand jury, the Court has discussed, reviewed and gained approval for the proposed changes to jury trial protocol with the Champaign County Health District Commissioner in the effort to minimize the risk of exposure to the COVID-19 virus.
- c. Third, the Court finds that by moving the trial location to a more spacious venue where social distancing measures can be implemented both for the actual trial and while having short recesses in the jury room fosters more public confidence that court officials are pursuing measures to minimize risk to, and protect the health of, people involved in the trial.
- d. Fourth, the Court finds that the Defendant presumes prejudice when, in fact, the jurors could also find prejudice against the government (i.e. the entity that initiated the charging decision and has to satisfy the burden of proof.)
- e. Last, the Court finds that prospective juror feelings about service may be explored during *voir dire*.

36. The Defendant's claimed Response that moving the trial from the Courthouse "will amplify any prejudice against the Defendant by the jury because it will illustrate that there is a danger to a potential juror's health by conducting a jury trial at this time even with speedy trial requirements being tolled until July 30, 2020" is affirmatively rejected by this Court.

- a. The Court finds that there is no medical or scientific basis or explanation offered by the Defendant or by the Ohio General Assembly for the selection of the "July 30, 2020" tolling date.
- b. To date, there has been no medical or scientific determination that the COVID-19 virus will be considered an afterthought on July 30, 2020.

- c. To date, there has been no vaccine developed for the COVID-19 virus and it is unknown when a vaccine will be developed and approved for widespread use.

37. The physical characteristics of the Champaign County Courthouse courtroom and jury room currently available to the Court will not permit the Court to conduct a jury trial and implement recommended social distancing requirements that would minimize the risk of exposure to the COVID-19 virus to trial participants.

38. With the consent and approval of the Champaign County Health Commissioner, the Court finds that there are local facilities available that will permit the Court to conduct a jury trial and implement recommended social distancing requirements minimize the risk of exposure to the COVID-19 virus to trial participants.

The Court finds that the seriousness of the charged offense, elevated by the Defendant's criminal history of violence toward family or household members, together with the age and declining health of the Alleged Victim, the allegation that the Defendant has committed a second violation of bond, this time with a different drug, and the availability of a local facility that allows the Court to comply with recommendations of state and local health officials for conducting essential government functions, support the determination to proceed with the jury trial instead of waiting for pronouncement that the COVID-19 virus is no longer a threat to the general public.

The Court further finds that like its development of "COVID-19 protocol" for sessions of Grand Jury, the Court has developed "COVID-19 protocol" for jury trials in such a manner that is consistent with the objectives of the state and local health officials, minimizes risk of exposure of the COVID-19 virus to the trial participants and promotes public confidence in the judicial proceeding.

Therefore, it is the ORDER of this Court that trial shall be relocated from the General Division Courtroom of the Champaign County Courthouse, 200 North Main Street, Second Floor Urbana, Ohio 43078 to the Champaign County Community Center Auditorium, 1512 St. Rt. 68 South, Urbana, Ohio 43078.

Because of the delay in timely sending Court communications to the prospective panel of jurors occasioned by the Defendant's proffered acceptance of a plea resolution that

disposed of the need for trial, the Court stated at the May 4, 2020 hearing that it was necessary to continue the trial dates of Thursday, May 21, 2020 and Friday, May 22, 2020 in order to give the Court sufficient time to meet with the Champaign County Health Commissioner and Champaign County Sheriff regarding alternative site location preparation and to give Deputy Jury Commissioners sufficient time to have prospective jurors time complete jury questionnaires and communicate any "COVID-19" requests to be excused from jury service.

After consulting the schedules of Prosecutor Talebi, Defense Counsel Bucci and reviewing the availability of the Community Center Auditorium and Conference Room C, the Court **ORDERED** trial rescheduled for **Tuesday, June 2, 2020, Wednesday, June 3, 2020 and Thursday, June 4, 2020 at 8:30 a.m.**

Any subpoenas lawfully served for earlier trial dates remain in effect for the new trial date.

NOTIFICATION OF BOND VIOLATION ALLEGATION:

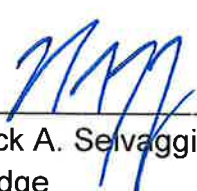
After the hearing concluded, the Court reviewed the Defendant's compliance with Pretrial Services. Pretrial Services reported that on April 24, 2020, the Defendant tested positive for alcohol and THC. The Defendant denied alcohol use, but did stated that he had used marijuana approximately "two weeks ago."

The Court therefore alleges the following bond violation:

1. Use of illegal controlled substances, to wit: On April 24, 2020, the Defendant tested positive for marijuana.

The Court will address the bond violation at the next scheduled hearing, or prior to the commencement of trial and outside the presence of the jury, whichever occurs first.

IT IS SO ORDERED.



Nick A. Selvaggio
Judge

NAS

Copies to: Kevin S. Talebi, Prosecuting Attorney
Christopher M. Bucci, Defense Counsel
Common Pleas Court Pretrial Services
Gabe Jones, Champaign County Health Commissioner
Matt Melvin, Champaign County Sheriff
Chris Copeland, Lt., Champaign County Sheriff, Court Services Division
Christine A. Phelps, Jury Commissioner
R. Bart Ward, Jury Commissioner
Board of Champaign County Commissioners, c/o Andrea Millice, Clerk
Penny Underwood, Clerk of Courts



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

Champaign County Common Pleas Court COVID-19 Jury Trial Protocol

1. Juror Summons

- a. Based on jury response rates and approved excused dismissal rates for "COVID-19 era" jurors summonsed for grand jury, the Court will summons one hundred thirty-five (135) prospective jurors, an increase from the traditional fifty (50) prospective jurors usually summoned.

2. Pretrial Juror Communications and Questionnaires

- a. The Jury Commissioners will mail a letter and Jury Questionnaire to prospective jurors with instructions to complete and mail the questionnaire back to Court Offices before a pre-selected deadline. The letter will contain traditional advisements for being excused from jury service and the opportunity to express a "COVID-19" reason for being excused from jury service.
 - i. Pretrial completion of the questionnaires will reduce the amount of time prospective jurors are present in the Auditorium waiting for the trial to begin.
 - ii. Non-responsive jurors may receive a second letter from the Court requesting compliance.
- b. The Jury Commissioner letter and Jury Questionnaire will be accompanied by a letter from the Court informing the prospective jurors that, like all businesses, the Court has a strong interest in minimizing their risk of contracting the COVID-19 virus.
 - i. Similar to the language used by the Jury Commissioners, the jurors will again be informed that any person who wants to be excused from jury service because they are either in a high-risk category for contracting the virus or feels scared about contracting the virus during their jury service, should call Court Offices immediately (937-484-1000) and the juror will be excused from jury service.
 - ii. The letter from the Court will also inform jurors of the new jury trial protocols implemented by the Court, as approved by the Champaign County Health Commissioner, for jury trial service.

3. Juror Appearance on Day of Trial

- a. Trial jury service will take place in the Auditorium of the Champaign County Community Center, 1512 St. Rt. 68 South, Urbana, Ohio.
- b. Only thirty (30) non-excused prospective jurors (in numerical order) who have returned questionnaires will be asked to physically appear at the Community Center on the day of trial.
- c. The remaining non-excused prospective jurors who returned questionnaires will be asked to remain at their residence on the first day of trial in an “on-call” status from 8:15 a.m. – 2:15 p.m. in case it becomes necessary to have additional jurors appear.
 - i. If not called by 2:15 p.m., jurors will be released from their duty to serve as a prospective trial juror.
 - ii. The “on-call” method enables the Court to keep “crowd gathering” to a minimum.
- d. Regardless of whether the prospective juror is required to physically appear for trial, on the day of trial, and before they come to the Community Center, all non-excused prospective jurors (including those “on-call”) will be asked through the Court’s letter to self-monitor whether they are experiencing any of the following symptoms within the last 2-3 days or have been exposed to someone experiencing these symptoms:
 - i. Fever more than 100.4 degrees;
 - ii. Persistent, dry cough
 - iii. Shortness of breath or difficulty breathing
 - iv. Chills, Muscle pain or Sore Throat
 - v. New loss of taste or smell
 - vi. Nausea, vomiting or diarrhea

Jurors will be instructed not come to trial if they are experiencing these symptoms or feel sick. Jurors experiencing symptoms or feeling sick will be instructed to call Court Staff (937-484-1000) to be excused from jury service.

4. Screening of Trial Participants

- a. Prospective jurors will be instructed to look for a large “JURORS (with pointed arrow)” sign at the front entrance of the building and be directed to a single entrance point into the Community Center.

- b. While in their vehicle, jurors will be asked to self-monitor the entrance into the Community Center, and to remain in their vehicle if there appears to be a group of other jurors waiting to be screened.
- c. Before entering the Community Center, the Court, Court Staff, lawyers, parties and prospective jurors will be screened for COVID-19 symptoms, including taking of temperature.
 - i. The Court, Court Staff, lawyers, parties and any participating juror will have their temperature taken at the beginning of every day of service.
 - ii. All individuals entering the Community Center will also be screened in accordance with court security policies for weapons and inspection of handbags.

5. Facial Coverings / Gloves / Hand Sanitizer

- a. All lawyers, parties, prospective jurors, and trial jurors will be required to have facial coverings before entering the Community Center.
- b. Lawyers, parties and jurors will be permitted to bring and wear their own facial covering.
 - i. The Court will provide any prospective juror and each trial juror who does not bring a facial covering to the Community Center with a baggie containing a disposable face mask for each day of service.
- c. Lawyers and parties (except when testifying) shall wear masks throughout the trial (i.e., during opening statement, closing argument, examination of witnesses, recesses, bench conferences and jury instruction discussions).
- d. Lawyers (except when handling exhibits during trial), parties, and jurors (except when handling exhibits during deliberations) are not required to wear gloves, but instead will be encouraged to use hand sanitizer every time they enter the Auditorium or Conference Room C.
- e. Hand sanitizer will be placed in the entrance to the Auditorium and in the entrance to Conference Room C.

6. Trial Witnesses

- a. Any witness, including law enforcement officers, lay witnesses and expert witnesses expected to testify shall:

- i. Adhere to the “self-monitoring” requirements noted in Paragraph 3, above.
 - ii. Comply with the “health screening” and “security screening” noted in Paragraph 4, above.
 - iii. Comply with the “facial covering” requirements noted in Paragraph 5, above.
 - iv. Shall be seated in “social distancing spaced” chairs in the hallway outside the Auditorium while waiting to testify.
- b. The party that subpoenaed the particular witness is ordered to communicate this directive to their prospective witness before trial and monitor the hallway during the trial in order to ensure that this directive is being complied with.
- c. The Court will provide a disposable mask to any witness who comes to the Community Center without a facial covering.

7. Public or Media Spectators

- a. Any member of the public or member of the media wishing to observe the trial shall:
 - i. Adhere to the “self-monitoring” requirements noted in Paragraph 3, above.
 - ii. Comply with the “health screening” and “security screening” noted in Paragraph 4, above.
 - iii. Comply with the “facial covering” requirements noted in Paragraph 5, above.
 - iv. Sit in “social-distancing” spaced seating marked for the public.

8. Juror Check-In

- a. Once screened, prospective jurors will stand on “social distancing spaced markings” in the hallway outside the Auditorium while waiting to be checked-in by Court Staff.
- b. Prospective jurors will be checked-in by Court Staff by approaching the check-in table one at a time and lay their identification on the table.

- c. The juror will be asked to step back while the Court Staff examines and verifies the identification. Once verified, Court Staff will step back, ask the juror to pick up their ID and then proceed into the Auditorium and be seated at a location marked by a table tent hung over a chair with their juror number.
- d. The juror will use that same juror number to identify themselves when answering questions during *voir dire*.

9. Courtroom Configuration – *Voir Dire* and Opening Statements

- a. Prospective jurors will be seated on “social distancing spaced markings” in the Auditorium to comply with “social distancing” requirements.
- b. In order to comply with “social distancing” requirements, the presentation of *voir dire* and opening statement will have tables and chairs arranged so that the Court, counsel, and the parties are all facing the panel of prospective jurors.
- c. The Court and both counsel will be provided with clip-on microphones.
- d. The Court and both counsel will individually address the prospective panel of jurors from behind the podium. The podium will be sanitized after each individual use.
- e. Attempts will be made to conduct *voir dire* without the individual juror’s use of a microphone. In the event amplification of the juror’s voice is needed, Court Staff will provide the juror with a hand-held microphone, which will be sanitized after each individual use.
- f. The Court and parties will not remove themselves from the Auditorium to select the trial jury. Challenges for cause and peremptory challenges will be made in the presence of the prospective jurors.

10. Courtroom Configuration – Trial

- a. After the jury is selected, the basic panel of twelve, plus the alternate if selected, will be placed in Conference Room C while Court Staff reconfigure the Auditorium space in a “socially distant” configuration similar in design to the layout of the current Champaign County Common Pleas Courtroom.
- b. Tables and chairs will be spaced in order to comply with social distancing requirements.

- c. Trial jurors will be seated on “social distancing spaced markings” in the Auditorium to comply with “social distancing” requirements.
- d. Court Staff will wipe down and sanitize the reconfigured juror chairs.
- e. A plexi-glass screen will be placed between the two counsel tables.

11. Testifying Witness

- a. A plexi-glass screen will be placed around the witness stand, and the testifying witness will remove his/her facial covering before testifying.
 - i. This configuration will enable the Court Reporter to maintain an accurate recording of the proceedings.
 - ii. This configuration will enable the Court, the jurors and counsel with the opportunity to observe the witness' demeanor and facial expressions during the examination process.
- b. The testifying witness will utilize a hand-held microphone during testimony.
 - i. Court Staff will sanitize the plexi-glass screen and microphone at the conclusion of the testimony of each witness.
- c. Lawyers shall ask questions from counsel table.
- d. Lawyers shall attempt to minimize the number of times they need to approach the witness.

12. Trial Exhibits

- a. Each counsel and the testifying witness shall wear disposable gloves when handling an exhibit.
 - i. The Court will provide each witness with disposable gloves to handle the exhibit.
- b. Exhibit(s) shall not be passed to jurors during the trial.
- c. If one of the parties desires to use the Auditorium projection screen, arrangements should be made with the Bailiff prior to trial to practice their presentation.
- d. Champaign G.D.L.R. 3.3(F) for Trial Exhibit presentation remains applicable.

- e. During deliberations, the Court will provide each trial juror with disposable gloves so they may handle and examine any exhibits admitted into evidence.

13. Bench Conferences

- a. In an effort to adhere to “social distancing recommendations”, bench conferences will be attempted in a corner of the Auditorium farthest away from the jury.
- b. For anticipated prolonged bench discussions, the trial jury will be escorted back to Conference C, be escorted outside (weather permitting) or be temporarily excused from the proceedings while the Court, Court Reporter and parties remain in the Auditorium to discuss and resolve the issue.

14. Juror Conduct During Trial

- a. Upon commencement of the actual trial, the trial jurors will be provided with a bottle of water and disposable three-ring notebooks containing paper and a pen.
 - i. The trial jurors will be permitted to consume water at their seats during the trial.
 - ii. The trial jurors will be permitted to take notes during the trial.
 - iii. The trial jurors will be instructed that upon completion of the trial, they will keep the notebook and pen and personally shred their trial notes into the shredder provided by the Court.
- b. The Court will suspend the practice of allowing the jurors to ask questions during the trial.
 - i. The Court finds that the juror questioning process requires:
 - 1. Each juror to transmit paperwork “down the jury row” to the Bailiff for collection and delivery to the Court.
 - 2. The Court and lawyers to gather around the Court Reporter in whispered tones to discuss and debate whether the proposed question(s) should be asked.
 - ii. The Court finds that the public health need for “social distancing” and the public health need to minimize the risk of transmission/exposure to the COVID-19 virus outweighs, at this

time, the need for the jury to have the opportunity to ask questions of a witness.

15. Restroom Use

- a. During *voir dire*, trial and deliberations in the Auditorium, the Health Commissioner has determined that there is sufficient “physical distance” spacing in the restrooms located across from the Auditorium to have two persons enter the same gender specific restroom at one time.
- b. During short trial recesses when the jury is housed in Conference Room C, only one person will be permitted to enter the same gender specific restroom at one time.
- c. Court Staff shall monitor the restroom occupancy during a recess break.

16. Trial Recess

- a. Weather permitting, the Court will strive to permit jurors to walk outside the building during all recesses in their path of travel to Conference Room C.
- b. The Court will not provide jurors in Conference Room C with reading materials, games or food (except for individually wrapped snacks) during breaks in the trial. Disposable bottles of water will be provided.
- c. Jurors seated in Conference Room C will be encouraged to bring their own puzzles, games, books and magazines with them to occupy their time during breaks. Card games are prohibited.

17. Retention of Cell Phones

- a. Prospective jurors will be permitted to retain their cell phones in the “off position” during *voir dire*.
- b. During the presentation of trial, trial jurors will not be asked to place their cell phone in one of the Court’s secured pouches. Instead, the trial juror will be asked to place their cell phone in the “off position” on a paper plate underneath their seat, with instructions not to use it during their trial service.
- c. During a break in the trial, the juror will be permitted to access their cell phone, provided that the juror complies with Court instructions not to research the case, conduct experiments on their own or communicate or express opinions about the case with others regarding their service.

- d. When the jury retires to deliberate, the trial jurors who have cell phones in their possession will be ordered to place and seal their cell phone in individual one-gallon plastic baggies.
 - i. The baggies will be retained by the bailiff until the verdict is read and the jury is dismissed.

18. Deliberations

- a. All deliberations of the trial jury will occur in the Auditorium.
- b. Court Staff will sanitize six tables of at least six feet in length and twelve chairs to be spaced in accordance with “social distancing recommendations”.
 - i. Jurors will utilize these tables while deliberating and if applicable, while eating a meal.
- c. Jurors will ring a bell to notify the Bailiff of the need to use the adjoining restrooms before jurors are permitted to depart the jury room.
- d. Jurors will ring a bell to notify the Bailiff when they have a question or have reached a verdict.
- e. Any food ordered for the jury during deliberations shall comply with the following protocol:
 - i. Paper menus shall be used with instructions to mark their order on the menu.
 - ii. Court Staff will collect the paper menus while wearing gloves.
 - iii. Court Staff shall use gloves when disbursing the food and individual cans of soda or bottled water to the jurors.
 - iv. Jurors will abide by “social distancing” requirements when consuming the food.

- 19. This protocol is subject to joint modification by the Court and Champaign County Health Commissioner or designated Champaign County Health District staff member should circumstances arise necessitating deviation from the procedures set forth herein.

Sample Grand Jury Protocol





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

Sample

Grand Jury Documents:

Letter from Health Dept

Summons

Instructions

Questionnaires





Ashtabula County Health Department
12 West Jefferson Street
Jefferson, Ohio 44047

Raymond Saporito, M.P.H., R.S.
Health Commissioner

Telephone: 440.576.6010
Fax: 440.576.5527

April 20, 2020

Cecilia Cooper
Ashtabula County Prosecutor
Ashtabula County Courthouse
25 West Jefferson Street
Jefferson, Ohio 44047-1092

Dear Ms. Cooper:

On April 20, 2020, I reviewed the Ashtabula County Grand Jury Room for compatibility with the Stay at Home Order requirements of the Director of Health, as they pertain to essential businesses.

My review of the Grand Jury Room revealed that it is compatible with the Amended Stay at Home Order of the Director of Health.

There is sufficient room for jurors to be separated from each other a minimum of six feet. Moreover, you also have separate rooms for jury witnesses which will also meet the said six-foot social distancing requirement of essentials businesses.

A review of the Grand Jury Room also noted that you had hand sanitizer available for grand jurors to use. In addition, you have noted that all frequently touched surfaces such as door handles and tables will be repeatedly sanitized. A container of Clorox wipes was noted to be available for staff of the Prosecutor's office to use on frequently touched surfaces.

You also indicated that any grand juror or witness that has flu-like symptoms will not be allowed to attend a grand jury hearing, and will be told to stay home.

All of these actions will help to prevent the transmission of COVID-19.

In sum, usage of the Ashtabula County Grand Jury Room in the manner as previously described is in compliance with the Amended Stay at Home Order of the Director of Health.

Should you have any further questions pertaining to this matter, please contact me.

Sincerely,

Raymond J. Saporito, M.P.H., R.S.
Health Commissioner

cc: Catherine Colgan, Ashtabula County Prosecutor's Office

**Equal Provider of Services
Equal Opportunity Employer**

Exhibit "A"

READ THIS FIRST

Please be advised that Grand Jury service has been deemed as an essential function. However, in the midst of the Coronavirus pandemic, unless health and safety guidelines change, the Grand Jury will be seated and only convened for emergency purposes unless otherwise determined, based upon health and safety guidelines as set forth by the Governor, the Ohio Director of Public Health, and the Ohio Supreme Court.

INSTRUCTIONS

1. Immediately open up your summons. Detach the portion labeled as the **First Questionnaire** from your summons. Fill out the **First Questionnaire** and the separate paper labeled as the **Second Questionnaire**. Please make sure to provide your **phone number** and **email** on your questionnaires **legibly**. Place **both** completed questionnaires in the self-addressed stamped envelope provided and then place the envelope in the mail so that it will be received by the Office of the Jury Manager no later than April 21, 2020.

EXCUSE/POSTPONEMENT: If you are requesting to be excused/postponed from Grand Jury service **for any reason**, including reasons related to the Coronavirus pandemic, there are instructions on the back of the First Questionnaire attached to your summons. A detailed explanation in writing must be provided as to why you are asking to be excused/postponed. You are not excused/postponed until your request has been granted. You will receive a notice by mail informing you if your request has been granted.

2. On May 6, 2020 anytime after 5:00 PM, you will call 440-576-6641 to listen to a voicemail message with instructions including what time you will report on May 7, 2020, unless you are otherwise excused or postponed. **Please make sure that you have your juror number ready. Your juror number can be located on the bottom portion of your summons.**

Should you have any questions or concerns, please feel free to contact the Office of the Jury Manager during business hours at (440) 576-3615 and/or email jurycommission@ashtabulacounty.us

FIRST QUESTIONNAIRE

JURY QUESTIONNAIRE MUST BE FILLED OUT AND RETURNED WITHIN 7 DAYS OF RECEIPT.

Return to: The Office of the Jury Manager
Ashtabula County Courthouse
25 West Jefferson Street
Jefferson, OH 44047

IF YOU FEEL A QUESTION INVOLVES A LEGITIMATE PRIVACY INTEREST, YOU HAVE THE RIGHT TO REQUEST A HEARING, IN CHAMBERS, ON THE RECORD WITH COUNSEL FOR THE PARTIES PRESENT TO DETERMINE WHETHER YOU HAVE A LEGITIMATE PRIVACY INTEREST TO WARRANT NON-DISCLOSURE OF ANY ANSWER.

| | | | | | |
|---|--|--|--|---|---------------------------------|
| Background Information: | | Name Change: <input type="checkbox"/> No <input type="checkbox"/> Yes | | Address Change: <input type="checkbox"/> No <input type="checkbox"/> Yes | |
| Full Name: | | | Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female | | Birth Date: (mm/dd/yyyy) |
| Address: Street Address | | | PO Box or Apt # | | City |
| | | | | | Zip Code |
| Phone Numbers: Home: | | Cell: | | Work: | |
| | | | | Email: | |
| Years of Residency in Ashtabula County: | | | | | |
| Education or years attended: <input type="checkbox"/> Grade School <input type="checkbox"/> High School <input type="checkbox"/> College <input type="checkbox"/> Graduate School | | | | | |
| Occupation: | | | If Retired, former occupation: | | |
| Employer: | | | If Retired, former employer: | | |
| Marital Status: <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed <input type="checkbox"/> Single | | | | | Number of Children: |
| Prior Jury/Court Experience: | | | | | |
| <ul style="list-style-type: none">Have you ever served on a Jury? <input type="checkbox"/> No <input type="checkbox"/> YesHave you ever served on a Grand Jury? <input type="checkbox"/> No <input type="checkbox"/> YesHave you or any family member been a victim of crime? <input type="checkbox"/> No <input type="checkbox"/> YesHave you or a family member been sued or sued another person? <input type="checkbox"/> No <input type="checkbox"/> YesHas a claim for personal injury ever been made against you or your family? <input type="checkbox"/> No <input type="checkbox"/> YesHave you ever been a witness in any court case? <input type="checkbox"/> No <input type="checkbox"/> YesIf yes, state the circumstances.Have you ever been arrested or convicted of any offense? <input type="checkbox"/> No <input type="checkbox"/> YesIf yes, what kind of case, when and what court? | | | | | |
| Are you related to, or a close friend of any law enforcement officer? <input type="checkbox"/> No <input type="checkbox"/> Yes | | | | | Name of your Attorney: |
| I affirm that I did read and complete this questionnaire. | | | | | |
| Signature: | | | Date: | | |

Detach the questionnaire (top portion) and return by mail. Bring the Summons (bottom portion) with you when you report for jury duty.

Jonea Cassin, Jury Manager
Ashtabula County Courthouse
25 West Jefferson Street
Jefferson, OH 44047



JURY SUMMONS

SUMMONS

Postponements or Excuses: You are required by law to serve on the dates specified. Excuses from jury service are restricted by law. Please see the list below:

IT IS YOUR RESPONSIBILITY TO VERIFY THE STATUS OF YOUR CLAIM OF EXCUSE OR REQUEST TO BE POSTPONED.

Statutory Exemptions are:

1. The interest of the public will be materially injured by juror's attendance. O.R.C. §2313.14(A)
2. The juror's spouse or near relative of the juror or the juror's spouse has recently died or is dangerously ill. O.R.C. §2313.14(A)(2)
3. The juror is a cloistered member of a religious organization. O.R.C. §2313.14(A)(3)
4. The prospective juror has a mental or physical condition that causes the prospective juror to be incapable of performing jury service. O.R.C. §2313.14(A)(4)
5. Jury service would otherwise cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror. O.R.C. §2313.14(A)(5)
6. The juror is over seventy-five years of age, and the juror REQUESTS to be excused. O.R.C. §2313.14(A)(6)
7. The prospective juror is an active member of a recognized Amish sect and requests to be excused because of the prospective juror's sincere belief that as a result of that membership the prospective juror cannot pass judgment in a judicial matter. O.R.C. §2313.14(A)(7)
8. The prospective juror is on active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or section 5919.29 or 5923.21 of the Revised Code. O.R.C. §2313.14(A)(8)
9. The prospective juror is not qualified to serve as a juror, i.e., is not eighteen years of age or older, is not a resident of the county, or could not be an elector. O.R.C. §2313.17(A)

IF YOU WISH TO BE EXCUSED OR POSTPONE JURY DUTY YOU MUST WRITE THE REASON TO BE CONSIDERED BELOW OR ON A SEPARATE PAGE AND INCLUDE DOCUMENTATION:

SAMPLE

All requests must be in writing stating the specific reason for the postponement or excuse including documentation and should be sent to the Office of the Jury Manager at 25 West Jefferson Street, Jefferson, OH 44047; emailed to jurycommission@ashtabulacounty.us; or faxed to 440-576-4968. Requests must be received in the Office of the Jury Manager **at least 2 days** prior to your scheduled date.

Although it is realized that jury service often imposes a real hardship on jurors, the right of trial by jury is one of the most fundamental American principles, and is a basic right assured to all persons. It is the duty and responsibility of every qualified citizen to render jury service when called upon, giving you the satisfaction of actively participating in the administration of justice. Quoting Harlan F. Stone, Chief Justice, United States Supreme Court (1941-1946), "Jury service is one of the highest duties of citizenship, for by it the citizen participates in the administration of justice between man and man, and between government and the individual".

LENGTH OF SERVICE:

Petit Jury:

On the day you are to report, at a minimum, you will remain in the courtroom until a jury is chosen. If you are selected to serve on any jury, you will begin your service on the day you report and should plan to remain until court adjourns for the day; you will be required to continue to report until the trial is concluded. The court will advise you of the estimated duration of the trial so that you may make appropriate arrangements. In most cases, jurors seated serve one (1) to three (3) days, although, there is always a possibility it could be longer. Once you are released from service by the Judge you will not serve again for at least one year and you will receive a new summons at that time.

Grand Jury:

If you are summoned for Grand Jury and selected as a Grand Juror, you will begin your service the day that you are to report and should plan to remain until the completion of that day's session. Also, when selected as a Grand Juror, your service will require you to report a minimum of two (2) times per month for a four (4) month period with the possibility of additional days. As much notice as possible will be given for all dates of service.

WHAT TO EXPECT:

Dress: As you will be in the courtroom most of your day you may want to dress in layers; as the temperature varies throughout the day. Hats are not permitted to be worn in the courtroom.

Breaks: Food and beverage are not permitted in the courtroom; breaks will be given throughout the day with access to water and restrooms in the designated jury room. A lunch break will also be given midday; a refrigerator is available, so feel free to pack a lunch.

Electronic devices: Each court may have different rules regarding cell phones, at a minimum, phones should be turned off during court proceedings or they may be confiscated. A court may collect phones or any other device capable of recording (i.e.: tablets, I-pads, etc...) during trial and return them to you on breaks and after court has finished for the day.

Security:

The Ashtabula County Courthouse is a secured facility and the only entrance into the

Reimbursement:

If you are employed, check with your personnel department to determine your

SECOND QUESTIONNAIRE

Please **completely** fill out this questionnaire and return it with the First Questionnaire attached to your summons in the enclosed self-addressed stamped envelope.

Name: _____ Juror #: _____
Phone Number: _____ Email: _____

1. Are you 18 years of age or older? Yes ☐ No ☐
2. Are you a U.S. citizen? Yes ☐ No ☐
3. Have you been a resident of the State of Ohio for 6 months? Yes ☐ No ☐
4. Have you been a resident of Ashtabula County for 30 days? Yes ☐ No ☐
5. Is English your native language? Yes ☐ No ☐
6. Are you currently on probation or post release control? Yes ☐ No ☐
7. Could you be fair and impartial, consider the evidence, and make a decision as to whether there is sufficient evidence or probable cause to go forward? Yes ☐ No ☐

If your answer is no, please explain.

8. Are you employed by the Prosecutor's office or related to anyone employed at the Prosecutor's office? Yes ☐ No ☐

If your answer is yes, please explain.

9. Is there a financial hardship or employment related reason that would make it difficult for you to serve? Yes ☐ No ☐

If your answer is yes, please explain.

10. Is there a medical or other health related reason, including specific issues related to the Coronavirus health crisis, that would make it difficult for you to serve? Yes ☐ No ☐

If your answer is yes, please explain.

11. Is there any other reason that would make it difficult for you to serve as a Grand Juror? Yes ☐ No ☐

If your answer is yes, please explain.

Excusal/Postponement: If you are requesting to be excused or have your service postponed, please state in specific detail in writing the reason for your request on the back of the First Questionnaire attached to your summons.

Signature: _____ Date: _____

Sample Jury Questionnaire & Letter to Jurors



Sample Juror Questionnaire

1. What is your occupation? _____
2. Were you, at any time, laid off from employment or otherwise prohibited from working as a result of the COVID-19 pandemic? _____
If so, please explain _____
3. If your answer to question 2 was “yes,” have you returned to your employment? _____
If so, when did you return? _____
4. If your answer to question 3 was “no,” do you expect to return to your employment? _____
If so, when do you expect to return? _____
5. Have you and/or any member of your immediate household been out of the State of Ohio in the past two weeks? _____
If so, did you and/or the household member self-quarantine for 14 days upon the return to Ohio? _____
6. Have you or any member of your immediate household been notified by any health department that you/ household member have been in contact with an individual who tested positive for the COVID-19 virus? _____
If so, when did the notification take place? _____
Were you/household member required to self-quarantine? _____
Did you/household member self-quarantine for the required period? _____
7. Have you or any member of your immediate household tested positive for the COVID-19 virus and/or have any test results pending regarding the COVID-19 virus? _____
If so, please explain and provide date(s) or test(s): _____

8. Do you or any member of your immediate household have any of the following conditions: chronic lung disease, moderate-severe asthma, serious heart conditions, severe obesity, diabetes, chronic kidney disease or undergoing dialysis, liver disease, pregnant, or breastfeeding? _____
If so, please explain: _____

9. Are you or any member of your immediate household 65 years of age or older? _____
If so, please explain: _____
10. Are you currently residing in a nursing home or long-term care facility? _____

Juror Number _____

Under Ohio Law, your answers will normally be subject to public disclosure. Certain items are not normally subject to disclosure such as social security number, telephone number and drivers license number. You may request an in-court private hearing if there are specific answers you believe should not be disclosed. **Do you want an in-court private hearing to determine if your answers to the above questions should be released? Yes / No (circle one).** Failure to make a designation will be considered as a “no” request.



COMMON PLEAS COURT

GENERAL DIVISION

500 Justice Drive, Lebanon, Ohio 45036

Judge Donald E. Oda II • Judge Robert W. Peeler • Judge Timothy N. Tepe

Dear Prospective Juror:

I recognize that in the midst of this public health crisis, receiving a summons for jury duty is likely very concerning to you, perhaps even a little scary. I want to assure you that our Court is committed to making any and all reasonable accommodations to allay your fears and keep you safe. The trial for which you were summoned is an important one to the parties involved and needs to be resolved. I would not be conducting this trial, however, if I was not completely certain that it could be done safely.

While the orders issued by the Ohio Department of Health, including the most recent Amended Director's Stay at Home Order, do not apply to judges, jurors and court personnel, we are adhering to the social distancing and other guidelines as best we can. We have modified our facilities to provide for approximately six-foot distances between individuals in the courtroom and in the waiting areas, we have hand-sanitizer readily available, we will provide a mask to anyone who wants one and we will be checking in jurors and moving them throughout the courthouse in small groups. I have attached a diagram of our courtroom and a picture for your review. I have also enclosed a Notice which outlines the procedure for requesting excusal if you are not able to serve. These new procedures were drafted in cooperation with the Warren County Health Commissioner. The advice and recommendations of the Warren County Health District have been incorporated into our operational plan.

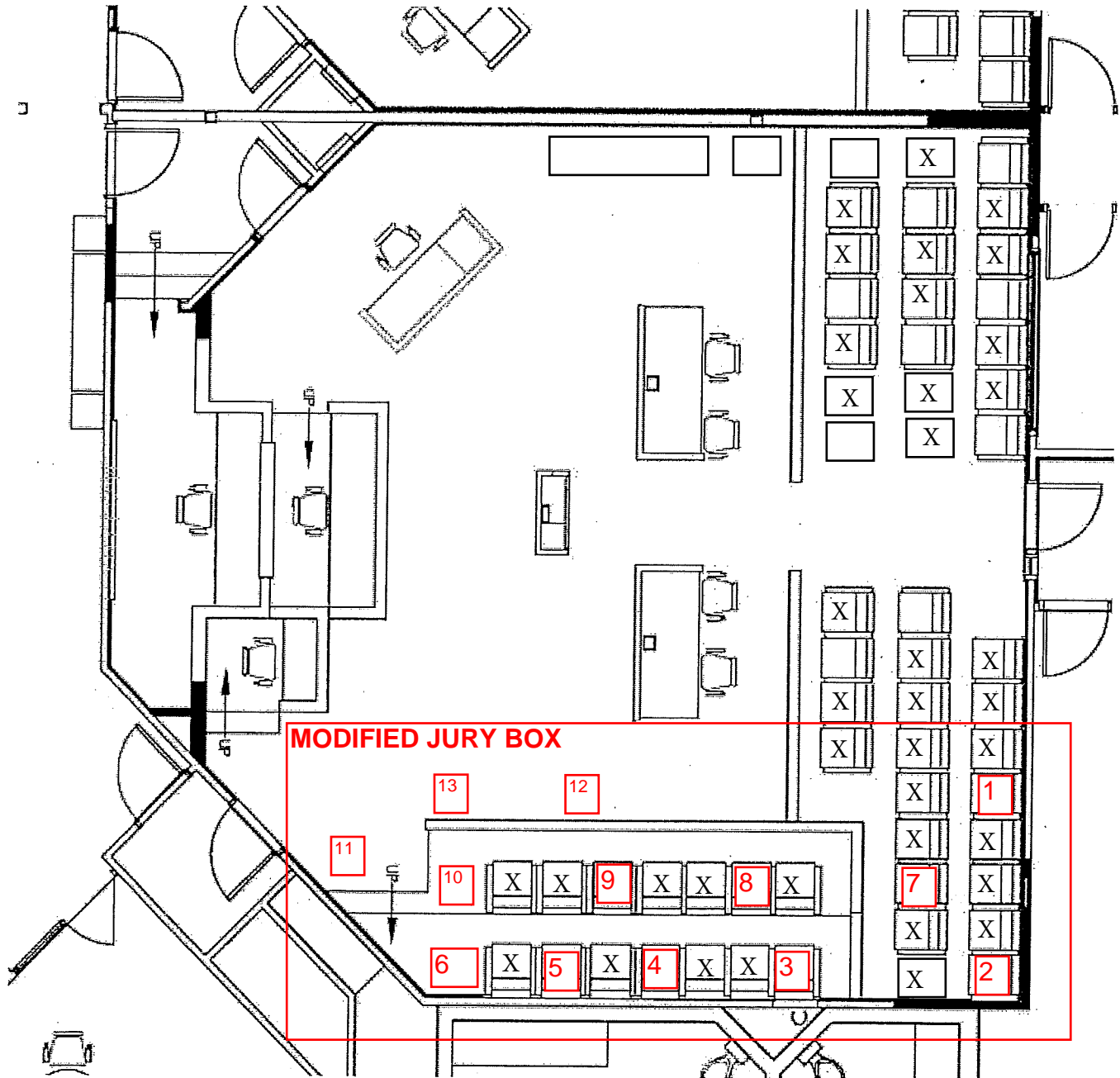
If you have reservations about serving on jury duty, please email our jury commissioner with your concerns as soon as possible. We will do our best to provide you with a prompt response. For those of you who can and are willing to serve, you will be an inspiration to others who may have been hesitant to return to their daily activities.

Thank you again for your service, and I hope to see you for jury selection. If you are unable to serve, I understand that as well.

Sincerely,

Judge Donald E. Oda II
Warren County Common Pleas Court

Courtroom #3 - Voir Dire
COVID-19 Layout



COVID-19 NOTICE TO PROSPECTIVE JUROR

You have been summoned for Jury Duty. Due to the current public health crisis, the Court is taking additional precautions to ensure your safety.

You will be given a non-invasive temperature test when you enter the building.

SOCIAL DISTANCING. Prospective jurors and courthouse personnel shall maintain appropriate social distancing of approximately six feet.

MASKS. The wearing of masks or other personal protective equipment is permitted in the courthouse, but is not required. If you desire to wear a mask but do not have one, the Court will provide one.

HAND SANITIZER. Hand sanitizing stations have been installed throughout the Courthouse and additional hand sanitizer will be made available in the Courtroom. Frequent hand washing is also encouraged.

IF YOU NEED TO BE EXCUSED FROM JURY DUTY, PLEASE CONTACT THE JURY COMMISSIONER, PREFERABLY BY EMAIL AT Jennifer.Yeazel@co.warren.oh.us. SHE CAN ALSO BE REACHED BY TELEPHONE AT 513.695.1597.

Due to the large number of jurors that are being summoned, you are encouraged to contact the Court as soon as possible if you need to request excusal.

You will be excused if ANY of the following apply:

- You have a fever;
- You exhibit a combination of the following symptoms: 1) respiratory symptoms / chronic cough; 2) sore throat; 3) shortness of breath; 4) chills; 5) muscle pain; 6) new loss of taste or smell.
- You have traveled out of the country within the last 14 days;
- You have been in contact with a person who is under investigation or has tested positive for the COVID-19 virus.
- You have a legitimate concern that participation in the trial will jeopardize your health or safety.

The Court is also giving added consideration to issues concerning financial hardship, medical conditions and/or apprehension about the current public health crisis.

**DO NOT COME TO THE COURTHOUSE
IF YOU ARE SICK OR EXHIBIT SYMPTOMS**



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

May 8, 2020

Dear Juror:

Thank you for taking the time to fill out and return your trial jury questionnaire. I am sure that you have concerns about holding a jury trial during the coronavirus (COVID-19) pandemic, and it is my desire to address some of those concerns herein.

We have adopted new protocols for the manner in which a jury trial is conducted. **These protocols have been approved by the Champaign County Health Commissioner.** Similar approved protocols were used for the April session of Grand Jury, and those grand jurors offered favorable responses to these modifications.

Let me explain how jury trial service has changed.

1. Questionnaires are being mailed in advance in order to reduce the time you have to wait for the trial to begin.
 - a. We ask you to **fill out your questionnaire** and **return it to us by Thursday, May 21, 2020** so that we may plan for the appropriate number of jurors.
2. **The jury trial will take place in the Auditorium of the CHAMPAIGN COUNTY COMMUNITY CENTER, 1512 U.S. St. Rt. 68 South, Urbana, not the County Courthouse.**
 - a. This change enables the Court to comply with "social distancing" recommendations.
3. We will limit the number of jurors who have to physically appear for jury selection.
 - a. On or about Friday, May 22, 2020, you will receive a telephone call from my staff as to whether or not you are required to physically appear for service.
 - b. Those jurors who are not required to physically appear for service will be asked to remain at their residence on the first day of trial in an "on-call" status from 8:15 a.m. – 2:15 p.m. in case some of our initial jurors are unexpectedly unable to appear or are ill on the first day of trial. If not called, these "on-call" jurors will be then excused from this trial.
 - c. This process enables us to keep our "crowd gathering" to a minimum.
4. Regardless of whether you are required to physically appear for trial, on the day of trial, and before you come to the Community Center, we ask you to self-monitor whether you are experiencing any of the following symptoms within the last 2-3 days or have been exposed to someone experiencing these symptoms:
 - a. Fever more than 100.4 degrees;
 - b. Persistent, dry cough;
 - c. Shortness of breath or difficulty breathing;
 - d. Chills, Muscle pain, or Sore throat;

- e. New loss of taste or smell;
- f. Nausea, vomiting, or diarrhea

Do not come to trial if you are experiencing these symptoms or feel sick. Call the Court at 937-484-1000 to be excused from jury service.

5. If you are required to physically appear on the day of trial, you will see at the front entrance of the Community Center a large sign (“JURORS” with an arrow) directing you to enter a single front door.
 - a. Weather permitting, the Sheriff’s Office will have a tent set up outside to take your temperature, screen you through security, and inspect your bags.
 - i. If inclement weather develops, the process will take place within the double doors of the Community Center.
 - b. We ask you to self-monitor the number of people at the front door waiting to be screened so that we don’t have a large number of people waiting to enter the Community Center all at once.
 - c. Once successfully screened, you will be directed into the lobby to present your “photo ID” to Court Staff and then proceed into the Auditorium to be seated.
6. Throughout jury selection and the trial itself, jurors will be seated and spaced on marked spots in the Auditorium to comply with “social distancing” requirements.
7. Selection of the jury, presentation of the case and jury deliberation will all occur in Auditorium.
 - a. Once a jury is selected, the trial jurors will use a conference room (that has sufficient space for social distancing) for short breaks in the trial. Weather permitting, every effort will also be made to have you enjoy your trial recess outside.
8. During the trial, the Prosecutor, Defense Attorney, Defendant, Court Reporter and Testifying Witness will be spaced in the Auditorium to comply with “social distancing” from each other and from you.
 - a. A plexi-glass shield will be constructed around the witness stand to so that the Court Reporter recording the proceedings and you will have the opportunity to observe the witness give testimony without a facial covering.
9. All jury deliberations will occur in the spacious Auditorium instead of a traditional “jury room.”
 - a. This enables us to give trial jurors room to comfortably and securely space themselves from each other during the deliberation-discussion process.
10. As of May 4, 2020, a sign posting at the Community Center requires that “all persons entering and remaining in the building wear a facial covering.”
 - a. This policy will apply to the Court, all Court Staff, litigants, lawyers and jurors.
 - b. You are encouraged to bring a mask of your personal preference and comfort with you to jury service.

- c. Any juror who does not have a facial covering will be provided with a disposable mask. You will be required to wear a facial covering during your jury service.
 - d. Once the jury retires to deliberate, all twelve jurors will be provided disposable gloves to handle any physical exhibits that were admitted into evidence.
11. If you are selected as a juror, you will be provided with a disposable three-ringed notebook, pad of paper, pen, and a water bottle. You will be permitted to drink the water in the Auditorium during your service. At the end of the trial, you will personally shred your notes in the shredder located in the Auditorium. You will keep the notebook, pen and water bottle when you leave.
12. Up to two individuals at a time will be able to use each restroom adjoining the Auditorium and one person at a time will be able to enter each restroom adjoining the Conference Room.
13. We will not ask you to put your cell phone in one of our secured pouches. Instead, you will be asked to place your cell phone in the “off” position on a paper plate underneath your seat, with instructions not to use it during your jury trial service.
- a. During deliberations, you will place your cell phone in the “off” position in an individual one-gallon plastic baggie, to be retained by the bailiff until the verdict is read and the jury is dismissed.
14. A bottle of hand sanitizer will be available at the entry way of the Auditorium and Conference Room at all times.
15. Exhibits used during the trial will not be passed between jurors. During deliberations, jurors will be required to wear gloves to personally handle or examine any exhibit that has been admitted into evidence.

We have made these changes with your personal safety in mind. If you have another suggestion on how we can improve your experience, you will be free to share your idea with me either before, during or after the trial.

My staff and I have created innovative, pro-active, protective protocols that enables you to fulfill your duty of citizenship and your solemn responsibility of evaluating the evidence while minimizing your risk of exposure to the COVID-19 contagion. If, after review of these protocols, you want to be excused due to being in a high-risk category or feeling scared about contracting the virus, please call Court Offices (937-484-1000) and you will be excused from service.

Jurors sending in their questionnaire will receive a telephone call from my staff on or about Friday, May 22, 2020 to learn whether they are required to report in person or whether they are being asked to remain “on-call” to report in case an additional juror(s) is needed.

I thank you in advance for your understanding, courtesy and sense of duty to citizenship as shown to this process.

I look forward to seeing you in the Auditorium.

Very Truly Yours,

Nick A. Selvaggio
Judge, Champaign County Common Pleas Court

Sample Voir Dire



COVID-19 VOIR DIRE QUESTIONS

1. Is there any juror who has been notified by any Health Department that you tested positive for the COVID-19 virus?
 - a. When did the notification take place?
 - b. Was there a requirement to self-quarantine?
 - c. Did the self-quarantine take place?
2. Is there any juror who has a test pending regarding the COVID-19 virus?
3. Is there any juror who has been notified by any Health Department that you or a member of your household has been in contact with an individual who tested positive for the COVID-19 virus?
 - a. When did the notification take place?
 - b. Was there a requirement to self-quarantine?
 - c. Did the self-quarantine take place?
4. Have you or any member of your family been out of the State of Ohio in the past two weeks?
 - a. If so, did you or the family member self-quarantine for 14 days upon return to the State of Ohio?
5. Is there any juror who has to self-quarantine due to the COVID-19 virus?
6. Prior to trial, the Court provided the parties and the jurors with the COVID-19 Jury Trial Protocol approved by the Champaign County Health Commissioner so as to minimize the risk of exposure to the COVID-19 virus to trial participants.
 - a. In that protocol advisement, prospective jurors were advised that if a juror wanted to be excused due to being in a high-risk category or feeling scared about contracting the virus, the juror was to call Court Offices and the juror would be excused.
 - b. From the group assembled here, no one contacted Court Offices raising the concern.
 - c. You have now experienced the screening process for admission to the Auditorium, viewed the Courtroom layout and were advised by me how the trial will be conducted.
 - d. After having provided with this information and your own visual observations of spacing and hygiene measures, is there any juror who is uncomfortable serving as a juror during this trial due to the COVID-19 pandemic?
 - e. After having provided with this information and your own visual observations of spacing and hygiene measures, is there any juror who wants to be excused as a juror because of a concern related to the COVID-19 pandemic?
 - f. After having been provided with this information and your own visual observations of spacing and hygiene measures, is there any juror who has remaining COVID-19 concerns related to their service that have not been addressed by the Court?

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:

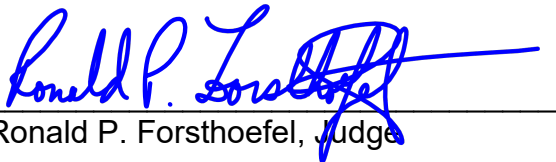
1. Jury *voir dire* shall be conducted in three (3) sessions on Tuesday, April 28, 2020. The first session will commence at 8:00 a.m. with juror orientation and will be for those designated as Group A jurors. Group A shall not exceed a total of 18 persons. Counsel and parties shall not be required to 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

Sample Press Release





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

PRESS RELEASE – MAY 12, 2020 – (2 pages total)

PETIT JURY TRIAL LOCATION TO BE MOVED TO COMMUNITY CENTER

GRAND JURY LOCATION TO REMAIN AT COUNTY COURTHOUSE

HEARINGS OF THE COMMON PLEAS COURT (2ND FLOOR) AND FAMILY COURT (3RD FLOOR) REMAIN AT THE COUNTY COURTHOUSE

Judge Nick A. Selvaggio announces that the implications of the COVID-19 virus have caused the Common Pleas Court to order a change in location for felony criminal jury trials from the Champaign County Courthouse to the Champaign County Community Center Auditorium. All other second floor court hearings will remain at the Courthouse.

The first jury trial is scheduled for June 2-4, 2020. A return date for jury trials at the Courthouse has not yet been determined.

The third floor operations of the Champaign County Family Court will remain at the Courthouse and are unaffected by this change in location.

“Governor DeWine’s mandatory and recommended public health protocols provide the Court with the needed guidance to safely conduct a trial by jury in a manner that will give all trial participants access to justice while minimizing their risk of exposure to the virus,” said Judge Selvaggio.

Judge Selvaggio credited the partnership between the Court, the Champaign County Health District, Champaign County Sheriff’s Office and the Board of Champaign County Commissioners to be able to plan for these proceedings.

“Champaign Health District infectious disease staff has conducted a thorough review of the Champaign County Common Pleas Court’s COVID-19 Jury Trial Protocol. Prior to review of the protocol, Judge Selvaggio provided the Champaign Health District with a walkthrough of the layout of the environment in which the Court will take place,” said Champaign County Health Commissioner Gabe Jones.

“Upon completion of the walkthrough and after review and consultation with infectious disease staff on the COVID-19 Jury Trial Protocol, Champaign Health District has found that the guidelines are consistent with the social distancing guidelines set forth in the Ohio Department of Health Director’s Stay Safe Ohio Order,” said Health Commissioner Jones.

“Upon review, we found that Judge Selvaggio was thorough in all considerations when it comes to protecting the health of the public and preventing the spread of contagious or infectious diseases such as COVID-19. We compared the measures written into the COVID-19 Jury Trial Protocol to the Ohio Department of Health’s guidelines, written based upon the facts and the science existing at this time in Ohio concerning prevention of COVID-19, and we found all precautions and measures to be consistent with the state’s recommendations,” said Health Commissioner Jones.

“We are fortunate to have a spacious county-owned facility that can house many public and private events. I’m sure the Commissioners never thought the Auditorium would serve as a courtroom, but the implications of the pandemic require the Court to develop an innovative, pro-active approach to criminal justice,” said Judge Selvaggio.

As a result of “social distancing modifications” to the second floor courtroom, sessions of the Champaign County Grand Jury have continued to be able to be held at the Courthouse.

“We have also conducted a review of the Champaign County Common Pleas Court’s COVID-19 Grand Jury Protocol. We found this protocol to be consistent with the measures required for social distancing outlined in the Director’s Stay Safe Ohio Order, including all other Responsible Protocols,” said Jones.

“The April and May grand jurors answered their duty to citizenship and accepted that the courtroom modifications were made for the health and safety of all involved. The process has gone very smoothly thus far,” said Judge Selvaggio.

END

Exit Interviews of Jurors





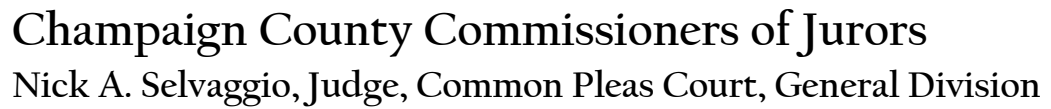
Champaign County Commissioners of Jurors

Nick A. Selvaggio, Judge, Common Pleas Court, General Division

EXIT QUESTIONNAIRE - PLEASE CIRCLE YOUR RESPONSE

| State v. _____, Case No. _____ | | Strongly agree | Agree | No opinion | Disagree | Strongly disagree |
|--------------------------------|---|----------------|-------|------------|----------|-------------------|
| 1 | Overall I was satisfied with my juror experience. | 5 | 4 | 3 | 2 | 1 |
| 2 | Before my service, I felt the Court's COVID-19 letter eased my concerns serving during the COVID-19 pandemic. | 5 | 4 | 3 | 2 | 1 |
| 3 | During service, I felt the Court's explanation of the COVID-19 protocol eased my concerns serving during the COVID-19 pandemic. | 5 | 4 | 3 | 2 | 1 |
| 4 | I liked filling out my jury questionnaire before service. | 5 | 4 | 3 | 2 | 1 |
| 5 | I thought dates and deadlines were communicated in an effective manner. | 5 | 4 | 3 | 2 | 1 |
| 6 | I think jury trials should be held during the COVID-19 pandemic if reasonable protocols can be put in place to protect the jury's health. | 5 | 4 | 3 | 2 | 1 |
| 7 | I felt I was treated respectfully during the COVID-19 screening process at the door. | 5 | 4 | 3 | 2 | 1 |
| 8 | I felt the Court's COVID-19 protocols were excessive. | 5 | 4 | 3 | 2 | 1 |

Please use the space below to further explain your answers or provide suggestions for improving the juror experience. Use the back of this sheet if additional space is needed.



State v. _____, Case No. _____

Please use the space below to further explain your answers or provide suggestions for improving the juror experience. Use the back of this sheet if additional space is needed.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

WARREN COUNTY COMMON PLEAS COURT

JUROR SURVEY

Jury Trial 19CR036135
State of Ohio vs. Brandon Redding

Travis Vieux, Prosecuting Attorney
James C. Station, Attorney for Defense
June 2, 2020

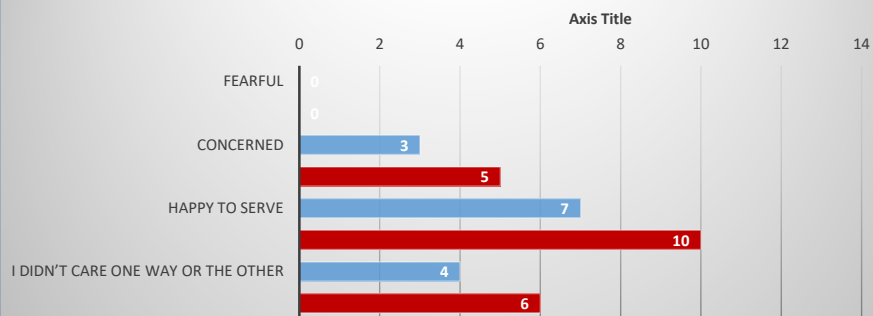
| | Fearful | | Concerned | | Happy to Serve | | I didn't care one way or the other | |
|--|---------|---------|-----------|---------|----------------|---------|------------------------------------|---------|
| | Seated | Excused | Seated | Excused | Seated | Excused | Seated | Excused |
| When you received the jury term notice in the mail how did you feel? | 0 | 0 | 3 | 5 | 7 | 10 | 4 | 6 |
| How did you feel when you were summoned to come to the courthouse for jury duty? | 0 | 0 | 3 | 5 | 6 | 10 | 3 | 6 |

| | Strongly Agree | | Agree | | Undecided/ Neutral | | Disagree | | Strongly Disagree | |
|---|----------------|---------|--------|---------|-----------------------|---------|----------|---------|-------------------|---------|
| | Seated | Excused | Seated | Excused | Seated | Excused | Seated | Excused | Seated | Excused |
| Did the letter from the Judge with the specific procedures and courtroom configuration help ease your concerns regarding serving as a juror? | 5 | 4 | 6 | 13 | 2 | 4 | 0 | 0 | 0 | 0 |
| Did you feel the noninvasive temperature check when you entered the courthouse was necessary? | 8 | 8 | 1 | 8 | 3 | 5 | 0 | 0 | 1 | 0 |
| Upon entering you were asked COVID-19 specific questions regarding your health and recent travel. Did you feel it was necessary for the court to ask these questions? | 7 | 11 | 1 | 6 | 3 | 3 | 2 | 0 | 0 | 1 |
| Did you think the check-in process ensured proper social distancing for the jurors? | 4 | 9 | 8 | 9 | 1 | 2 | 0 | 0 | 0 | 1 |
| Did you feel your concerns regarding the jury selection process were taken into consideration by the judge, jury commissioner, and court personnel? | 8 | 8 | 4 | 9 | 1 | 5 | 0 | 0 | 0 | 0 |
| Were you made aware of all the personal protection equipment (PPE) available at the courthouse, such as hand sanitizer stations, availability of masks, gloves, etc.? | 11 | 12 | 2 | 8 | 0 | 0 | 0 | 0 | 0 | 1 |
| Did you feel that the jury waiting room for small panels Voir Dire had proper and safe social distancing? | 4 | 11 | 4 | 9 | 2 | 0 | 2 | 1 | 0 | 0 |
| Did you feel you had proper safe social distancing with the configuration of the jury box? | 7 | 9 | 6 | 9 | 0 | 2 | 0 | 1 | 0 | 0 |
| Did you feel the jury deliberation room was configured with proper and safe social distancing? | 1 | 0 | 7 | 0 | 3 | 0 | 2 | 0 | 0 | 0 |
| Did you feel the court enforced proper social distancing for jurors and courthouse personnel? | 4 | 9 | 7 | 11 | 2 | 0 | 0 | 1 | 0 | 0 |
| Did you feel the court did enough to protect you from possible Covid-19 exposure? | 4 | 7 | 6 | 8 | 2 | 1 | 0 | 0 | 0 | 1 |

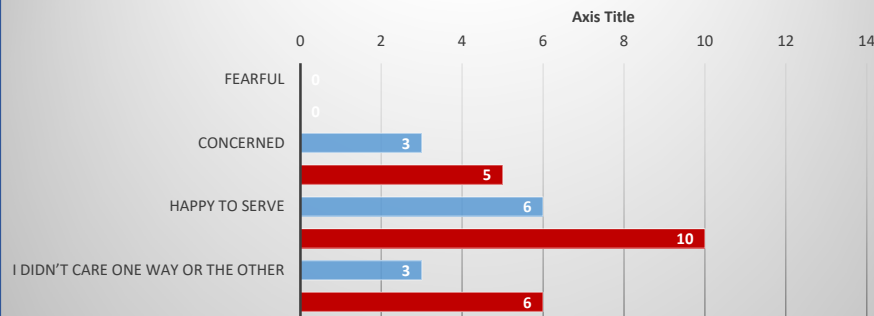
| | | | | | | | | | | |
|---|---|----|---|---|---|---|---|---|---|---|
| Did you think the level of protection you felt while in the courthouse was up to your expectations? | 6 | 10 | 5 | 7 | 1 | 0 | 0 | 1 | 0 | 0 |
|---|---|----|---|---|---|---|---|---|---|---|

Blue = Seated Red = Excused

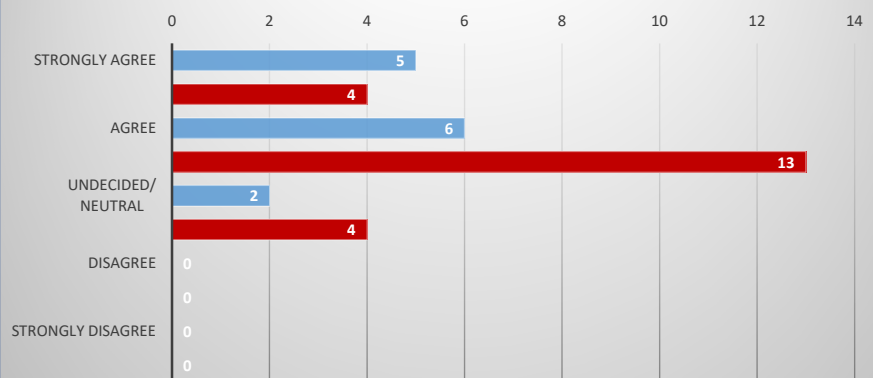
When you received the jury term notice in the mail how did you feel?



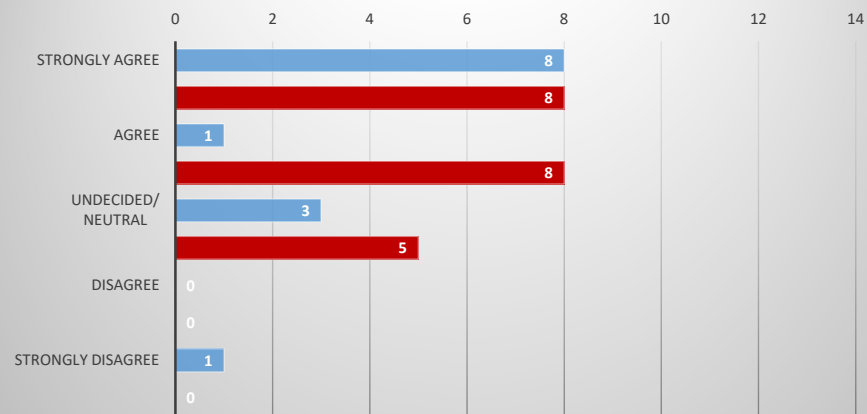
How did you feel when you were summoned to come to the courthouse for jury duty?



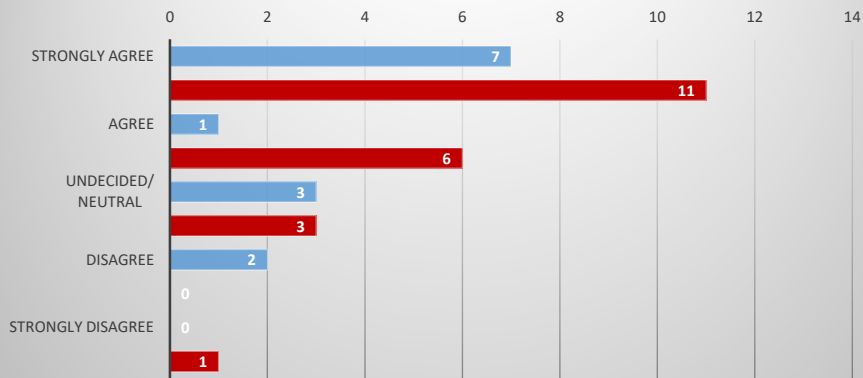
Did the letter from the Judge with the specific procedures and courtroom configuration help ease your concerns regarding serving as a juror?



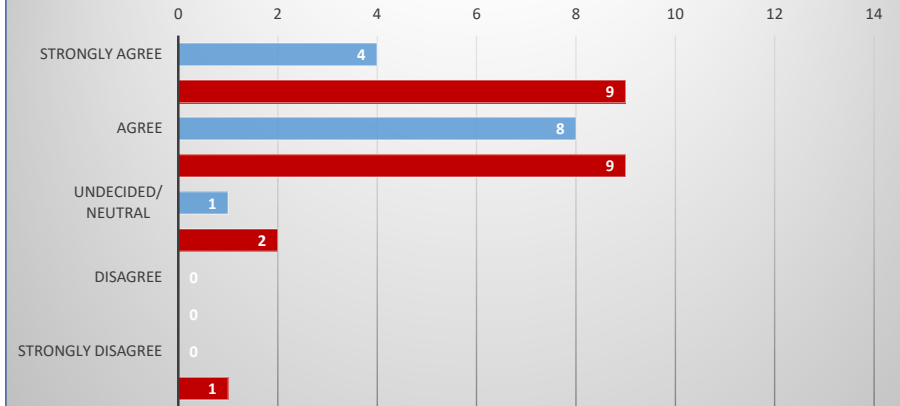
Did you feel the noninvasive temperature check when you entered the courthouse was necessary?



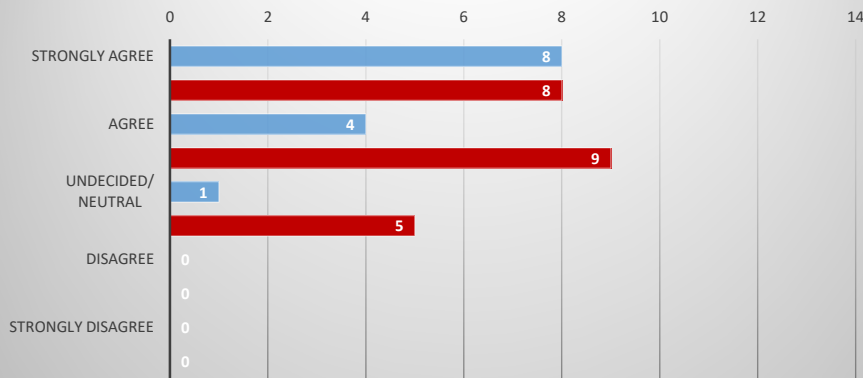
Upon entering you were asked COVID-19 specific questions regarding your health and recent travel. Did you feel it was necessary for the court to ask these questions?



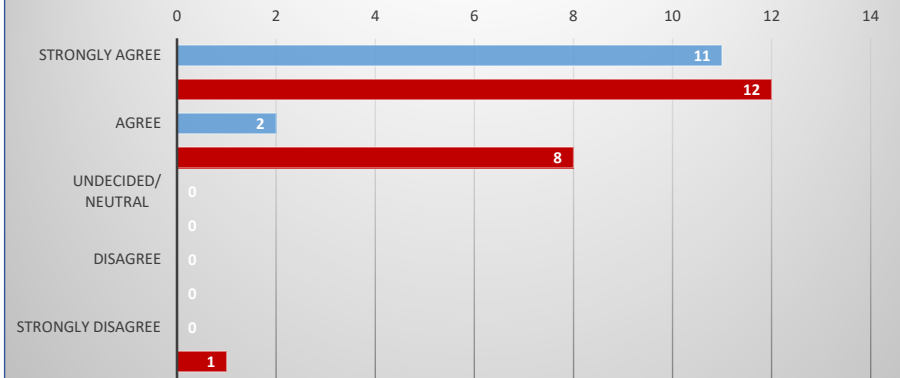
Did you think the check-in process ensured proper social distancing for the jurors?



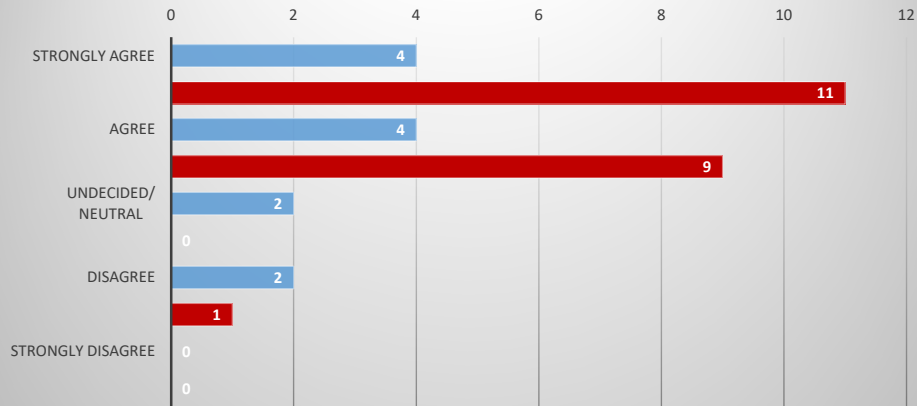
Did you feel your concerns regarding the jury selection process were taken into consideration by the judge, jury commissioner, and court personnel?



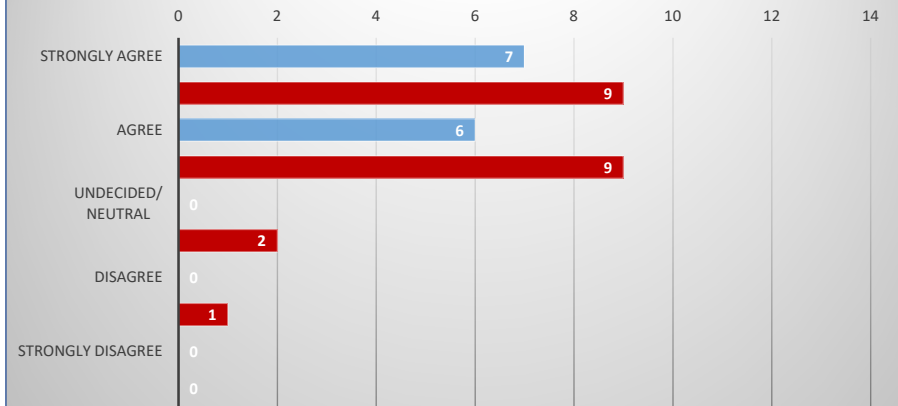
Were you made aware of all the personal protection equipment (PPE) available at the courthouse, such as hand sanitizer stations, availability of masks, gloves, etc.?



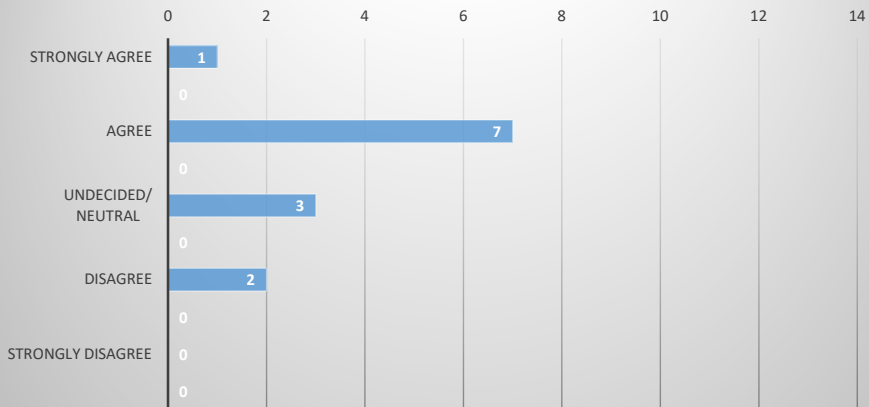
Did you feel that the jury waiting room for small panels Voir Dire had proper and safe social distancing?



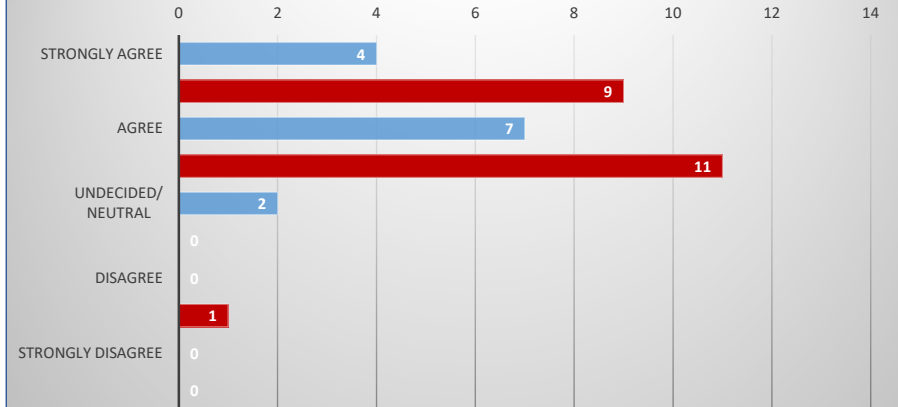
Did you feel you had proper safe social distancing with the configuration of the jury box?



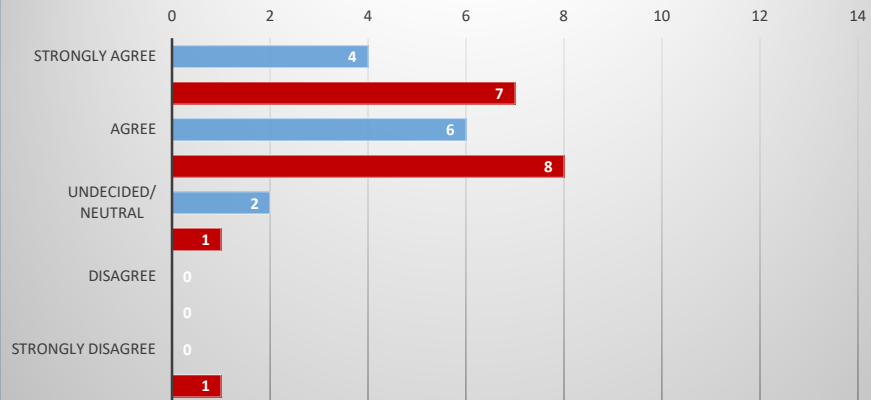
Did you feel the jury deliberation room was configured with proper and safe social distancing?



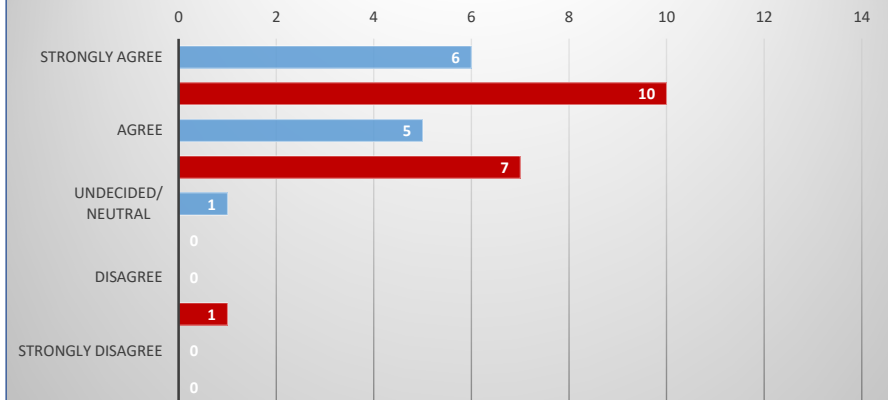
Did you feel the court enforced proper social distancing for jurors and courthouse personnel?



Did you feel the court did enough to protect you from possible Covid-19 exposure?



Did you think the level of protection you felt while in the courthouse was up to your expectations?



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



APPENDIX 2:

OJMA 2021 JURY

MANAGEMENT

MANUAL



Ohio Jury Management Association

2021

Jury Management Manual

“I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution.”

~ Thomas Jefferson

Ohio Jury Management Association

1700 Lake Shore Drive

Columbus OH 43204

This manual is not legal advice. Please consult the attorney who represents your court or jurisdiction for legal advice about laws relating to jury selection and service.

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OJMA also wishes to thank the following individuals for their contributions and editorial assistance in assembling this manual:

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- ☐ David Ballmann, Jury Administrator, Montgomery County Common Pleas Court
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- ☐ Victoria Unger, Administrative Specialist, Ohio Jury Management Association

The 2021 Jury Management Manual
is Dedicated to
The Memory of David L. Ballmann
1942-2020

The Ohio Jury Management Association Jury Management Manual published April 2021.

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1.0 Introduction

1.1 Purpose of Ohio Jury Management Association (OJMA) Manual

The OJMA Jury Management Manual is intended to be a step-by-step guide of the jury trial process, from summoning prospective jurors to providing exit questionnaires to survey jurors regarding their jury experience. This user-friendly manual is provided to assist new and experienced jury managers and court personnel in effective jury management techniques and as a means to develop a standard procedure for managing jurors.

Specific court procedures and office management policies should be added to this manual where necessary. This manual is intended to provide as much information as possible on effective jury management by explaining the basics of the process. Information has been segmented into the basic categories that most jury managers face when dealing with a jury trial. If you find that your court has a different process than one discussed in the manual, please defer to your own court procedures. This manual, which provides basic information on jury trial procedures, is not intended to be an all-inclusive text, but rather a reference guide with information to teach or provide refresher information for court personnel with jury management responsibility.

OJMA has relied on the expertise of court personnel throughout the state to compile the information contained in this manual. A list of these contributors is provided on the Acknowledgments Page which is located immediately preceding the Table of Contents page. Please contact the OJMA Administrative Specialist at (614) 487-4475 with any questions or comments regarding the contents of this document.

1.2 Overview of the Contents of the Jury Management Manual

By being familiar with the statutes and rules, as well as the basic steps and procedures involved in jury management, an effective jury manager can stay on task and ensure that the process runs smoothly and is a pleasant experience for all parties involved.

The first step is to review the current jury-related provisions of the Ohio Revised Code, the Civil Rules of Practice, the Criminal Rules of Practice and the Rules of Superintendence for the Courts of Ohio to gain an understanding of the laws and guidelines adopted in Ohio relating to jury management. The Jury Modernization Act (Substitute House Bill 268), effective May 22, 2012, updated and revised many of Ohio's jury statutes. The key statutes and rules for Ohio may be found in Appendix A.

The next step in the process is understanding the roles and responsibilities of the individuals in the courtroom and having a general knowledge of the terms most often used in working with jurors. Appendix B provides a glossary of common terms and phrases used during the process of a jury trial. A review of this information is recommended. It is also recommended that each person in a court with responsibility for jury management, observe an actual jury trial, from voir dire to verdict.

This experience will help the jury manager have a better understanding of the overall jury trial process.

Next, and possibly most important, is summoning the jurors to the courthouse. Section 2.0 details this procedure by explaining the effective use of the juror source list and how that list is determined, as well as explaining ways to expand the list. This is of particular importance to both large and small communities, as small courts face the

problem of under representation, and larger courts are confronted with an increased volume of jury trials and not enough jurors to fill the seats. Section 2 also covers the timing of the qualification of jurors, the issuance of jury summonses, random selection and reasons for releasing jurors from service, and the determination of the term of service for jurors.

Once the jurors are in the courthouse, it is important to make sure they are as comfortable as possible and are able to fulfill their duty with ease. Section 3.0 discusses welcoming jurors to the courthouse and how to provide basic information to ensure their experience is a positive one. This section also explains how to deal with jurors with disabilities.

With the trial process far enough along to have the prospective jurors in the courthouse, jury managers need to utilize the jurors as effectively as possible. In section 4.0 this manual explores some details such as properly coordinating the court's docket and calendar to make sure jurors are available when needed, determining how many prospective jurors to pull for the pool size, panel assignments and on-call jurors. Reasons for removing jurors from the panel will also be discussed here, along with peremptory challenges by attorneys, voir dire length and impaneling the jury. This section further explains dismissing jurors, the proper information to present to the juror in the courtroom, things to be cautious of during deliberation and problems associated with sequestered jurors.

Another important topic for many jury managers is the prospect of having to deal with a high profile case. Section 5.0 explains certain policies and procedures to be aware of when dealing with a case of this type, and lays out factors involved with pre-screening jurors with questionnaires, as well as determining the panel size.

Section 6 focuses upon juror stress. Jury managers should understand what causes stress for prospective jurors so that action may be taken to address the issue and make jury service as positive an experience as possible.

After a jury trial is completed, it is necessary to obtain certain information and statistics which can be referenced for future use in determining ways to handle situations better the next time a jury trial is in process. Monitoring is discussed in section 7.0 along with how to distribute exit and demographic questionnaires and statistical reporting which will help court personnel recognize problems in the process along the way to this point. Methods of juror compensation are discussed in Section 3.5.

The last topic explored in this manual will be in section 8.0 covering jury management software and how it can help jury managers effectively maintain certain databases of information for use when calling a jury to the courthouse. Cost concerns are covered, as well as a list of web site addresses for companies which provide jury management software.

This manual is intended to cover the basic steps of the jury trial process. Again, where necessary, please defer to specific court rules and policies in your area regarding details that may not be contained in this manual or details that are managed in a different manner.

1.3 Common Terms and Phrases During a Jury Trial

It is recommended that those with responsibility for jury management have familiarity with the terms that are commonly used during a jury trial. A glossary of the common terms has been provided in Appendix B of this manual.

1.4 Statutes and Rules

Jury Managers should become familiar with the Statutes, Rules, Ohio Jury Use and Management Standards and local rules relating to jury selection. The principal statutes and rules involved in jury management in Ohio have been provided in Appendix A of this manual.

Of particular note, Rule 5(B) of the Rules of Superintendence for the Courts of Ohio states “a jury management plan for purposes of ensuring the efficient and effective use and management of jury resources” must be adopted by each trial court by local rule. The plan must address the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio in 1993. These standards may be found in Appendix B of the Rules of Superintendence.

Ohio’s local court rules can be obtained from the Ohio Supreme Court website:
<http://www.supremecourt.ohio.gov/JudSystem/trialCourts>

1.5 Municipal and County Court Jury Management

Ohio law (R.C. 1901.25 and R.C. 1901.28) provides that Municipal and County Courts have the authority to independently determine the way jurors are chosen and summoned, with the only requirement being that jurors must reside within the jurisdiction of the court. Municipal and County Courts must adopt separate jury procedures by local rule. Most courts use the jury management rule all trial courts are required to adopt under the Rules of Superintendence for Court of Ohio as the vehicle for documenting jury procedures. Municipal and County Courts may also use the Jury Commissioners selected by the Common Pleas Court to select and summon jurors. The statute does not address whether this service by the Common Pleas Court must be provided at no cost. There is no statutory language specifically addressing the authority of Municipal and County Courts to designate their own “jury commissioners” although, for courts that independently select and summon jurors, someone must perform the necessary duties to complete the necessary jury management tasks. The title of the personnel charged with the jury management responsibilities is a matter of court discretion.

2.0 Summoning/Qualifying Jurors

2.1 Establishing the Jury Year

The court must issue an order to set the beginning date of the jury year. The court may divide the jury year into parts.

2.2 Annual Juror Source List

The annual juror source list is the list of names allowed to be used by the jury commission for compiling the annual jury list, which is the list of individuals who may be contacted for jury service during the established jury year.

Under Ohio law, prospective jurors may be selected from a list of registered voters in that county or prospective jurors may be selected from a combined list of registered voters and the list provided by the Bureau of Motor Vehicles of licensed drivers and individuals issued a state identification card in that county. The Ohio Revised Code outlines the responsibility of the Board of Elections (BOE) and the Bureau of Motor Vehicles (BMV) to provide the appropriate list of names to the jury commission. The BOE must provide a “current” list of registered voters and this list must be used in the compilation of the Annual Jury Source List. This means that the BOE must extract the names of individuals who have not voted in the preceding four years from the list of voters provided to the court.

To determine the best source list option, consideration should be given to which type of list is most representative and inclusive of the adult population in the jurisdiction. To many, the list of registered voters is the best choice as the list covers the entire jurisdiction and those on the list have already exhibited a civic interest by registering to vote. The addition of the list of licensed drivers in the jurisdiction may help to increase the number of younger individuals included in the jury system and would address those individuals who state that they are not registered voters in order to avoid jury duty (or who upon being called for jury duty state that they will remove their name from the role of registered voters). A review of the demographics (age, gender and race) of the jurisdiction, as compared to that of the selected source list should be undertaken. Section 2.10 contains additional information on collecting and evaluating demographic data.

If the choice is made to use the combined registered voters/licensed drivers list as the source list, attention will need to be given to the process of merging the lists into the annual jury source list used to compile the annual jury list. It will be necessary for the Jury Commission to identify and remove duplicate names (ORC 2313.06(B)). Duplicates may result from the same person using different versions of their legal name for the voter list and for their driver license (i.e., not using middle name, not using middle initial, not using Senior/Junior designation), not having the same address on both lists and the confusion of Senior/Junior individuals living at the same address. The removal of duplicated names is important so that the annual jury source list of names provides each person with an equal chance of being selected during the annual jury draw. It is recommended that the process used to resolve duplicates (i.e., If any duplicates are found, you must defer to the BOE records when compiling the combined list) be addressed either through the Jury Management Plan or through the court order for the annual draw.

The Jury Commission is required to remove from the annual jury source list the names of individuals who have been granted a permanent excuse pursuant to R.C. 2313.14 and the names of jurors disqualified as a result of their

prior service. R.C. 2313.21 provides that, except in counties of less than 100,000 population, jurors who have served for two or more consecutive weeks are disqualified from further jury service for a period of two years. For counties of less than 100,000 population, the court must make a rule regarding the subsequent service of those who have served more than two consecutive weeks.

The annual jury source list must be certified by the Jury Commissioners and a copy of the list, organized in alphabetical order, must be filed with both the Clerk of Court and the Jury Commission.

2.3 Annual Jury Draw

The number of jurors to be drawn for the jury year and any part of the jury year is to be fixed by an order from the court. This order may be combined with the order setting the beginning date of the jury year. A sample order is included in Appendix C. If the court does not issue an order prior to the jury draw, the Jury Commissioners are required to fix the number of jurors determined to be needed to meet the needs of the court for the jury year or part of a jury year.

The jury draw must be public. Notice of the draw must be published in at least one newspaper of general circulation at least six days before the jury draw. The Clerk of Court and at least one Judge must also be notified. A Jury Commissioner, the Clerk of Court and a Judge, or their respective designated representatives, must attend the draw.

There is no specific procedure required for the annual jury draw but the method used must provide each person on the annual jury source list with an equal, random probability of selection. The Jury Commissioners must document the method used for the jury draw.

2.4 Annual Jury List

The list resulting from the jury draw is the annual jury list. This is the list used for sending jury summons to those individuals being contacted to serve as jurors. The annual jury list, arranged in alphabetical order, must be filed in the Jury Commission and a copy of the list must be filed with the Clerk of Court.

2.5 Random Selection

Throughout the jury selection process, random selection procedures should be used. Random selection is best accomplished through the use of an automated jury management system programmed to extract names using a random number generator.

2.6 Juror Qualification and Summoning

The court may choose to go through a qualification procedure before summoning jurors for actual service. This is commonly referred to as a “two-step” system. Under this type of system, a qualification questionnaire is distributed to individuals whose names are on the annual jury list.

This qualification process may be conducted for all of the jurors on the annual jury list or may be done separately for each part of the jury year. The qualification questionnaire may elicit basic information from each juror, such as name and address, as well as provide the opportunity for a juror to identify a reason that they are not eligible to serve as a juror (i.e., they have moved out of the jurisdiction) or request an excuse from jury service (i.e., they have a

serious medical problem which will affect their ability to serve). Using the information provided by the jurors, the jury commission will develop the list of “qualified” prospective jurors who will be contacted for actual service at a later date.

The process by which prospective jurors are sent both the qualification questionnaire and the jury summons in the same mailing is referred to as a “one-step” system. The court may have the prospective jurors return the completed qualification questionnaire prior to the scheduled date(s) of service or may have jurors bring the completed qualification questionnaire with them if they are instructed to report for actual service. The “one-step” system is generally viewed as less expensive and more efficient than a “two-step” system in that there is just one mailing to each prospective juror and the responses provided to the qualification questionnaire present the situation of the jurors at a time close to the actual service. Any significant gap in time between the completion of the qualification questionnaire and actual jury service may result in a change to the juror’s situation and his/her ability to serve. The previous qualification questionnaire responses may no longer be accurate.

2.7 Jury Summons

The jury summons may be sent out by the Jury Commission, the Clerk of Court or the Sheriff.

A juror summons should be:

- Sent by First Class Mail - registered or certified mail or personal service is not required. First class mail service is the most cost effective means of sending a jury summons, with the post office returning the undeliverable summons to the jury commission so that the failure to complete service is identified
- Easy to Understand - the summons should be worded so it can be easily understood by an individual who is unfamiliar with the legal system. The summons should clearly explain how and when the recipient must respond and how to make contact with the court if there are questions or concerns.
- Contain the Consequences for Failure to Report - the status of the jury summons as an order of the court and the consequences of a failure to respond should be explained in a factual, non-threatening manner.

2.8 Jury Questionnaire

Some courts attach a jury questionnaire to the summons to obtain current information about only the qualification of the prospective juror and to elicit additional background information. Some jury management system vendors will provide sample questionnaires which may be incorporated into the summons. The questionnaire may elicit demographic information to be captured in the jury management system for the purpose of monitoring the jury system.

The jury questionnaire should be designed based upon the intended use by the court. If the court wants only information to assist with the check-in process and to insure current juror information, the content may be limited to name and address. If the court intends to use information for the purpose of assisting with voir dire, additional questions may be asked about the juror’s background, current employment, prior experience as a juror and other matters. It is recommended that only the information essential to the intended use of the questionnaire be asked as jurors are often hesitant to respond to questions perceived to be personal in nature.

Jurors need to be notified that jury questionnaire answers may become public and that, if they feel their privacy interests are compromised by answering, a hearing, conducted in chambers, may be requested by the juror. A standard notification must be prominently printed on all jury questionnaires. A suggested notice follows:

All information on this form, except for your telephone number, may be publicly disclosed. If you believe your privacy interests will be hurt by answering any of the following questions, you may leave the response blank and, once you are in the courtroom, ask for a hearing to state your reasons for leaving the answer(s) blank. The hearing will be held in the Judge's office, on the record, with the court reporter and counsel for the parties present. The judge may require you to answer the question(s).

The Court should consider adopting a local rule regarding the use of the jury questionnaire by counsel, including information regarding access to questionnaires prior to a scheduled trial date, a prohibition against copying the questionnaires, and the requirement to return the questionnaires at the conclusion of jury selection. Jurors may be concerned about their security if detailed questionnaires are made available to counsel and clients in advance of the trial date and the information remains available after the verdict has been rendered.

The Court's record retention policy should state how long jury questionnaires are to be retained. There is no statute or rule which requires a specific period of retention. As the questionnaire is an administrative record, the court has discretion to determine when the record is no longer administratively needed. Some courts return the questionnaire to the juror upon their departure from service and others define a period of retention for questionnaires (e.g. one year following service). There may be a difference between questionnaires maintained by the jury commission and those questionnaires that are part of the record of a specific case that went to trial.

2.9 Determining the Number of Jurors to Summon

Determining the number of jurors to summon can be difficult. Every jurisdiction has different dynamics that must be considered to determine the number of jury summons to issue. Under Ohio law, each trial court has some flexibility to set a jury management system in place that will suit the needs of your specific jurisdiction. If you have not done so already, the best place to start is to build a database to discover possible trends that will assist you in the future. This can be done manually or on your computer. You will discover that different situations produce different reporting percentages. The reporting percentage will probably be affected by the time of year, availability of public transportation, health of your economy etc. You will learn to add and subtract (summons) accordingly.

Building a database is relatively easy. If you do this manually, you will be keeping track of:

- How many summons were mailed out for a specific reporting date/period
- How many excuses were granted for the same reporting period
- How many jurors were postponed (both to and from the group)
- How many jurors were instructed to report for service
- How many jurors actually reported for service

The following figures suggest a process for determining the summoning yield, the reporting yield, and ultimately, the number of jurors to summon to meet the needs of the court. You (or your court) may determine that you want to track more detailed categories (i.e., identify specific reasons that jurors have been excused). Whatever decision is made, it is very important to develop a data base to assist with making decisions and evaluating your jury procedures.

| | |
|--|---|
| Jurors Scheduled to Appear | 200 (total summons mailed out) |
| Jurors that Postponed before Reporting | 10 (postponed to different reporting date/period) |
| Excuses Granted | 50 (total number of excuses granted) |
| Postponed/Excused on Reporting Date | 2 (reported, but were excused or postponed to a new date) |
| Total Available for Service | 138 (number remaining after above) |

SUMMONS YIELD $138/200 = 69\%$

| | |
|--|--------------------------------|
| Total Instructed to Report for Service | 79 |
| Total that Reported for Service | 64 (total number checked in) |
| Total that Failed to Report | 15 (total that did not report) |

REPORTING YIELD $64/79 = 81.01\%$ Failure To Appear (FTA) 19.99%

To calculate the summoning yield (percentage of jurors available for service compared to the number sent a summons), take the total number of summons mailed, subtract the total excusals granted, add the jurors postponed to the time period being evaluated, subtract the jurors postponed to a different time period and divide the remainder by the total number of jurors summoned for service. The number of jurors to be summoned is affected by the reporting yield. Not all available jurors will necessarily report, as instructed, for service. You will also want to keep track of how many people fail to appear (FTAs). To obtain the reporting yield (or conversely the FTA percentage), divide the total number of FTAs by the total number of jurors instructed to report for service.

Using the above example to determine the number of summons to be sent out, work backwards using a reporting yield of 81%. If there is the desire to have 150 jurors report for service, 185 jurors would need to be available ($150/.81 = 185$). Next use the summons yield of 69% to calculate the number of summons that need to be sent out. To have 185 jurors available, 268 summons would need to be sent out ($185/.69 = 268$). In other words, 268 summons will need to be sent out to have 150 jurors appear at the courthouse.

For the jury manager to make a reasonable determination of the number of summons to be sent out for a particular reporting period (i.e., one day, two days, one week, two weeks, one month, etc.) an understanding of the court's case management practices and jury trial calendaring/history will be helpful. A different number of jurors may need to be summoned to meet the needs of the court at different times. If there is a routine calendaring practice to set jury trials during particular times of the month, knowing this practice will help the jury manager adjust the number of summons being sent out. It is wasteful and disrespectful of the juror's schedules to summon prospective jurors when no jury trials will actually be conducted. There is also

the need to be aware of unusually heavy jury demands in the event of a high profile case or a case which will last for an extended period of time. Additional jurors should be summoned, with the expectation that more than the usual number of jurors will be excused from service due to either their prior exposure to the case or a schedule conflict. The jury management process should be considered an important aspect of case processing and relevant information should be shared in a timely fashion.

2.10 Demographic Information

In addition to information on the number of jurors reporting for service, you will want to track the demographics of the jurors to determine if your jurors represent the cognizable groups in your jurisdiction. A demographic database is available for every state and county in the United States at the following: census.gov/quickfacts/geo/chart/us/pst045219. Demographic information generally includes the following categories: gender, age, race and ethnicity. Collecting demographic information may present certain difficulties such as; how do you request such information without offending people; what should you do if the figures do not look good when compared to the relevant census data? These are issues that you will need to discuss with your court administrator or your administrative judge to seek their direction. When the final analysis is done, you may find out that you were better off than you thought. Sample questionnaires used to collect demographic information have been provided in Appendix E.

You can see from the above, there are basic demographic categories that can be used to make comparisons. Having current knowledge of the composition of your reporting jurors can be extremely helpful in the event the representativeness of the jury is challenged. Although this may have never happened in your court, it certainly does not mean that it will not. This type of information can also be very helpful to your judge/judges. Above all else, you will know what your jury management process is producing.

2.11 Qualification for service, Excuse from Service, Challenges to Service

There are specific statutory sections that address the qualification to serve as a juror, the reasons an individual may be excused from jury service and the challenges to service in a specific case. It is advisable for a court to have a clear policy regarding the qualifications for service and the excusal from jury service to ensure consistent application of the law. The trial judge will make the determination regarding challenges during voir dire for a case. It may be helpful to think of these as different tiers to be navigated in reaching a seated trial jury. The first tier is the qualification of an individual for service. Those who are not qualified should be eliminated during the jury draw or the initial stage of the summoning process. As a second tier, a qualified juror may be excused based upon their individual situation. The final tier is that a prospective juror who reaches a courtroom for the jury selection process may be removed from the case as the result of a challenge for cause or a peremptory challenge.

Qualified to serve:

ORC Section 2313.17 (A) defines those who are “qualified” to serve. The statute provides “A person is qualified to serve as a juror if the person is eighteen years of age or older, is a resident of the county, and is an elector or would be an elector if the person were registered to vote, regardless of whether the person actually is registered to vote.” The process used by the court to develop the annual source list to be used for drawing

jurors should include the removal of the names of individuals who are not qualified for service. If not removed at the time of the development of the annual source list, an individual who is not qualified for service may be removed when summoned or when examined during voir dire.

ORC Section 2313.06 addresses the annual compilation of the jury source list. Section (B) provides for the use of the names from the current voter list and the option to also include names from the bureau of motor vehicles. This section requires jury commissioners to remove from the annual source list based upon the merger of voter and drivers lists, the names of any duplicate individuals. The names of individuals who have been permanently excused from jury service pursuant to ORC 2313.14. Finally, pursuant to ORC 2313.21, unless the court is located in a county of less than one hundred thousand population and has adopted a contrary rule, the jury commissioners are required to remove the names of any person who has actually served as a juror in any county for two consecutive calendar weeks until the second jury year after the day of the person's last service.

Excuse from Service

The reasons an individual may be excused from jury service are controlled by statute and, unless a Judge determines that the underlying grounds for the excuse are permanent, valid only for the current jury year. ORC 2313.14 details the only reasons an individual may be excused. The full statute can be found in Appendix A. As a general summary, the following are the reasons a juror may be excused:

- a) The interests of the public will be materially injured;
- b) The juror's spouse or a near relative has recently died or is dangerously ill;
- c) The juror is a cloistered member of a religious organization;
- d) The prospective juror has a mental or physical condition that makes the juror incapable of performing jury service;
- e) Jury service would cause undue or extreme physical or financial hardship;
- f) The juror is over 75 years of age and the juror requests to be excused;
- g) The prospective juror is an active member of an Amish sect and requests to be excused.

Challenges to Jury Service

As defined by ORC 2313.17, there are two types of challenges, for cause and peremptory, that may be requested by trial counsel during voir dire, with the judge making a determination regarding validity.

Challenges for cause are defined by ORC 2313.17 and Criminal Rule 24 (C). Challenges for cause apply to any person called as a juror and, among other reasons, includes:

- The person has been convicted of a felony. (See Ohio Attorney General Opinion 2006-031, Hamilton County case, O.R.C.16(C)(3)) – **NOTE: Courts have interpreted this opinion differently and the determination of the eligibility for a convicted felon to serve as a juror may vary from court to court, or even from judge to judge on a multi-judge bench.**
- The person's answers during voir dire disclose that the person cannot be fair or impartial or will not follow the law;

- The person does not have a competent knowledge of the English language;
- Other causes that render the person to be an unsuitable juror.

Peremptory challenges are controlled by Criminal Rule 24 and Civil Rule 47. Trial counsel may excuse a limited number of jurors without stating a reason. The exception to this is having an improper reason for the peremptory challenge, such as race, gender, and possibly sexual orientation.

Jurors are entitled by statute to postpone their service to another date as long as contact is made with the Court at least two (2) business days prior to their scheduled service and the new service date is within six (6) months and is in the current jury year. The Court may want to consider a local rule permitting jurors summoned in the second half of the jury year to postpone their service to a date in the next jury year to avoid excusing jurors solely because of a scheduling issue. This entitlement to postpone needs to be taken into consideration when deciding how many prospective jurors to summon.

The Jury Commissioners must keep a record of persons granted an excuse or postponement. The reason for each excuse must be documented. Specific uniform guidelines for granting excuses should be adopted by the trial judge/court. The court should consider sending confirmation that the excuse was granted to the prospective juror so that the juror is appropriately notified of the action taken by the Court in response to their request for an excuse. This is particularly true for those individuals excused due to age/medical issues in the effort to reduce unnecessary anxiety.

2.12 Sending a Second Summons to Jurors

Each court should consider issuing a second summons for jurors who have postponed their reporting dates, or if the original reporting date was changed for some other reason. Ohio law does not require the issuance of a second summons, but sending a second summons should raise reporting percentages. If a juror has misplaced the original summons or has forgotten to keep track of his or her postponed reporting date, a second summons can serve as a friendly reminder from the court that the juror is expected to report, or if the system provides, available to report.

2.13 Term of Service

Each court may decide how long a prospective juror must be available for jury service. Courts are routinely encouraged to adopt the shortest term of jury service possible.

The Jury Use and Management standards, which were adopted by the Ohio Supreme Court in 1993, were the basis of the following recommendation made in 2004 by the Supreme Court Task Force on Jury Service:

- The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice
- A term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is longer, is acceptable

- Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time

The term of service not only affects the availability of the juror but also has an impact upon the personal and financial hardship of the juror and the hardship on the employer. A shorter term of service increases the number of jurors able to serve, potentially improving the representativeness of the jury pool or panels.

3.0 Assisting Jurors

3.1 Basic Comfort Information for Jurors

All jurors should be provided with the basic information needed to respond to their jury duty summons, as well as any information that would be helpful in successfully completing their jury service with the least amount of uncertainty and anxiety. Much of this information can be made available pre-service by use of the jury summons itself. Other valuable resources may include voice-activated information systems, court websites, pre-service mailings and public awareness campaigns. Every effort should be made to ensure that the maximum amount of information possible is available in a variety of forms prior to a prospective juror's service. Once the juror has actually reported for service, basic in-service information should be presented by way of some type of orientation program in which all jurors participate. A juror handbook or other type of handout may also be very helpful and informative. A good rule to follow – you can never give out “too much” information.

Pre-Service Information (contained in the jury summons)

- ☐ How the juror's name was selected
- ☐ Term of service - length of service and what hours the juror should expect to serve
- ☐ Rate of pay
- ☐ Eligibility information
- ☐ How to request an excuse from service
- ☐ What does/does not constitute an excuse from serving
- ☐ Instructions for using call-in system (if applicable)
- ☐ How to request a postponement of the service
- ☐ Employer issues – work verifications, responsibilities of the juror's employer
- ☐ Contact phone/fax number and office hours
- ☐ Directions to other sources of information (i.e., court website)
- ☐ Courthouse location and directions
- ☐ Courthouse security-permitted and/or prohibited items
- ☐ Cell phone restrictions, if any
- ☐ Smart watch restrictions, if any
- ☐ Parking information
- ☐ Dress code
- ☐ Information for jurors needing an accommodation
- ☐ Frequently Asked Questions (FAQs)

In Service Information

- ☐ A warm and sincere welcome
- ☐ Brief history on the origins of jury duty
- ☐ Frequently Asked Questions (FAQs)
- ☐ Jury pay – rate of pay, when to expect payment, etc.

- ☐ Juror privacy – what information could be made public
- ☐ Hours of service
- ☐ Emergency contact information for family members, childcare providers, etc.
- ☐ General information about what type of court and what type of cases the juror may expect to hear
- ☐ Expected conduct of a juror during a trial, including the prohibition against any type of research about the case. Specific reference to the Internet, social networks, etc. is suggested.
- ☐ Judge's name and courtroom location
- ☐ Courtroom etiquette
- ☐ Legal terms and definitions
- ☐ Instructions for receiving daily attendance credit
- ☐ Jury badges/juror identification issues
- ☐ Suggestions on where to eat lunch and allowed use of court space during lunch breaks
- ☐ Restroom locations
- ☐ Appropriate waiting areas
- ☐ Appropriate smoking areas
- ☐ Other juror amenities

In-service information can and should be made available during the pre-service period whenever possible by means of the previously mentioned resources, voice-activated information systems, court website, etc.

3.2 Jurors Needing an Accommodation

3.2.1. Accommodating Jurors with Disabilities

Disabled jurors may be under the impression that they cannot serve on a jury. It is true that sometimes a disability makes it challenging to participate. However, every accommodation needs to be made for those disabled jurors who wish to perform their civic duty. For example, courts must offer the services of a sign language interpreter for deaf jurors. Information on the availability of these services should be contained in the jury summons itself so as not to discourage any person from fully participating in jury service.

The Americans with Disabilities Act of 1990 (ADA) is a federal law prohibiting discrimination against individuals with disabilities in employment, public accommodations and government services. Ohio courts are covered under Title II of the ADA. Thus, under the ADA, courts must provide reasonable accommodation for any disabled juror who wants to serve on a jury.

Under the ADA, a “disability” is defined as a physical or mental impairment that substantially limits a one or more of the individual's major life activities including, but not limited to, walking, seeing, hearing, learning, breathing, caring for oneself, or working.

Courts should have identified possible accommodations and be prepared in the event that a juror needs some assistance during their service. As mentioned earlier, it is recommended that an agreement be in place to provide sign language interpreters to deaf jurors. It may also be necessary for a court staff person to assist a sight- impaired

juror negotiate the courthouse, even if the juror has an assistance dog. Trained service animals, but not emotional support animals, must be allowed to accompany the juror.

To help prepare the court to appropriately respond to a prospective juror with a disability, no-cost disability and etiquette training for court staff can be obtained through Opportunities for Ohioans with Disabilities (OOD). Information on making contact with a regional facilitator can be found on the OOD website <https://ood.ohio.gov/>

Courts are required to accommodate individuals who are deaf or hard of hearing to permit full participation in court activity. A resource to better understand what is required of courts in providing interpreters or other aids for effective communication with individuals who are deaf or hard of hearing is Disability Rights Ohio, a non-profit corporation with a mission to advocate for the human, civil and legal rights of people with disabilities in Ohio. A link to a relevant web page: [Court provided accommodations](#)

The Ohio Supreme Court issued an opinion which stated that a hearing impaired juror should have been excused from a criminal case that had an audio 9-1-1 tape as a part of the key evidence. This case provides some guidance to Judges when faced with a prospective juror who is hearing impaired. State v. Speer, Slip Opinion No. 2010-Ohio-649.

Ottawa App. No. OT-07-046, 180 Ohio App.3d 230, 2008-Ohio-6947.

Opinion: <http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2010/2010-Ohio-649.pdf>

The potential needs of a juror using a wheelchair should be anticipated and a plan prepared to insure proper accessibility for the courtroom, jury box, jury deliberation room and restroom facilities.

Jury Managers wishing to obtain additional information on ADA issues should review the publication *Jurors with Disabilities* (2018) which was published by the National Center for State Courts. The link to access the publication is: [Jurors with Disabilities](#). This publication is an excellent resource which reviews the ADA law, provides practical advice on how to respond to the challenge of making a proper accommodation for a disabled juror and offers a list of available assistive devices to respond to an accommodation request. If additional information is desired, you may want to look at court system websites that have information about ADA compliance including New York (www.nycourts.gov) and California (www.alameda.courts.ca.gov).

During the voir dire process, the court may need to determine the ability of an individual juror to receive and evaluate evidence in a case (see the reference to State v. Speer, above). This is a potentially controversial issue as the court must balance the interests of the parties to the case against the wishes of the individual prospective juror who may advocate that it is their right to serve as a juror.

3.2.2 Accommodating Jurors Who are Breastfeeding

Jurors who are breastfeeding will need accommodations while serving as a juror. The court should ensure that there are proper policies, procedures and practices in place for this accommodation.

Information related to the law and jury management issues related to accommodating a juror who is breastfeeding can be found in the article *Jury Duty and Nursing Moms* on the OJMA website resource page.

<http://ohiojury.org/resources.html> The options regarding excusing or postponing a juror are detailed. The resources needed to properly accommodate a juror who is breastfeeding are also outlined.

3.3 Limiting Juror Waiting/Reducing Boredom

While physical courthouse facilities may limit what can be done to make jurors more comfortable while waiting for the trial to begin, the Court needs to make every effort to respond to the needs of the jurors by keeping downtime to a minimum and seeing to the physical comfort of the jurors. Under ideal circumstances, all pretrial decisions will have been made prior to the trial date and jurors will move immediately from the juror orientation into jury selection. If the courthouse facilities permit, the following may be considered to help make a jury waiting area more comfortable:

- Separate areas for different activities (watching television, quiet area for working/reading)
- Reading material (if there are budget concerns, consider requesting the donation of suitable magazines by court staff)
- Games/Puzzles
- Internet access

It will be incumbent upon jury management personnel to be aware of what is on television and the content of any reading material to avoid topics which are inappropriate for prospective jurors. Topics to avoid include victim-related stories, stories about court cases and discussions about other court-related matters. If Internet access using court provided equipment is permitted, it may be necessary to restrict certain sites from access, including local news websites.

If it is feasible, the court may want to consider allowing jurors to leave the waiting area. Of course, there needs to be restrictions on juror movement to avoid contact with the parties and attorneys for cases they may hear. Options to consider include

- Allow jurors to leave, with specific instructions on when they need to report back to the jury waiting area
- Obtain cell phone numbers for the jurors wishing to leave, with contact to be made with the juror by the jury management personnel in advance of the time they need to return
- If there is a limitation as to how far the juror is permitted to be from the jury waiting area a “pager” system similar to what is used for waiting at restaurants
- Permit the observation of court sessions for matters that will not interfere with service as a juror (with a process to call the juror back to the assembly room in the event of a panel call).
- Prepare a self-guided tour of the courthouse grounds to share the history of the area (avoiding areas where the juror may come into contact with litigants, attorneys, media, etc.).
- Consider if there are volunteer activities that jurors could help with during their time waiting. As an example, the Hamilton County Common Pleas Court provides supplies that allow waiting jurors to help a local hospital by knitting caps for newborns.

3.4 Juror Cell Phones/Use of Technology

A relatively new area of concern is the utilization of cell phones, smart watches or other technology by jurors. It is a fact of modern life that many individuals routinely use their cell phones to conduct Internet searches and to stay in contact with others through the use of a social network, such as Facebook. During juror orientation, jury management personnel should address the use of technology by prospective jurors and tell jurors that they should not use their cell phones, smart watches, or computers to research any aspect of the trial nor should they blog, tweet or post on a social network any comments regarding their service as a juror. This same issue should be covered in greater detail by the Judge once the jurors are seated on a trial jury through the use of a standard jury instruction.

The National Center for State Courts, Center for Jury Studies has produced a social media warning poster which can be displayed in the jury assembly room and/or the jury deliberation room. The poster highlights simple rules that jurors should follow to avoid any fairness concerns. The link to the poster: [NCSC Social Media Warning Poster](#)

Courts may consider a policy of taking the cell phones of jurors while they are in the courthouse but it needs to be clear that the restriction on research and/or communication extends to the time the jurors are not at the courthouse.

3.5 Juror Compensation

Jury fees for Common Pleas and County courts are set by a resolution adopted by the County Commissioners. For Municipal Courts, each Court must set the fees for jurors in that court.

While juror compensation always includes juror fees, the compensation may also include transportation related items, for example, the payment of parking fees, reimbursement for mileage driven to and from the courthouse and bus fare.

In Ohio, there is no maximum jury fee to be paid to a juror as an attendance fee for each day of service. The law further provides that after ten days of service, the fee must be at least \$15.00 per day or one and one half times the daily fee paid by the jurisdiction.

An employer is prevented by law from affecting an employee's condition of employment because of jury service. However, in Ohio an employer is not required to pay the employee while that employee is not at work because of jury duty. An employer may not require that an employee use annual vacation or sick leave for time spent on jury duty.

In many situations, when the employer pays the regular compensation while the employee is serving, the juror must surrender the jury fee to the employer to receive full pay.

The juror often incurs out-of-pocket expenses while performing jury service. If parking is not free, the court should consider arranging to pay the parking fee or negotiate discounted rates when feasible. For those who use public transportation, tokens and passes may be provided or reduced fares negotiated.

3.6 Juror Orientation

A process to provide information to jurors once they report to the courthouse is an essential part of assisting jurors. A combination of speaking to the jurors to provide information on where to find restrooms, snack bar/vending machines, public telephones, etc. and a standardized presentation giving an overview of courtroom proceedings and the role/responsibility of jurors is strongly encouraged. Courts should plan on the orientation lasting 15 - 20 minutes on the first day the juror reports for service. Jurors do not need to attend the orientation more than once. The orientation should help the jurors understand what they will see and hear in the courtroom, the *voir dire* process, and what is involved in deliberation.

As the result of a collaboration between the Ohio Judicial Conference, the Ohio State Bar Association, the Supreme Court of Ohio and Ohio Government Communications, an eleven minute video “You as a Juror in Ohio’s Judicial System” was produced in 2015. The video is available at no cost and can be accessed at the following link: [Jury Orientation Video](#)

The Ohio Jury Management Association has also produced a video which is suitable for both juror orientation and general educational purposes. To obtain additional information about the OJMA video, contact OJMA at (614) 487-4475.

3.7 Communication Restrictions between Staff and Jurors

Caution must be exercised in any communication with a prospective juror. Understandably, jurors may be unfamiliar with the Court process and may ask questions. Jury Managers need to distinguish between questions they may answer and questions that should not be answered. It is acceptable to identify the number of cases on the jury calendar that day. It would not be appropriate for a jury manager to provide any information about a specific case. Even stating that a case is civil or criminal is questionable. The Judge will provide the appropriate case related information once the jury selection process begins in the courtroom. Legal questions, such as what happens if a jury cannot reach a verdict, should definitely not be answered by a jury manager. If asked such a question, the jury manager should state that they are not allowed to answer legal questions and that all such questions need to be directed to the trial judge.

3.8 Juror Debriefing

To respond to any questions or concerns from the jurors, it is recommended that the judge meet with the trial jurors after the verdict has been rendered. While the judge must avoid statements that could be the subject of post-verdict proceedings, many questions regarding the specifics of the case can be answered. Neither the judge nor court personnel should ever criticize the jury verdict during any discussion with the jury.

The judge should thank the jurors for their service. This is an opportunity for the judge to ask the jurors about their perceptions of jury service and ask for suggestions to improve jury administration and management. If the court uses an exit questionnaire, the judge can stress the importance of each juror completing the questionnaire.

If the trial has involved testimony or exhibits which could lead to lingering juror stress, the court should consider having a trained professional conduct a debriefing session and possibly even offer some level of post-trial counseling for the jurors. Services may be available at a reasonable cost to the court through a local community mental health agency. The alternate jurors should be included in any counseling services. Offering professional debriefing has a number of benefits, including reduced post-verdict stress for the jurors, increased juror satisfaction and promoting public confidence in the jury system.

Additional information on juror debriefing may be found in Section 6 -Juror Stress/Debriefing.

4.0 Juror Utilization

4.1 Overview

The purpose of juror utilization is to provide the minimum sufficient number of jurors to reasonably respond to jury trial activity. The American Bar Association has adopted Principles for Juries and Jury Trials, most recently updated in 2016, which include the following:

- Courts should respect jurors' time by calling in the minimum number deemed necessary and by minimizing their waiting time.
- Courts should coordinate jury management and calendar management to make effective use of jurors
- Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of persons summoned for jury duty and the number assigned to jury panels
- Courts should ensure that all jurors in the courthouse waiting to be assigned to panels for the first time are assigned before any juror is assigned a second time

The goals of effective juror utilization are to increase the overall efficiency of jury operations, reduce costs and improve the attitude of the citizens toward jury service and the court system. These goals are important for all courts to consider in reviewing their jury operations and are interrelated; efficiency decreases the costs for jury operation and improves the attitude of citizens toward the jury system.

Data collection is recommended to obtain the information needed to evaluate jury utilization. The peak demand times and levels for jury activity should be tracked. Most jury management systems have the ability to produce basic jury utilization reports. If the information needs to be tracked manually, the forms in Appendices C, D and E will assist by capturing information about the prospective jurors who report to the courthouse for service and the number of jurors needed during voir dire to actually seat a trial jury.

4.2 Calendar Coordination/Local Rules

The administration of the jury system and the operating needs of the court can work together when a coordinated master calendar is developed. A master calendar lists the activities that are scheduled for action on each court day. The jury manager can predict from the master calendar the possible number of jury trials that will start on a given day. This information helps approximate the number of prospective jurors needed to meet the realistic needs of the court. In both multi-judge and single-judge courts, the calendar may have multiple cases scheduled for trial on the same day. The court generally will establish the priorities to determine which trial proceeds through the court's local rules. Although such forecasting is tentative, it gives all parties a greater amount of information in advance.

Courts with full-calendar coordination not only have increased accuracy in the prediction of the number of jurors to summons, but also have more flexibility in the calendaring process through the establishment of feedback loops. For example, before trials are scheduled, a judge or an individual calendaring system might check with the jury manager

to see if there are any problems with the proposed date. Conversely, the jury manager can check with the trial judges prior to summoning jurors. The purpose of this coordination is to concentrate jury trial activity at times when jurors are available.

Jury management personnel should be familiar with the Jury Management Plan of the Court (Rules of Superintendence for the Courts of Ohio - Rule 5) in addition to any additional jury-related local rules of court. For example, a court may have local rules requiring that, for some types of cases, a written jury demand be filed prior to jurors being summoned. (Rules of Civil Procedure 38B, Rules of Criminal Procedure 23A) and a jury trial pretrial be scheduled one week in advance of the jury trial at which time proposed jury instructions should be submitted. Additionally, a local rule may require, in civil cases, that a jury deposit be paid, with failure to pay deemed as a waiver of the right to trial by jury.

Essential to proper jury management is sufficient notice to jury management personnel to facilitate proper and reasonable administrative practices. Ample planning and discussion between the presiding judge, jury managers and coordinators, courtroom personnel, counsel and all other affected parties should be part of a standard process. Judicial leadership, involvement and control of all aspects of this process are key.

4.3 Determining Proper Jury Pool or Panel Size

For Courts which utilize a jury pool, the size of the jury pool depends upon the number of expected trials and the number of jurors needed for voir dire in each trial. Many judges will not only specify that they expect a jury trial on a specific date or during a specific week, but that they also need a certain number of jurors for voir dire. To calculate the number of jurors to be instructed to report for service and/or to be sent to the courtroom for voir dire, the following should be reviewed:

4.3.1.Criminal and Traffic Cases:

Ohio Rules of Criminal Procedure 23(B) state in part:

- ☐ Felony Case shall consist of twelve (12) jurors
- ☐ Misdemeanor Case shall consist of eight (8) jurors
- ☐ If a defendant is charged with a felony and with a misdemeanor or, if a felony and a misdemeanor involving different defendants are joined for trial, the jury shall consist of twelve (12) jurors.

Ohio Rules of Criminal Procedure 24(D) states in part:

- ☐ One defendant, each party peremptorily may challenge three (3) jurors in misdemeanor cases
- ☐ Four (4) jurors in felony cases other than capital cases
- ☐ Six (6) jurors in capital cases
- ☐ If there is more than one defendant, each defendant peremptorily may challenge the same number of jurors as if he were the sole defendant.

- In any case where there are multiple defendants, the prosecuting attorney peremptorily may challenge a number of jurors equal to the total peremptory challenges allowed all defendants
- In case of the consolidation of any indictments, information or complaints for trial, such consolidated cases shall be considered, for purposes of exercising peremptory challenges, as though the defendants or offenses had been joined in the same indictment

4.3.2. Civil Cases-:

Ohio Rules of Civil Procedure 38(B) states in part:

- In an action for appropriation of a right of way brought by a corporation pursuant to Article XIII, Section 5, of the Ohio Constitution, the jury shall be composed of twelve ~~—~~members unless the demand specifies a lesser number
- In all other civil actions the jury shall be composed of eight members unless the demand specifies a lesser number

Ohio Rules of Civil Procedure 47(C)- and 47(D) states in part:

(C) Challenges to Prospective jurors.

- In addition to challenges for cause provided by law, each party peremptorily may challenge three prospective jurors.
- If the interests of multiple litigants are essentially the same, "each ~~—~~party" shall mean "each side."

(D) Alternate jurors.

- The court may direct that no more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors
- Each party is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impaneled
- Two peremptory challenges if three or four alternate jurors are to be impaneled
- The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed shall not be used against an alternate juror

4.3.3. Formula to Estimate Size of Jury Panel for Voir Dire

Based on the information above you could develop a formula by which to estimate the jury panel. For example; assume that you need to ensure sufficient prospective jurors are available for a misdemeanor trial. You could calculate the panel size as follows:

8 = standard jury

1 = alternate juror

3 = state peremptory challenge

3 = defendant peremptory challenge

4 = challenge for cause (estimate of 2 per side -there is no limit to challenges for cause)

19 Total number of jurors needed for panel sent to courtroom for voir dire

This formula can be utilized by adjusting the numbers that coordinate with the trial type along with the number of trials that may be scheduled in large courts. Also, consider that in an additional number should be added to the formula above to compensate for exemptions, excuses and failures to appear. Review Section 2.9 (Determining the Number of Jurors to Summon) for the process to calculate the expected reporting percentage.

4.3.4 Other Factors to Consider in Setting Panel Size

The use of the above formula is a good starting point to determine the standard panel size. The jury manager must then consider addition “non-mathematical” factors that may impact the panel size needed to respond to scheduled jury activity. The following are some examples:

- Is the trial expected to be lengthy? More than the typical number of excuses from service may be granted as the result of a protracted trial
- Is the subject matter controversial? Again, more than the typical number of excuses from service may be granted if the subject matter elicits strong opinions on the part of prospective jurors
- Has there been significant pretrial publicity? Jurors may have been influenced by what they read or saw prior to the beginning of the trial.
- Depending upon how far in advance of the trial date the decision is made on the panel size, forecasted weather concerns could affect the appearance rate of the prospective jurors.

4.4 Managing Peak Demands

Some problems may arise in managing a jury pool. If all trial judges choose to start voir dire at the same time, the jury pool must be large enough to accommodate this demand. For example, most judges holding trials may wish to begin their trial at 9:00 a.m. on Monday. This schedule can become problematic because the jury manager must summon enough jurors to meet this peak demand. One way to address this challenge is to stagger the trial starts

throughout the day so that the initial pool of jurors is not too great (see the following section). A tendency is to create a jury pool large enough to cover all possible demands, which erodes the potential advantage of a jury pool. The amount of time that jurors spend waiting in a jury pool is often overlooked. Therefore, the main management challenge is to balance the number of jurors needed with the number of voir dres scheduled. Summoning too many jurors can greatly increase overall waiting time and time for reassignment and cost. A goal is to ensure that 100 percent of reporting jurors attend voir dire.

4.5 Staggered Trial Start Times

Staggered trial starts are key to the success of any jury pool. All or most trials should not start at 9:00 a.m. on days that prospective jurors are available. Rather, about 60 percent should start in the morning, the balance in the afternoon. Those jurors not selected for morning trials can be reassigned to afternoon panels. Starting all trials in the morning has negative consequences:

- ☐ it requires that a larger venire be summoned initially which can be cumbersome for jury managers
- ☐ it precludes the “recycling” or reuse of the same jurors in multiple voir dres
- ☐ it creates a lot of waiting
- ☐ higher costs may result, particularly if the jury fee paid does not differentiate between half and full day service

One hundred percent or greater attendance in voir dire should be the objective of every jury pool. In fact, those courts with the highest percentage of voir dire attendance are probably the most efficient in terms of jurors used. This requires calendar coordination with other trial judges and a well-informed jury manager.

4.6 Panel Assignment

Often panels are escorted to the courtroom and the voir dres begin promptly. In other courts, the panels are kept waiting while preliminary matters are discussed. As a result of these proceedings, the trial may be postponed, a settlement reached, or a plea changed. The jury panel is then returned to the jury pool without being used. Short delays and occasional non-use are expected, but unnecessary delays will cause a large and artificial demand on the pool. Jurors also may perceive delays as a lack of efficiency in the court system. Jury staff should keep records of panels sent from the jury pool, the time they are away, and whether or not they are used. This information should be analyzed to determine if changes should be recommended to the Judge(s) to improve efficiency and reduce costs. See the form “Jury Panel Usage Form” contained in Appendix F.

Courts should develop standard policies to guard against the possibility that a judge may call a jury panel to the courtroom well before the intended time for the trial to begin as a way to get “first dibs” on the jury pool. This practice undermines the effort to have efficient utilization of jurors by courts drawing panels from the same jury pool.

4.7 On-Call Jurors

Perhaps no other jury technique is as efficient as placing prospective jurors on standby. This involves the juror calling the court in advance of the scheduled reporting date to see if his or her presence is needed on the scheduled date. This call-in process typically occurs the day prior to the scheduled reporting date. Some courts have begun giving jurors the option of using text messaging to not only instruct jurors to report for service the next day but to also provide a reminder about jury service on the reporting day. Those who do not opt for electronic notification must still make the daily phone call. If the Court has an internet web site, a portion should be dedicated exclusively to juror information including access to daily updated reporting information. An on-call system will require routine communication from the courtroom to update the jury management personnel with the status of the scheduled jury trials. This may involve the jury management personnel calling the courtroom personnel of each Judge. One advantage of this process, unless an inordinate number of cases are resolved on the day of trial, is that it helps to ensure that jurors will undergo voir dire rather than sit idly. Another advantage is that jurors can continue with their daily routines if not needed. This technique helps foster a public image of the courts as respectful of the jurors' time and efficient, thus promoting goodwill among jurors.

A variation of this is to permit jurors who may be needed for a scheduled afternoon jury trial to call in, late in the morning, for reporting instructions for that afternoon. If the case is resolved, the jurors may be told that they do not need to report. Again, good communication between jury management personnel and courtroom staff is needed to insure timely and accurate information is used to instruct the prospective jurors about the need to report to the courthouse.

4.8 Reuse of Jurors

As noted above, all reporting jurors should attend at least one voir dire. If not, then too many jurors are being summoned for the number of anticipated trial starts or the prediction of anticipated jury trial starts is not accurate. Prospective jurors who are not selected for a jury should return to the jury pool to be reassigned to other panels. All jurors should attend one voir dire before any are sent to a second voir dire. This process requires that some trials begin later in the day. Judicial cooperation and calendar coordination are essential.

4.9 Challenge for Cause

Challenges for cause may be made based upon specific factors that create a conflict of interest. For example, a juror may be challenged for cause if he or she has an interest in the cause, is subpoenaed, or is related to one of the parties or attorneys. The trial judge determines the approval of a challenge for cause. There is no limit on the number of challenges for cause.

4.10 Peremptory Challenges

A peremptory challenge is the striking of a prospective juror from the jury panel without giving a reason. The number of peremptory challenges and the procedure for exercising peremptory challenges is set by rule, statute and case law and is uniform throughout the state.

Civil Rule 47 Three (3) peremptory challenges are allowed to each side.-Up to 4 alternates may be seated on a civil trial. The number of peremptory challenges allowed for the selection of alternates is based upon the number of alternate jurors to be seated. 1 peremptory challenge for each side is permitted if one or two alternates are to be selected and 2 peremptory challenges for each side is permitted if three or four alternates are to be selected.

Criminal Rule 24: The defendant and the prosecutor may each peremptorily challenge *three* jurors in misdemeanor cases, *four* jurors in felony cases other than capital cases, and *six* jurors in capital cases. If there is more than one defendant, each defendant may challenge the same number of jurors as if the defendant was the sole defendant. Up to 6 alternates may be seated on a criminal trial. The number of peremptory challenges allowed for the selection of alternates is based upon the number of alternate jurors to be seated. 1 peremptory challenge for each side is permitted if one or two alternates are to be selected; 2 peremptory challenges for each side is permitted if three or four alternates are to be selected and 3 peremptory challenges for each side is permitted if five or six alternates are to be selected.

Jury staff should consider how many peremptory challenges are to be given in each case prior to summoning the jurors. This factor has an impact upon the ultimate number of jurors needed in a particular case. See the information provided above in Section 4.3 Determining Proper Jury Pool or Panel Size for a formula to be used to calculate the number of jurors needed for particular types of cases.

4.11 Voir Dire Duration

The voir dire process is used to solicit information from persons on the jury panel to determine their suitability to serve as jurors on a particular case. Voir dire is French for “to speak the truth.”

The duration of voir dire is a factor that may be critical for determining the number of jurors to be summoned. Jury panels in certain types of cases can be selected quickly, particularly when the issues to be presented at trial are few and the attorneys are both familiar with the trial judge and each other. In these situations, juries can usually be picked in an hour or less. The jurors not selected are then free to participate in a voir dire scheduled for later in the day or to provide the reserve for another jury selection in a different courtroom. On the other hand, jury selection for some trials may last the better part of the day or more. Jury staff should not make plans to use most of these jurors in other courtrooms unless some jurors are dismissed early and recycled into the jury pool. The reason a juror is dismissed will impact the opportunity to retain that individual for possible further service on that day. For instance, a juror with a serious medical issue will probably not be seated on any jury.

The court may provide to the counsel for each party the basic written background information from the jury questionnaire completed by each prospective juror prior to or on the day that jury selection is to begin. To reduce the length of voir dire, the Judge may restrict counsel from asking for information already provided on the questionnaire. The Judge controls the voir dire process and is able to keep the process within the appropriate boundaries so as to permit the level and content of questioning appropriate to the subject matter of the case.

Another way to reduce the time is for the trial judge to personally conduct the initial voir dire examination. It is generally accepted that trial counsel should be permitted to question panel members for a reasonable period of time. In routine civil and criminal cases, the trial judge may conduct initial voir dire and limit further questioning by counsel to a set amount of time. The practice of some judges to allow counsel to control voir dire is discouraged.

4.12 Single-Day Impanelment/Calendar Coordination

Single day impanelment anticipates multiple voir dires will be conducted on the same day for jury trials to begin that day or on another day in the near future. Several jury panels are selected on the same day. Under this system, a juror's term of service is limited to the completion of one trial. If a juror is not selected for a jury on the day of jury selection, the juror has fulfilled their obligation by being available on that day. A juror may be on call for several days, but once the juror reports, his or her service is completed by serving one day or one trial.

The effectiveness of single day impanelment depends on the number of trials and the number of judges conducting trials and the number of trials per judge. It works best if several judges are hearing more than one trial per week each. If too many judges are conducting single-day impanelment, a large number of jurors might be required to appear at one time. This could possibly place an undue burden on available resources (facilities, court personnel, counsel) depending upon the jurisdiction.

One of the most useful innovations that a court can implement is to coordinate trial starts as much as possible. The more trials set to start on any given day, the greater the odds that a significant number of trials will proceed to jury selection. This allows greater utilization of available jurors and much less risk of a "zero day," or a day in which jurors report but no trials start. This saves the court money and the jurors' time.

4.13 Standard Panel Size

Standard panel sizes range from a low of 14 prospective jurors in county court jury trials to a high of 75 or more prospective jurors in high-profile cases or capital cases in which the death penalty is sought. The panel sent to voir dire must be large enough to provide the trial jury which is selected from it, to allow the parties to exercise peremptory challenges, and to supply a number of persons to cover possible allowed challenges for cause. If a panel sent to voir dire is too small, a supplemental panel will be needed to complete jury selection. This could cause a delay in the proceedings. If a panel sent to voir dire is too large, numerous jurors in the panel will not be questioned. This creates an artificial demand on the jury pool, or needlessly inflates the size of a jury panel.

Many jury managers have addressed this problem by keeping records of panel sizes and the number of challenges required in the past. This track record of actual performance data can be used to establish the validity of the standard panel sizes for a particular jurisdiction. Judges are more comfortable with the standard panel sizes, which have shown to be adequate in actual practice. See the form “Jury Panel Usage Form” contained in Appendix F.

The method of jury selection used by a Judge may impact the size of the jury panel needed for voir dire. The trial Judge has discretion in the system used for conducting voir dire. In the system referred to as “traditional” or “strike and replace” a panel of jurors is seated in the jury box and questions are addressed by counsel to the group as well as to the individual jurors seated in the jury box. Upon the excuse of a juror as the result of a challenge for cause or a peremptory challenge, a juror who is waiting in the courtroom is called forward to take the place of the excused juror. In the system referred to as the “strike method” the entire panel of jurors is questioned both as a group and individually as needed. Outside of the view of the jury, the entire panel is subject to review for challenges for cause and then the parties exercise peremptory challenges. Upon returning to the courtroom, the individuals to serve as the trial jury are identified and the remainder of the panel is excused. Judges debate about the efficiency of the respective systems.

In several jurisdictions, the judges decide or the parties stipulate the size of panels at pretrial. This practice gives the jury clerk advance notice of the panel size and ensures that it has been set deliberately for each particular case rather than left to habit or chance. Generally, a uniform size for each type of case is best throughout the court.

4.14 Dismissing Jurors

Too often jurors are forced to wait throughout the afternoon in the jury pool even though their chance of being called for voir dire is slight. The greatest single juror utilization problem found in courts is cancellation of a trial after the panel of jurors has been notified to appear.

Courts which approach jury management from the perspective of the juror have developed a flexible policy for dismissing jurors as soon as it is apparent they will not be needed. This policy acknowledges that jurors’ time is valuable and increases jurors’ respect for the management of the court.

A general policy can be established to dismiss some of the jurors quickly when the number of jurors reporting for service exceeds the needed number or when a case is cancelled. An excellent strategy to optimize juror use is to employ a prior-day notification (see Section 4.7). When this strategy is used, jurors are notified in the jury summons to call a given telephone number prior to reporting to ascertain whether they will be needed. By using this system, the number of jurors who are required to report will be based on the most current information regarding the number and types of cases expected to go to trial. The time that persons are called upon to devote to jury service should be the shortest period consistent with the needs of justice.

4.15 Inside the Courtroom

Once the jurors have entered the courtroom, after having been through the orientation, the jurors should be welcomed and introduced to all the key individuals in the courtroom, such as the bailiff, clerk, court reporter, counsel and parties involved and should be made aware of their functions. The jurors should then be given a general overview of the process, such as voir dire, type of case, length of trial, opening statements, jury instructions, deliberations, etc. Jurors should be instructed to display their juror badges for identification at all times during the trial and to keep separate from parties during breaks and/or lunch. Communication should be professional and business-like toward jurors. Court personnel should be aware that inappropriate conduct on their part may jeopardize the judicial process and cause a mistrial.

As a part of the courtroom introduction and throughout the trial, the Judge should admonish the jurors before each break and at the end of the day that they may not communicate about the trial. It is advisable that the admonishment specifically addresses the use of technology by the jurors. It should not be assumed that jurors understand that using the Internet to obtain information about the case, the parties, or the attorneys is not permitted. It is important to clearly instruct the jurors that they are not permitted to blog, tweet, or post comments on any social network (such as Facebook, Twitter, Instagram) during the trial. The use of electronic communication to share personal thoughts and experiences is sometimes just a part of a person's daily life and they may not perceive that any legal issues could be created by its use.

4.16 Deliberations

4.16.1 Conditions and Procedures for Deliberation

Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.

The deliberation room should be comfortable and properly equipped. Jurors should be given periodic breaks and the jurors should be provided with beverages and food, at Court expense, at reasonable times during deliberation. A jury should not be required to deliberate after a reasonable undue hardship upon the jurors and are required in the interest of justice. Toward the end of the regular court day, the Judge may make inquiry of the jury regarding their preference for continuing to work or returning the next day. Juries should be provided with a pleasant, comfortable, secure, and safe place in which to work. Counsel and appropriate court personnel should remain readily available during jury deliberations.

4.16.2 Alternate Jurors Retained During Deliberation

The Civil and Criminal Rules address the process to be followed by the court if one or more alternates are to be retained during the jury deliberation process.

Civil Rule 47 (D)(2)

The court may retain alternate jurors after the jury retires to deliberate. The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew. If the court does not retain alternate jurors after the jury retires and instead discharges the alternate jurors, the alternate jurors cannot be recalled as jurors.

Criminal Rule 24(G)

(1) Non-Capital Cases

The court may retain alternate jurors after the jury retires to deliberate. The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew.

(2) Capital Cases

The procedure designated in the above section shall be the same in capital cases, except that any alternate juror shall continue to serve if more than one deliberation is required. If an alternate juror replaces a regular juror after a guilty verdict, the court shall instruct the alternate juror that the juror is bound by that verdict.

4.17 Sequestered Juries

A jury should be sequestered only for good cause, including but not limited to, insulating its members from improper information or influences. The jury must be sequestered during deliberations in the guilt and penalty phase in all capital cases. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative at other times and shall have the responsibility to oversee the conditions of sequestration.

The jury shall remain under the supervision of an officer of the court who has been given the oath required by R.C. 2945.32 (see Appendix H) until a verdict is rendered or the jury is discharged by the court. The court may, in an emergency and upon giving cautionary instructions, allow temporary separation of jurors. When the jury is in the care of the officer of the court, the officer may inquire whether the jury has reached a verdict, but shall not:

Communicate any matter concerning jury conduct to anyone except the judge or
communicate with the jurors or permit communications with jurors, except
as allowed by court order

See Section 5 of this manual, High Profile Trials, and Appendix H, which provides a checklist for managing a capital case, for additional information to assist in the planning for and management of a sequestered jury.

4.18 General Cautions for Jury Improvement Efforts

Jury staff may wish to err on the side of caution, especially in the beginning of an improvement program. An effective strategy is to ensure a larger reserve of jurors than desired when improvements are first being made. Then actual performance can be determined, particularly on peak days. The number of excess jurors can also be readily identified in hindsight and adjustments made in a gradual fashion to bring the system into line with demonstrated needs.

This approach provides powerful advantages. First, it allows the jury staff to determine the actual practice of the jury system before making incremental changes geared at fine-tuning the court's performance. Second, it provides data that can be used to persuade trial judges of the efficacy of the proposed change (i.e., a reduced number of jurors for standard jury panels).

Incremental change is also an important concept to utilize to the advantage of jury staff. There may be reluctance on the part of the judiciary to change traditional practices. For example, by slowly reducing the number of jurors over a certain amount of time, the potential for ill effects will be minimized. It is important that a jury management program not suffer an early setback by having a significant shortage of jurors.

5.0 High-Profile Cases/Capital Cases

5.1 Introduction

Occasionally, a case stimulates the public's interest. It could be caused by the brutal nature of the crime, or by the involvement of a famous person, or by the fact that the issue in the case touches many individuals. When such a trial occurs, the court becomes the focus of attention for the newspapers and television.

The trial judge must consider many issues in a high-profile case. While this section of the manual addresses only jury-related issues, an excellent source of overall information on high-profile cases is *Managing Notorious Trials* by Timothy R. Murphy, Paula L. Hannaford, Geneva Kay Loveland, and G. Thomas Munsterman (National Center for State Courts, 1998). This publication is available for download from the NCSC Library E-Collection at [Managing Notorious Trials](#)

The NCSC Center for Jury Studies has online information relating to High Profile trials at www.ncsc.org/microsites/High-Profile. This website was developed as part of a collaborative effort involving an advisory committee of experts. The information is intended to assist judges and court staff plan for and manage high profile cases.

A checklist for managing a capital case has been provided in Appendix H. Many aspects of this list also apply to the management of a non-capital high profile case.

5.2 Trial Team

The responsibility for managing the trial rests with the trial judge. However, representatives from various areas of the court should be assigned to the trial team as soon as the probability of a high profile trial emerges. Members of the trial team should include a bailiff, court reporter, facility maintenance, jury management, law clerk, media relations and security. The court administrator or an experienced aide should also be a member of the team.

Pre-trial planning meetings of the trial team should address the following topics, which are detailed in the above referenced book, *Managing Notorious Trials*.

- Estimated length of the trial
- Trial schedule
- Number of jurors needed
- Jury management system
- Excusing prospective jurors
- Juror instructions
- Pre-screening procedures
- Jury selection procedures
- Alternates
- Sequestration
- Courtroom facilities

- Juror privacy
- Tools for jurors
- Juror Security
- Verdict and dismissal

5.3 Jury Management Responsibilities

The responsibilities of the Jury Manager will be determined by the Judge but may include the following:

- ☐ Perform duties and secure information on the checklist
- ☐ Meet with judge, bailiff and trial team
- ☐ Assist bailiff as necessary
- ☐ Perform tasks associated with summoning jurors
- ☐ Perform tasks associated with notifying excused jurors
- ☐ Ensure adequate space is available for all reporting jurors
- ☐ Coordinate voir dire scheduling with the bailiff
- ☐ Prepare forms and other documentation
- ☐ Make hotel reservations and coordinate meal menus
- ☐ Make arrangements for the movement of jurors between the courthouse, hotel and restaurants
- ☐ Assist in the coordination of the staffing schedule for jury sequestration
- ☐ Assist with document preparation
 - Verdict forms
 - Verdict entries

5.4 Panel Size

High-profile trials usually require a larger panel for jury selection due to the greater number of prospective jurors that have been potentially exposed to the publicity associated with the case. The length of such a trial often eliminates many individuals because of financial, family, or job related issues. The probability of being sequestered is an additional hardship that affects the number of individuals available to serve as jurors.

5.4.1 Requested Number of Panels

The determination of the number of panels required is a function of:

- ☐ The number of individuals in a normal panel
- ☐ The yield rate of a normal panel in the jurisdiction
- ☐ The estimated yield rate of a panel in a high profile case, based on previous experience or advice

As an example, if 100 individuals are summoned in a normal panel and the typical yield is 25 percent, then ten panels would be needed to provide 250 prospective jurors for voir dire.

Estimating the yield for a specific, high-profile trial may be influenced by the amount of pretrial publicity as well as time of year/day of the week

Courts using a jury pool may be able to supplement the special panel summoned for a high profile case from the pool called for other scheduled trials.

5.4.2 Scheduling of Panels

A high-profile trial requires extra attention to scheduling reporting times for prospective jurors so as to minimize juror inconvenience and to maximize the efficiency of the court.

Due to the larger number of jurors, it is advisable to have the panels report on a staggered schedule to minimize waiting time prior to voir dire.

Utilize non-peak times and days when possible

Utilize the juror “reporting instructions” telephone lines to delay their reporting time if the voir dire process is behind schedule

A modification of staggered reporting times is to have the entire panel report for an initial court proceeding to introduce the case and provide preliminary instructions to all jurors (for example, the admonishment to avoid all media coverage of the matter). The reporting jurors can then be given the questionnaire to be completed while in the courthouse and the voir dire schedule, be organized into smaller groups and be instructed on when they must report back to court for the voir dire process.

5.5 Pretrial Process to Excuse Jurors

The trial judge has the responsibility to determine the policy for excusing jurors in a high-profile case. The trial judge may decide that all requests to be excused, disqualified, or postponed be reviewed by counsel and approved by the judge. Alternately, the jury office may be authorized by the trial judge to excuse those with exemptions under state statutes and those providing written medical statements or excuses from their physician. All other requests would be reviewed by counsel and approved by the judge. Consider scheduling a day to meet with the trial team to review excuses from prospective jurors. If you do, factor that meeting into determining when your summons need to be sent.

The procedure normally used by the jury office to advise jurors that they have been excused, disqualified, or postponed should be utilized for high-profile cases.

5.6 Prescreening of Jurors with Questionnaire

The pre-screening of jurors for age, residency, citizenship and felony convictions must occur with high profile cases just as it occurs for normal, more routine cases. However, with high profile cases the judge and attorneys often create a case specific questionnaire to facilitate the voir dire process.

An issue for specific discussion and consideration is the timing of the distribution of the questionnaire. Particularly if the trial has received significant pre-trial publicity, the judge may want to consider delaying the completion of the questionnaire until after the jurors have reported to the courthouse and received some preliminary instructions and admonitions. It should be anticipated that the pretrial distribution of a questionnaire, especially if there are questions that telegraph the case for which the jurors have been summoned, the failure to appear rate may be increased. Jurors may be intimidated by the high profile nature of the case, concerned about the potential length of the trial and the potential for sequestration and/or tempted to conduct “research” about the case which could impact their ability to serve. If individual voir dire (see section 5.7) is to be conducted, the court may want to think about having only the jurors retained after the initial questioning complete the questionnaire.

A screening questionnaire for a high profile case usually addresses these other areas:

- ☐ Demographic and personal information
- ☐ Knowledge of the case
- ☐ Opinions about the case
- ☐ Familiarity with anyone involved with the case
- ☐ Previous experiences and existing attitudes and beliefs
- ☐ Health issues
- ☐ Length of trial issues
- ☐ Willingness to adhere to judge’s instructions

Sample questionnaires for prescreening jurors in high profile cases have been provided in Appendix D.

R.C. 2313.18 requires that questionnaires used for voir dire contain a **prominent** legend to advise the prospective juror of the right to request and have an in-camera hearing, on the record, in the presence of counsel for the parties, regarding any legitimate privacy interest of the prospective juror.

5.7 Individual Voir Dire

In order to properly plan for individual voir dire, check with the trial judge regarding the specific procedures to be followed for individual voir dire. It is important to know in advance if the process will entail jurors being questioned one at a time, in small groups or in a large group. The anticipated time and facilities needed for individual voir dire will be determined by the process. The subject matter of this questioning is typically limited to pre-trial publicity, the juror’s availability to serve and, for capital cases, views on the death penalty.

Individual voir dire can be very time consuming. The first jurors questioned usually take the longest as the Judge and counsel adjust to the individual voir dire and work out the details and scope of the questioning process. The

individual questioning of jurors is intended to elicit more candid responses and to eliminate the possible impact of jurors hearing the responses of other prospective jurors.

If the media wants to cover voir dire, arrangements for using the courtroom for individual voir dire and having the prospective jurors secured in a convenient, comfortable location while waiting to be questioned should be anticipated and arranged in advance. The Judge should anticipate addressing the issue of the media identifying or photographing/recording/broadcasting the jurors during voir dire in an order directed toward media coverage of the trial.

5.8 Capital Cases

5.8.1 Introduction

Capital cases present a number of jury management challenges. Often the case has generated significant pretrial publicity. The trial will likely involve more testimony, resulting in a longer trial. The case may involve difficult testimony, resulting in increased juror stress. The prospect of jury sequestration requires considerable advance preparation. This section will cover some of the basics for the management of a capital case. A detailed checklist for the management of a capital case is included in Appendix H. Even though the procedures reflect the practices in Lucas County, the review of the checklist by any court facing a capital case is recommended, with the expectation that each court will want to develop its own checklist.

5.8.2 Statutes for Capital Cases

The following statutory provisions should be reviewed in preparation for a death penalty case.

2945.31 - Separation of jurors

2945.32 - Oath of Officers (copy of oath is provided at end of Appendix H)

2945.33 - Supervision of jury after case submitted to the jury for deliberation

2945.34 - Admonition if jurors separate during trial

2315.03 - Deliberations of jury

2315.04 - Duty of officer in charge of jury

CrimR 23. Trial by Jury or by the Court

CrimR 24. Trial Jurors

5.8.3 Timeline to Prepare for Jury Sequestration

Two - three months prior to trial

- ☐ Date of trial
- ☐ Trial judge
- ☐ Number of jurors to be summoned
- ☐ Contact hotel(s) for preliminary information for reservations
- ☐ Length of trial

Four - six weeks prior to trial

- ☐ General information meeting with the judge
- ☐ Issue jury summons
- ☐ Panel reporting schedule

Two - three weeks prior to trial

- ☐ Prepare forms and documentation
- ☐ Confirm reservations with the hotel
- ☐ Meet with all staff to review sequestration and security plan
- ☐ Prepare for “down time” for jurors during sequestration

One week prior to trial

- ☐ Verify all prior arrangements

5.8.4 Managing the Jury During the Trial

With the high profile nature of the case, and often with elevated emotions on the part of the family and friends of both the defendant and the victim, it is important to isolate the jury as much as possible during the trial. This may necessitate security or jury management personnel escorting the jurors during breaks, having lunch/dinner delivered to the courthouse for the jurors and escorting the jurors to and from their vehicles. To avoid creating the impression that the jurors are at risk, it is best to start the heightened supervision of the jury at the beginning of the trial so that the actions taken by the court are just a part of their jury service experience.

5.8.5 Sequestered Jury Guidelines

What is a sequestered jury? In order to avoid the jury being improperly exposed to outside influences, the judge may order the trial jurors to be isolated during all or part of the trial. During this time, the jurors remain under the control of the court.

Prospective jurors should be made aware of the possibility of being sequestered very early in the process, (i.e., via pre-screening questionnaires and during voir dire.)

Managing Notorious Trials, the previously cited reference book published by the National Center for State Courts, suggests the following areas should be considered while planning for a sequestered jury.

- ☐ Security
- ☐ Emergencies
- ☐ Conjugal visits
- ☐ Room searches
- ☐ Transportation
- ☐ Chain of Command
- ☐ Jurors' personal needs
- ☐ Entertainment and other activities
- ☐ Medical needs
- ☐ Financial

5.8.6 Hotel Arrangements and Accommodation for Sequestering a Jury

Hotel arrangements should be explored with hotels in reasonable proximity to the courthouse and where the expenditures are reasonable for the court. Reservations for a sequestered jury should be made three months in advance to assure suitable accommodations. The hotel must be able to accommodate the need to isolate jurors from other guests. The selected hotel should have restricted access to the rooms occupied by the jurors, and in no event, should a hotel with direct outside access to individual rooms be used for juror sequestration.

Each juror, alternate juror and bailiff should be assigned a separate single room at the hotel. All assigned rooms should be on the same floor and in the same block. A hospitality suite should be provided within the block of rooms with enough room for the entire group of 18 people. A TV/ DVD unit should be available in the hospitality suite. The bailiff(s) should be assigned to the end rooms in the block of rooms at the hotel. Deputies or other security personnel should stand guard in the hallway of the block of rooms at all times when the jurors are at the hotel.

5.8.7 Management of a Jury at the Verdict

The Judge, courtroom staff, security personnel and jury manager need to keep in mind that for capital cases, there may be two phases to the trial. If there is a guilty verdict during the first phase, the jurors, upon announcing that verdict, need to be instructed as to the next phase. The potential for the second phase should have been explained at the beginning of the trial. Typically, courts will sequester jurors only during the deliberation, so jurors are sent home for the time between the first and second phases of the capital case trial. The Judge needs to give a strong admonition to the jurors to guide them during the time they are away from the court. Security and court personnel should anticipate the possibility of heightened emotions from the jurors at the time of the initial verdict. This is a delicate time when the jurors need to be given support to deal with their feelings but also prepared for the continuation of the trial into the second phase.

At the verdict for the second phase, jurors will often be very emotional. It has been both a physical and psychological test for the jurors. The Judge should speak with the jurors to reassure them about their verdict, advise them about the potential for media contact, set their mind at ease about any personal security concerns, and, whenever possible, address the issue of post-trial juror stress, which is the subject of the next section.

6.0 Juror Stress/Debriefing

6.1 Introduction

Juror debriefing refers to any process used by the court to assist jurors with the transition from the trial back to their regular lives. Some level of debriefing is recommended for all jury trials and action by the court to assist jurors following a particularly difficult trial (e.g., gruesome testimony or evidence) is strongly advised. Jurors take the responsibility of their service very seriously and, for some cases, the emotional impact affects the ability of the jurors to resume their normal lives. This section covers the issue of juror stress and some options for the court to consider for responding to juror stress.

6.2 Types of Post-Verdict court contact with jurors

- ☐ Discharge instructions given by Judge on the record
 - Jurors speaking about the case
 - Contact by the media
 - Express appreciation of the court for the work of the jury
- ☐ Judge speaks informally with jurors about trial experience
 - Reassure jurors that verdict was “correct”
 - Explain court procedures
 - Possibly provide additional case information
 - Answer questions (may be restricted by potential for post-verdict issues)
- ☐ Exit Questionnaires
 - Obtain information from jurors on various aspects of the trial experience
 - Ask for suggestions to improve jury experience
 - Collect demographic information
- ☐ Juror Debriefing to address stress related to jury service
 - Person with counseling credentials conducts post-verdict session with jurors
 - Counseling is usually for the group but may include individual counseling
 - Purposes are to address stress resulting from trial experience and to prevent excessive future stress

6.3 Potential causes of stress for trial jurors

- ☐ Disruption of daily routine
- ☐ Financial impact of jury service
- ☐ Unfamiliarity with court processes
- ☐ Trial evidence (i.e., grisly photographs)
- ☐ Trial testimony (i.e., emotional testimony of victim)
- ☐ Moral conflicts in trying to arrive at a verdict (e.g., death penalty)
- ☐ Conflict with other jurors during deliberation
- ☐ Intense community conflict (high local interest in the case)
- ☐ Perceived or actual threats or fear of harm

- ☐ Inability to discuss with others (including other jurors) any aspect of the case during the trial
- ☐ Contact by media

6.4 Court Response to Juror Stress

- ☐ Improve administrative procedures to reduce stress (e.g., reduce delays, provide more information to jurors to decrease unknowns, limit time during which jurors must be available)
- ☐ Provide juror debriefing session

6.5 Resources to Assist with Developing Juror Debriefing Program

The following resources are available online at the National Center for State Courts website
<http://www.ncsc.org/Topics/Jury/Jury-Management/Resource-Guide>

- ☐ Casey, Pamela. *Through the Eyes of the Juror: A Manual for Addressing Juror Stress*. Williamsburg, VA: National Center for State Courts (1998).
- ☐ King County Superior Court Evaluation of the Jury Debriefing Program, Final Report, August 14, 20000, National Center for State Courts project with funding support by the State Justice Institute

A PDF version of *A New Option for Addressing Juror Stress*, an article authored by Center for Jury Studies Director Paula Hannaford-Agor is available at [New Option for Addressing Juror Stress](#). This article includes information prepared by the Maricopa County Common Pleas Court in Arizona to share information about stress with jurors.

7.0 Monitoring and Control

7.1 Introduction

Each court needs to monitor the efficiency and effectiveness of the jury system. To obtain the data needed to conduct an analysis, information should be routinely collected so that the court is able to evaluate its performance from period-to-period and year-to-year. Questionnaires with demographic and service related information from jurors as well as operational statistics reflecting the administrative management of the jury system will provide the needed data to the court. The questionnaires provide information from the individuals who are appearing in court for jury service. The information collected from the demographic questionnaires will enable the court to determine whether it is reaching the community in a representative manner. The information on the Exit/Satisfaction Questionnaire will help the court measure the efficiency of the jury system, evaluate the satisfaction level of the jurors and identify needed improvements. The statistics will help the court understand its performance and to view the court's performance in relationship to other jurisdictions and to national standards. Without statistics, it is impossible to measure the effect that changes to the system might generate.

The National Center for State Courts has designed several performance measurements to assist courts in the evaluation of the quality of service delivery in multiple operational areas. The single performance measure relating to jury service is Measure 8, Effective Use of Jurors, which focuses upon jury yield. The purpose of this performance measurement is stated as "to minimize the amount of effort expended to summon and qualify prospective jurors and to maximize the rate at which they are used to select jurors." [CourTool Measure 8 Effective Use of Jurors](#) (See Section 7.4 et seq)

7.2 Demographic Questionnaires

In February 2004, the Task Force on Jury Service of the Supreme Court of Ohio recommended that courts be required to collect demographic information on a periodic basis.

The Task Force recommended that, at a minimum, the courts periodically measure the demographics of the individuals who do report for jury service and compare that data to the most recent census data for the jurisdiction. While the collection of demographic data is not currently required, obtaining such information is advised.

Examples of the demographic questionnaire currently utilized by the Franklin County Municipal Court and the Montgomery County Common Pleas Court are included in Appendix E.

7.3 Juror Exit/Satisfaction Questionnaires

A jury service exit or satisfaction questionnaire provides the court with information as to the views of jurors about how the system is working and their attitudes toward jury service. The court may distribute the exit questionnaire to all of the individuals who report for jury service or only to those who are selected as trial jurors. In either case, the questionnaire is not distributed until the end of the term of service. With the level of activity which usually accompanies the conclusion of a jury trial, it may be helpful for the jury management staff to remind the Judge and courtroom personnel to distribute the exit questionnaire and encourage the return of completed questionnaires. The completion and submission of the questionnaire are voluntary. While the use of an exit questionnaire is not

required, many courts find them to be useful, especially when re-examining best practices and procedures. If jury fee checks are sent to jurors at the conclusion of their service, the exit questionnaire could be included with the check. Pre-paid postage for the return of the exit questionnaire would likely increase the response.

Sample exit/satisfaction questionnaires are included in Appendix G. Many courts use a variation of the jury service exit questionnaire presented in G. Thomas Munsterman, *Jury System Management* (National Center for State Courts, 1996).

7.4 Statistical Reports Used to Evaluate Jury System

7.4.1. Statistical Reports

The majority of jury management systems have statistical reporting capabilities. Even if a court uses manual procedures for jury management, the collection of data to help in the evaluation of the jury system is recommended.

7.4.2 Jury Yield

The term “juror yield” is defined as the number of individuals summoned for jury service that are available to serve. Those individuals that are excused, disqualified, deferred, or fail to respond to the summons are included in the calculation of the yield. Tracking of the various types of data used to calculate jury yield needs to be captured, either through the jury management software or manually.

Calculating the yield is a two-step process if the court initially sends qualification questionnaires to potential jurors prior to actually sending a summons. The first yield is based upon the results of the initial qualification questionnaire sent out to all prospective jurors. The second yield is based upon the response to the jury summons sent at the time the juror is being asked to report for service. Since there are two opportunities for the jurors to “fall out”, there are typically fewer jurors available for actual service than if the jurors are contacted only at the time they are needed to serve.

For a one-step system, the yield is calculated only at the time the prospective jurors are sent a summons and then subsequently ordered to report for service. A qualification questionnaire is included in the summons to identify those individuals who need to be disqualified or excused.

7.4.3 Calculation of Jury Yield

Jury Yield for Two-Step qualification/summoning:

$$\left[\frac{\# \text{ jurors qualified for service}}{\# \text{ qualification questionnaires mailed}} \right] \times \left[\frac{\# \text{ qualified jurors available for service}}{\# \text{ jury summons mailed}} \right] \times 100$$

Jury Yield for One-Step qualification/summoning

$$\left[\frac{\# \text{ jurors qualified and available for service}}{\# \text{ jury summons mailed}} \right] \times 100$$

7.4.4 Data to Collect to Evaluate Jury Yield

To determine the total number of **jurors potentially available**:

Summons Sent

Postponed to Serve This Period

Instructed Not to Report

To determine the number **not available to serve**

Undeliverable

Disqualified

Excused/# Exempt

Postponed to a Future Date

No Shows (Instructed to Report but Failed to Appear)

Total Serving = Total Jurors Potentially Available - Total Not Available to Serve

Jury Yield Percentage = (Total Serving/ Total Jurors Potentially Available) x 100

7.4.5 Interpretation of Yield Data

If a large number of summons are undeliverable, the quality of the jury list needs to be studied. The requirement under R.C. 2313.06 that the Board of Elections remove the names of the individuals who have failed to vote at least once during the preceding four consecutive years from the list of registered voters provided to the court for the annual jury draw will help with managing the number of undeliverable jury summons.

If a large number of jurors are disqualified for residency reasons, the court should evaluate the accuracy of the source list. In Ohio, jurors may be drawn from the current list of registered voters or from a combined list of current registered voters and licensed drivers/state ID holders (see Section 2.2). When the drivers' license/State ID list is combined with the voters' list, the percentage disqualified can be expected to increase because the drivers' license list may be less current, resulting in an increase in the number of summons that are undeliverable.

If a large number of jurors are being excused from service, the court should look at the court's policies and practices for excusing jurors to make sure that there is compliance with the statute. R.C. 2313.14 lists the reasons a person may be excused from jury service and requires that a record be maintained of the reason a prospective juror is excused. Jury management personnel should review this information to evaluate compliance with the statute and court policy and the impact upon the number and composition of the prospective jurors available for jury service.

The percentage of individuals who fail to comply with the court's order for jury service can be very problematic and may impact the ability of a jury trial to proceed in a timely fashion. To decrease the number of jurors who fail to appear, the court may want to consider instituting a "show cause" process. Jurors who fail to appear may first be contacted by letter stating that the court's records indicate that they did not appear for jury service as ordered and that they need to contact the court to select a new date for service (follow the procedures established for jurors who postpone their service). If there is no response to the letter, an official, journalized notice (commonly referred to as a "show cause order") is issued setting a date for the juror to appear in court to explain to a Judge why they did not respond to the jury summons. At the show cause hearing, the Judge, on the record, will ask why the juror failed to appear. Unless it was a willful act, typically the juror will be given a new jury service date. The court does have the authority to find the individual in contempt of court and under R.C. 2705.05, the potential penalty is a fine of not more than two hundred fifty dollars, a definite term of imprisonment of not more than thirty days in jail, or both. Penalties can become more severe if there is a repeat offense.

If there is a concern about the resources needed for a continuous jury show cause process, the Court may consider selecting random enforcement dates. Media coverage may help the court remind the community about the importance of jury service and the expectation for compliance with the summons for jury duty.

8.0 Use of Technology

8.1 Jury Management Software

8.1.1 Overview

Many courts utilize computer-based jury management software to collect, organize and analyze information on prospective jurors. This software helps to maintain a database of names from which the jury pool can be pulled. With many of the software programs, users simply enter the desired number of jurors to be selected and the date of appearance and allow the program to do the rest. A list of prospective jurors will be made available for review and users can then attach that list of names to the summons letter or information to be sent out and allow the program to print the information or send that information to an outside printing source.

Although jury management software may not be needed for courts that have very few jury trials each year, such software can be useful for maintaining proper and accurate information on jurors. Software programs may also include other features such as calendar databases which can be used to coordinate court dockets, as well as case flow management information which can allow court personnel to follow the steps that have been completed in each case filed with the court.

8.1.2 Selection of Appropriate Software Type and Package

Any jury management software company must be able to supply a product that complies with ORC 2313.09(A) which guarantees that all prospective jurors have an “equal, random probability of selection.”

The JTC (Joint Technology Committee established by the National Center for State Courts, Conference of State Court Administrators, and the National Association for Court Management) prepares technology guidelines for system acquisition by courts. In December 2014 JTC adopted a set of requirements proposed as a national standard for jury management system requirements. This standard could be used by a court to prepare a request for proposal. PDF and Word versions of the JTC guidelines can be found on the page of JTC Court Technology Standards at: <https://www.ncsc.org/About-us/Committees/Joint-Technology-Committee/JTC-Court-Technology-Standards.aspx>

A factor that makes many jury management software packages appealing is the availability of customization features, which can be used to allow court personnel to log-in information on when a jury summons was sent out, if and when the court communicated with the prospective juror, courtroom assignments and even juror payment schedules. Software management can cut down on errors in data entry by allowing users to print reports on various information sections and correct any inconsistencies found. A court can work with the software developer to select the types of customization features their particular court needs and what type of package would most suit their current as well as future needs.

Larger courts may need to consider a software package which contains many extra added features, while smaller courts or courts that have jury trials less frequently would only need a standard package. It is also necessary to be aware of the type of computer based operating system your court has and select a software program that is compatible. Jury management software can be a large cost expenditure for a court, so making sure that the software

is user-friendly, compatible with your current operating system, and effective for the use you envision is necessary before purchasing.

Jury management software may be offered as a module for a larger case management system used by the court and/or Clerk.

Web-based products may offer additional options for the court to consider, including the ability of jurors to access the system to postpone their own jury service (within court-established parameters) and/or to complete and submit jury questionnaires electronically. The self-help options allow jurors 24/7 access and reduce the workload of jury management personnel.

8.1.3 Cost Concerns

Jury management software can be costly and thus, court personnel should coordinate with and discuss the options available with budget control officers, court administrators and judges. This is a product that can assist not only the jury managers, but other court personnel as well, so purchasing a software package that has features which would be useful for others may be a factor that could help determine what type of software is needed.

The cost of jury management software can rise quickly depending on the needs of the court. A standard package would start out at a lower purchase rate and can rise according to the type and number of customization features required, how often updates would be necessary to maintain, and even how many computers in the courthouse the program needs to be installed on for use.

Other factors to consider that can increase the purchase price include upgrades that may be needed on court computers before the software can even be added, possibly purchasing new computers for use, other necessary programs which would need to be installed on court computers to make the use of the jury management software more effective, and any security measures that are necessary to protect the privacy of the juror names within the database contained in the software.

A full overview of all the cost expenditures and concerns necessary to consider when purchasing a jury management software program would need to be discussed in depth with the persons in charge of making the final decision of how much to spend and which program to purchase. The software developer is also someone to discuss this issue with, as they could provide more detailed information of the pros and cons of each type of software available.

8.1.4 List of Software Available

To see what software programs are used by various courts in Ohio, you can look at the results of the most recent statewide jury survey conducted by OJMA. The survey results can be viewed on the OJMA website Resources page. Here is the link: [OJMA Resources](#).

OJMA NEITHER ENDORSES NOR RECOMMENDS ANY OF THE VENDORS ON THIS LIST. Please contact a software developer or vendor regarding questions about specific products.

8.2 Messaging Systems

8.2.1 Email

Communication with jurors has evolved beyond mailed summonses and letters and telephone calls to include outbound and inbound email messages. Some jury management systems (JMS) automatically communicate the approval or denial of requests to be excused, disqualified or deferred via email if the juror has provide an email address. Additionally, email messages to a group of jurors instructing or reminding them to report for jury service may be automatically or manually initiated by the jury management staff or the JMS. Reporting instructions may also be cancelled via email.

8.2.2 Text Messaging

With the proliferation of mobile smart phones, the variety of functions noted in Section 8.2.1 that may be executed using email, may also be executed via text messaging. Some jury management systems (JMS) also support the initiation, via text messaging, of requests to be excused, disqualified or deferred.

8.3 Websites

Court websites address the multiple functions of the court. Juror specific information can provide educational background about jury service as well as very practical instructions and suggestions.

8.4 Jury Fee Payment Kiosk

The cost of producing checks to pay jurors is often greater than the value of the payment. An alternative approach is to pay the juror fees with cash. When paying with cash, there are many logistical and audit related issue to consider. One approach, as implemented by the General Division of the Montgomery County Ohio Common Pleas Court in 2014, addressed these concerns.

The cash is not touched by court staff. Brink's replenishes the cash in the two kiosks on a weekly basis. The cash that remains in the kiosks is removed by Brink's and returned to the bank. The jury office provides a cash control sheet detailing the cash dispensed on a daily basis that has been reconciled with the court's jury management system (JMS).

When prospective jurors report to the courthouse, they are attended into JMS by scanning the barcode preprinted on their summon. After jury selection has been completed, the non-seated jurors proceed to the cash payment kiosks, which communicate with JMS, to collect their fee. The barcode on the summons is scanned by the kiosk's barcode reader, the juror's name is displayed on the monitor, the juror enters their date of birth, using the touch screen display, to confirm their identity and the cash is then dispensed. JMS generates an electronic audit report for each payment and updates the juror's electronic history with the payment details.

The seated jurors are identified in JMS, which increases their daily fee, and then attended for each day of the trial. The seated jurors are usually paid at the end of the trial using the same procedure as the non-seated jurors.

APPENDIX

APPENDIX A **Ohio Jury Statutes and Rules**

APPENDIX B **Glossary of Common Jury Trial Terms**

APPENDIX C **Jury Draw Samples**

Butler County Common Pleas Court Jury Draw Order

Butler County Common Pleas Court Draw Certification

Hamilton County Common Pleas Court Jury Draw Notice

Hamilton County Common Pleas Court Annual Jury Draw
Order and Draw Certification

Montgomery County Common Pleas Court Term Jury Draw
Order

Montgomery County Common Pleas Court Draw Certification

Tuscarawas County Common Pleas Court Annual Draw Order

Tuscarawas County Common Pleas Court Jury Term Draw
Order

Generic Annual Jury Draw Order

Generic Jury Draw Certification

APPENDIX D Jury Summons/Jury Questionnaire Samples

Butler County Common Pleas Court Jury Summons/
Questionnaire

Hamilton County Common Pleas Court Questionnaire (Regular)

Hamilton County Common Pleas Court Questionnaire (High
Profile)

Lucas County Common Pleas Court Questionnaire (High
Profile)

Montgomery County Common Pleas Court Questionnaire

Tuscarawas County Common Pleas Court Juror Personal
Information Form

Tuscarawas County Common Pleas Court Questionnaire
(Regular)

Tuscarawas County Common Pleas Court Questionnaire
(High Profile)

APPENDIX E Juror Demographic Information Surveys

Franklin County Municipal Court Demographic Survey

Montgomery County Common Pleas Court Juror Demographic
Information

APPENDIX F Jury Panel/Pool Management Forms

Lucas County Jury Orders/Tracking (Manual Tracking)

Lucas County Daily Transaction Form (Manual Tracking)

Lucas County Jury Panel Usage Record (Manual Tracking)

Butler County Common Pleas Court Jury Management
Worksheet

APPENDIX G Juror Exit Questionnaires

Delaware Municipal Court Exit Questionnaire (Present)

Delaware Municipal Court Exit Questionnaire(Served)

Lucas County Common Pleas Court Exit Questionnaire

Montgomery County Common Pleas Court Exit Questionnaire

APPENDIX H Checklist for Managing a Capital Case and Oath to Officers In Charge of a Sequestered Jury

APPENDIX I Other Information

Hamilton County Common Pleas Court Juror Handout

Montgomery County Common Pleas Court Juror Debriefing
Brochure

Montgomery County Common Pleas Court Jury Service
Verification Letter

Montgomery County Common Pleas Court Certification of
Appreciation

APPENDIX A: SELECT OHIO JURY LAWS AND RULES

1901.14. Powers of judges; fees; rules; annual report

(A) Municipal judges have the following powers and duties:

(1) To perform marriage ceremonies anywhere in this state, take acknowledgment of deeds and other instruments, administer oaths, and perform any other duties that are conferred upon judges of county courts.

All fees, including marriage fees, collected by a municipal judge when not connected with any cause or proceeding pending in the municipal court, shall be paid over to the clerk of the municipal court to be paid to the city treasury, except that, in a county-operated municipal court, the fees shall be paid to the treasury of the county in which the court is located.

(2) To adopt, publish, and revise rules for the regulation of the practice and procedure of their respective courts, and for the selection and manner of summoning persons to serve as jurors in the court;

(3) To adopt, publish, and revise rules relating to the administration of the court;

(4) On or before the last day of March of each year, the court shall render a complete report of its operation during the preceding calendar year to the legislative authority and to the board of county commissioners of each county within its territory. The report shall show the work performed by the court, a statement of receipts and expenditures of the civil and criminal branches, respectively, the number of cases heard, decided, and settled, and any other data that the supreme court, the secretary of state, the legislative authority, and the board of county commissioners requires.

(B) Any rule adopted pursuant to division (A)(2) or (3) of this section does not apply to the housing or environmental division of the municipal court if the judge of the housing or environmental division has adopted rules pursuant to division (C) of this section, unless the rules adopted pursuant to division (C) of this section do not regulate the subject regulated by the rule adopted pursuant to division (A)(2) or (3) of this section.

(C) Judges of the housing or environmental division of a municipal court, other than the judge of the environmental division of the Franklin County Municipal Court, may adopt, publish, and revise rules for the regulation of the practice and procedure of the division, for the selection and manner of summoning persons to serve as jurors in the division, and for the administration of the division.

1901.24 Demand for jury trial - number of jurors - verdict.

(A) A jury trial in a municipal court shall be demanded in the manner prescribed in the Rules of Civil Procedure or the Rules of Criminal Procedure. The number of persons composing a jury and the verdicts of jurors shall be governed by those rules.

(B) The right of a person to a jury trial in a municipal court is waived under the circumstances prescribed in the Rules of Civil Procedure or the Rules of Criminal Procedure.

1901.25. Selection and impaneling of jury

(A)

(1) A municipal court may provide by rule the manner in which jurors shall be chosen, and may provide that jurors to be used in the court may be chosen and summoned by the jury commissioners of the county as provided in Chapter 2313. of the Revised Code. Selection shall be made from residents within the territory and those appearing to reside outside the territory shall be returned to the annual jury list.

(2) If the rules of the court provide for jurors to be chosen in a manner other than by the jury commissioners of the county, the rules shall require any person who appears to the court to be a program participant in the address confidentiality program described in sections 111.41 to 111.99 of the Revised Code to be excluded from the list of possible jurors.

(B) Jurors shall be impaneled in the same manner, shall have the same qualifications, and shall be challenged for the same causes as jurors in the court of common pleas.

(C) Each municipal court shall establish the fees of jurors in that court. The fees of jurors in any criminal case involving the violation of state law shall be paid out of the county treasury. The fees of jurors in any criminal case involving a violation of a municipal ordinance shall be paid out of the treasury of the municipal corporation in which the violation occurred.

Amended by 131st General Assembly, HB 359, §1, eff. 9/8/2016.

1907.28. Selection of jurors

A county court may provide, by rule, how jurors shall be chosen, and may provide that jurors to be used in the court may be chosen and summoned by the jury commissioners of the county as provided in Chapter 2313. of the Revised Code. Selection shall be made from residents within the county court district, and, if Chapter 2313. of the Revised Code is followed, those appearing to reside outside the district shall be returned to the annual jury list.

Jurors shall be impaneled in the same manner, shall have the same qualifications, shall be challenged for the same causes, and shall receive the same fees as jurors in the court of common pleas. The fees of jurors in any criminal case that involves a violation of state law shall be paid out of the county treasury, and the fees of jurors in any case that involves a violation of a municipal ordinance shall be paid out of the treasury of the municipal corporation that enacted the ordinance.

1907.29. Procedure for trial by jury

(A) A jury trial shall be demanded in the manner prescribed in the Rules of Civil Procedure or the Rules of Criminal Procedure. The number of persons composing a jury and the verdicts of jurors shall be governed by those rules.

(B) The right of a person to a jury trial is waived under the circumstances prescribed in the Rules of Civil Procedure or the Rules of Criminal Procedure.

(C) If, as a result of challenges or other causes, a jury panel is not full, the deputy sheriff or constable who is in attendance at a trial before a county court may fill the panel in the same manner as the sheriff fills a panel in the court of common pleas.

(D) The judge of the county court involved in a case shall administer an oath to the jury to try the matters in difference between the parties that are to be determined by the jury, and to give a verdict in accordance with the evidence.

(E) After the jurors are sworn in a case before a county court, they shall sit together and hear the proofs and allegations of the parties. After the hearing, the jury shall be kept together in a convenient place until they have agreed upon their verdict or have been discharged by the county court judge involved in the case.

(F) If an action being tried to a jury in a county court is continued, the jurors shall attend at the time and place appointed for trial without further notice.

(G) The judge of a county court involved in a case may punish as for contempt any juror who neglects or refuses

to attend when properly summoned or who, although in attendance, refuses to serve.

(H) If, in a civil action before a county court, the judge is satisfied that the number of jurors required by [Civil Rule 48](#) for concurrence purposes cannot concur in a verdict, and the jury has deliberated upon the verdict for a reasonable time, the judge may discharge the jury and continue the action. If either party requests a new jury, the judge shall cause the selection of another jury. If the action is continued, it shall be continued to a time that the judge considers reasonable unless the parties or their attorneys agree on a longer or shorter time.

2101.30. Jury; drawing (Probate Court)

Whenever a jury is required in the probate court, the probate judge shall notify the commissioners of jurors, who shall cause to be drawn from the annual jury list the names of sixteen jurors. Additional names may be drawn if required. The clerk of the court of common pleas or one of the clerk's deputies shall make a list of those names in the order drawn and certify the list to the probate court, and the court shall issue a summons commanding the persons whose names were drawn to appear on the day and at the hour set for trial. The probate court shall deliver the summons to the sheriff, who shall serve it within five days of delivery and make prompt return of the service.

2313.01 Commissioners of jurors; examination of jurors.

(A) The judges of the general division of the court of common pleas shall appoint two persons, neither of whom shall be an attorney at law nor more than one of whom shall be of the same political party, and either or both of whom may be court employees, to be commissioners of jurors for the county. The appointments shall be made in writing, by the judge or a majority of all the judges in those counties where there is more than one judge, and shall be filed in the office of the clerk of the court of common pleas of the county and entered upon the journal of the court. The commissioners shall hold office at the pleasure of the judges of the court of common pleas in the county of their appointment. The judges may at any time, by a vote of a majority of all their number, remove any commissioner and appoint a successor. Upon a vacancy occurring in the office of commissioners of jurors, for any cause, the judges shall, as soon as practicable, in like manner appoint a successor. The successor so appointed shall be of the same political party as the commissioner whose place is to be filled. The commissioners shall be officers of the courts of common pleas in such county.

(B) The commissioners may examine under oath any juror called for trial as to that person's qualifications to serve as a juror.

2313.02 Compensation - appointment of deputies; administration of oaths or affirmations.

(A) The commissioners of jurors shall receive compensation fixed by the court of common pleas payable out of the county treasury. They may appoint and remove, with the consent of the court, expressed in writing, as many deputy commissioners as are necessary to carry out Chapter 2313. of the Revised Code. The deputy commissioners shall receive compensation fixed by the court of common pleas payable out of the county treasury. Such compensation may at any time be changed by the court. All appointments made under this section shall be filed in the office of the clerk of the court of common pleas and entered on the journal of the court.

(B) The commissioners of jurors may, in writing, authorize a deputy to perform any duty or class of duties that a commissioner may perform. The commissioners or any deputy may administer an oath or affirmation in relation to any matter governed by Chapter 2313. of the Revised Code.

2313.03 Oath of office.

Before entering upon the duties of their office, the commissioners of jurors and any deputy commissioners shall take and subscribe to the following oath of office, and file it with the clerk of the court of common pleas:

"I do solemnly swear (or affirm) that I will honestly and faithfully discharge the duties of a commissioner of jurors (or deputy commissioner of jurors) without fear or favor; and that I will report to the court the names of any and all persons who, in any manner, seek by request, hint, or suggestion to influence me in the selection of jurors; and this I do as I shall answer to God" or, "and this I do under the pains and penalties of perjury").

2313.04 Office and supplies.

The board of county commissioners shall provide a suitable office for the commissioners of jurors on the order of the court of common pleas and shall make provision for supplying all equipment, stationery, postage, advertisement expenses, computer software, and other supplies as are necessary for the proper and convenient conduct of the commissioners in discharging the duties imposed by Chapter 2313. of the Revised Code.

2313.05 Establishment of jury year.

The court of common pleas shall establish the date on which the jury year shall begin. The court may divide each jury year into parts.

2313.06 Annual compilation of jury source list.

A) The commissioners of jurors shall compile a new and complete jury source list annually in accordance with both of the following:

(1)

(a) Except as otherwise provided in division (A)(1)(b) of this section, on a date ordered by the court of common pleas, the board of elections for each county shall compile and file with the commissioners of jurors of the county a certified, current list containing the names, addresses, and dates of birth of all the electors of the county shown on the registration lists for the most recent general election. The board of elections shall remove from the list of all electors those electors who have failed to vote at least once during the preceding four consecutive years. The voter list so compiled shall be the current voter list.

(b) The current voter list shall not include any elector who has a confidential voter registration record, as described in section 111.44 of the Revised Code.

(2)

(a) Except as otherwise provided in division (A)(2)(b) of this section, on a date ordered by the court of common pleas of any particular county, the registrar of motor vehicles shall compile and file with the commissioners of jurors of each county a certified, current list containing the names, addresses, dates of birth, and citizenship of all residents of the particular county who have been issued, on or after January 1, 1984, a commercial driver's license pursuant to Chapter 4506. or a driver's license or identification card pursuant to Chapter 4507. of the Revised Code that is valid and current on the date of the compilation of the list, who are or will be eighteen years of age or older as of the day of the general election of the year in which the list is filed, and who, regardless of whether they actually are registered to vote, would be electors if they were registered to vote.

(b) The list compiled under division (A)(2)(a) of this section shall not include any person who has provided to the registrar of motor vehicles an address designated by the secretary of state to use as the person's address because the person is a program participant in the address confidentiality program described in sections 111.41 to 111.99 of the Revised Code.

(B) In compiling the annual jury source list, the commissioners, unless otherwise ordered by the court of common pleas, shall include all names from the current voter list and may include all names for the certified, current list of all names provided to the commissioners from the registrar of motor vehicles; provided that, upon merging the lists, any duplication shall be eliminated. The commissioners shall exclude from the annual jury source list the

names of any jurors permanently excused under section 2313.14 of the Revised Code and the names of any jurors discharged under section 2313.21 of the Revised Code.

(C) The annual jury source list so compiled shall be certified by the commissioners and filed in their office before the beginning of each jury year. The names shall be entered in a suitable book or record, to be known as the "annual jury source list," and shall be arranged alphabetically. With each name shall be recorded the place of residence, date of birth, and citizenship of the person as nearly as they can be ascertained. A duplicate of the list shall be certified by the commissioners and filed in the office of the clerk of the court of common pleas.

(D)

(1) Except as otherwise provided in division (D)(2) of this section, the commissioners may, by order of the court, supplement the annual jury source list with the names of persons who, after the list has been filed, are discovered to be qualified to serve as jurors. The commissioners shall certify any supplemental jury source list and file it in their office and in the office of the clerk of the court of common pleas. Any supplemental jury source list shall be added to the annual jury source list, and the supplemented annual jury source list shall be used for the rest of the jury year.

(2) A supplemental jury source list shall not include any person who appears to the commissioners to be a program participant in the address confidentiality program described in sections 111.41 to 111.99 of the Revised Code.

2313.07 Number of jurors drawn.

(A) The number of jurors to be drawn for the jury year, and each separate part of a jury year, or for any special term of a court of record, at which issues of facts are triable by jury, shall be fixed by a general order of the court, for which such jurors are drawn. The order shall be filed in the office of the clerk of the court for which the jurors are to be drawn. If the number has not been fixed at the time of the drawing, the commissioners of jurors shall fix a number they determine necessary for the business of the court for such jury year or such part of a jury year.

(B) At any time during the jury year, the court may order an additional number of jurors to be drawn by the commissioners of jurors for the jury year or for a part of a jury year at which the order is made or for immediate service in a particular case. The order shall specify the number to be drawn.

2313.08 Notice of drawing; collection of forfeiture.

(A) At least six days before the drawing of jurors under section 2313.09 of the Revised Code, the commissioners of jurors shall publish notice of the drawing in at least one newspaper of general circulation in the county. They shall also serve written notice upon the clerk of the court of common pleas and at least one judge of the court of common pleas of the county.

(B) All drawings of jurors shall be public on a day designated by the commissioners of jurors. A commissioner or a designated deputy commissioner, a judge of the court of common pleas or the judge's designated representative, and the clerk of the court of common pleas or the clerk's deputy or other designated representative shall attend at the office of the commissioners to supervise the jury list selection process.

2313.09 Methods for drawing jurors; certification and filing of list.

(A) To conduct a drawing of jurors, the commissioners of jurors may use any manual, electronic, or automated method that provides each person on the annual or supplemental jury source list with an equal, random probability of selection. The commissioners shall document the method used. The list drawn shall be the annual jury list or supplemental annual jury list.

(B) The commissioners shall certify and file in their office the annual jury list or supplemental annual jury list. The commissioners shall enter the names on the list alphabetically in a suitable book or record to be known as the annual jury list or supplemental annual jury list and record with each name the person's place of residence, date of birth, and citizenship, as nearly as they can be ascertained. The commissioners shall certify and file in the office of the clerk of the court of common pleas a duplicate of the list.

2313.10 Commissioner may establish electronic juror notification system.

(A) The commissioners of jurors may send to a juror whose name is drawn a printed notice informing the juror that the juror has been drawn for jury duty and will be summoned by the sheriff or commissioners of jurors. The notice may contain copies of the portions of Chapter 2313. of the Revised Code that the commissioners consider advisable.

(B) The commissioners of jurors may establish an electronic notification system to allow a person who has been drawn as a juror to be notified electronically that the juror shall attend in person the jury year or part of the jury year specified in the notice. The types of electronic notification include, but are not limited to, cellular telephone, pager, e-mail, or other forms of telecommunication. If the commissioners of jurors establish an electronic notification system, the commissioners shall establish a procedure for implementing the system, a procedure for the juror to select the method of electronic notification that is applicable to the juror, and a procedure for the juror to opt in or opt out of the electronic notification system, whichever is applicable.

(C) If under division (B) of this section the commissioners of jurors establish a procedure for the electronic notification of a person who has been drawn as a juror, the notice addressed to the juror and served pursuant to division (B) of this section shall specify the procedure for electronically notifying the juror.

(D) The sheriff, commissioners of jurors, or clerk of the court of common pleas shall summon each juror to attend in person or electronically the jury year, part of a jury year, or specified date within a part of the jury year for which the juror was drawn by serving upon the juror at least six days before the commencement of the jury year, part of a jury year, or specified date within a part of the jury year a summons addressed to the juror stating that the juror has been drawn and is required to attend in person the jury year, part of a jury year, or specified date within a part of the jury year specified in the notice. The jury commissioners or sheriff shall serve the summons by mail or by leaving it at the juror's residence or usual place of business.

(E) When the sheriff is interested in a cause in any court of record, only the jury commissioners shall summon the jurors.

2313.11 Summoning jurors.

(A) When, by reason of challenge or other cause, enough jurors to make up the panel, either of the grand or petit jury, are not present, or if the array is set aside, upon order of the court the sheriff or commissioners of jurors shall immediately summon as many persons having the qualifications of a juror as, in the opinion of the court, are necessary. The summoned jurors shall appear forthwith or at such times as the court fixes.

(B) No person known to be in or about the courthouse shall be summoned without the consent of both parties.

2313.12 Obligation to serve as juror.

It is the policy of this state that every qualified citizen has an obligation to serve on petit juries when summoned by the courts of this state unless the citizen is excused as provided in Chapter 2313. of the Revised Code.

2313.13 Race or color shall not disqualify a juror.

No officer or other person charged with a duty in compiling the jury source list or the annual jury list or summoning jurors shall exclude or fail to summon a citizen as a grand or petit juror on account of race or color, provided such citizen possesses all other qualifications required by law for jurors.

2313.14 Juror may be excused.

(A) Except as provided by section 2313.15 of the Revised Code, the court of common pleas or the commissioners of jurors shall not excuse a person who is liable to serve as a juror and who is drawn and notified, unless it is shown to the satisfaction of the judge or commissioners by either the juror or another person acquainted with the facts that one or more of the following applies:

- (1) The interests of the public will be materially injured by the juror's attendance.
- (2) The juror's spouse or a near relative of the juror or the juror's spouse has recently died or is dangerously ill.
- (3) The juror is a cloistered member of a religious organization.
- (4) The prospective juror has a mental or physical condition that causes the prospective juror to be incapable of performing jury service. The court or commissioners may require the prospective juror to provide the court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the prospective juror unfit for jury service for the remainder of the jury year.
- (5) Jury service would otherwise cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror. A judge of the court for which the prospective juror was called to jury service shall make undue or extreme physical or financial hardship determinations. The judge may delegate the authority to make these determinations to an appropriate court employee appointed by the court.
- (6) The juror is over seventy-five years of age, and the juror requests to be excused.
- (7) The prospective juror is an active member of a recognized Amish sect and requests to be excused because of the prospective juror's sincere belief that as a result of that membership the prospective juror cannot pass judgment in a judicial matter.

(B)

- (1) A prospective juror who requests to be excused from jury service under this section shall take all actions necessary to obtain a ruling on that request by not later than the date on which the prospective juror is scheduled to appear for jury duty.
- (2) A prospective juror who requests to be excused as provided in division (A)(6) of this section shall inform the appropriate court employee appointed by the court of the prospective juror's request to be so excused by not later than the date on which the prospective juror is scheduled to appear for jury duty. The prospective juror shall inform that court employee of the request to be so excused by appearing in person before the employee or contacting the employee by telephone, in writing, or by electronic mail.

(C)

- (1) For purposes of this section, undue or extreme physical or financial hardship is limited to circumstances in which any of the following apply:

(a) The prospective juror would be required to abandon a person under the prospective juror's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury.

(b) The prospective juror would incur costs that would have a substantial adverse impact on the payment of the prospective juror's necessary daily living expenses or on those for whom the prospective juror provides the principal means of support.

(c) The prospective juror would suffer physical hardship that would result in illness or disease

(2) Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from the prospective juror's place of employment.

(D) A prospective juror who asks a judge to grant an excuse based on undue or extreme physical or financial hardship shall provide the judge with documentation that the judge finds to clearly support the request to be excused. If a prospective juror fails to provide satisfactory documentation, the court may deny the request to be excused.

(E) An excuse, whether permanent or not, approved pursuant to this section shall not extend beyond that jury year. Every approved excuse shall be recorded and filed with the commissioners of jurors. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.

(F) No person shall be exempted or excused from jury service or be granted a postponement of jury service by reason of any financial contribution to any public or private organization.

(G) The commissioners shall keep a record of all proceedings before them or in their office, of all persons who are granted an excuse or postponement, and of the time of and reasons for each excuse.

2313.15 Juror may be discharged or have service postponed or excused.

A juror may request at least two business days before the juror's initial appearance by telephone, in writing, or by electronic mail, and the judge of the court of common pleas of a county, the commissioners of jurors, or the appropriate court employee shall grant, a postponement of the juror's initial appearance for jury duty if both of the following apply:

(1) The juror has not previously been granted a postponement.

(2) The juror and the appropriate court employee appointed by the court agree to a specified date on which the juror will appear for jury service. The specified date shall be one on which the court is in session and, unless extraordinary circumstances exist, that is within the jury year and not more than six months after the date for which the juror was originally called to serve. If extraordinary circumstances exist, the court may, at the court's discretion, specify a date on which the juror will appear for jury service that is more than six months after the date for which the juror was originally called to serve.

(B) The court of common pleas of a county may grant a second or subsequent postponement of jury service to a juror only in the event of an extreme emergency, such as a death in the juror's family, a sudden illness of the juror, or a natural disaster or national emergency in which the juror is personally involved, that could not have been anticipated at the time the initial postponement was granted. Before receiving a second or subsequent postponement, the juror shall agree to a specified date on which the juror will appear for jury service. The specified date shall be one on which the court is in session and that is not more than six months after the date of the postponement.

(C) After a juror appears for jury duty, the court of common pleas of a county may postpone the juror's service at that term of court for not more than three days at a time if the exigencies of the juror's business require the juror's temporary excuse.

(D) The court of common pleas of a county, or a judge of the court of common pleas of a county, may excuse until a specified date one or more jurors summoned for jury duty whose attendance is not required for the trial of issues until that day. Each juror excused until a specified date may be required to attend the opening of court on that day and on each day after that day until the juror is discharged, without additional summons from the court.

(E) The court of common pleas of a county or a judge of the court of common pleas of a county shall automatically postpone and reschedule to a mutually agreeable date not more than six months from the date of the summons the service of a summoned juror of an employer with twenty-five or fewer full-time employees, or their equivalent, if another employee of the employer has previously been summoned to appear and served as a juror within thirty days prior to the date on which that juror has been summoned and if that employee or employee demonstrates to the satisfaction of the court that the other employee was so summoned and did serve and that the employer has twenty-five or fewer full-time employees or their equivalent.

2313.16 Array may be set aside.

A challenge to the array may be made by any party. The whole array may be set aside by the court when the jury, grand or petit, was not selected, drawn, or summoned as required by Chapter 2313. of the Revised Code or if any group protected by section 2313.13 of the Revised Code is systematically excluded from the jury selection process. No indictment shall be quashed or verdict set aside for any irregularity in the selection of jurors if the jurors possessed the requisite qualifications to act as jurors.

2313.17 Causes for challenge of persons called as jurors.

(A)
Any person called as a juror for the trial of any cause shall be examined under oath or upon affirmation as to the person's qualifications. A person is qualified to serve as a juror if the person is eighteen years of age or older, is a resident of the county, and is an elector or would be an elector if the person were registered to vote, regardless of whether the person actually is registered to vote.

(B) The following are good causes for challenge to any person called as a juror:

- (1) That the person has been convicted of a crime that by law renders the person disqualified to serve on a jury;
- (2) That the person has an interest in the cause;
- (3) That the person has an action pending between the person and either party;
- (4) That the person formerly was a juror in the same cause;
- (5) That the person is the employer, the employee, or the spouse, parent, son, or daughter of the employer or employee, counselor, agent, steward, or attorney of either party;
- (6) That the person is subpoenaed in good faith as a witness in the cause;
- (7) That the person is akin by consanguinity or affinity within the fourth degree to either party or to the attorney of either party;
- (8) That the person or the person's spouse, parent, son, or daughter is a party to another action then pending in any court in which an attorney in the cause then on trial is an attorney, either for or against any such party to another such action;

(9) That the person discloses by the person's answers that the person cannot be a fair and impartial juror or will not follow the law as given to the person by the court.

(C) Each challenge listed in division (B) of this section shall be considered as a principal challenge, and its validity tried by the court.

(D) In addition to the causes listed in division (B) of this section, any petit juror may be challenged on suspicion of prejudice against or partiality for either party, or for want of a competent knowledge of the English language, or other cause that may render the juror at the time an unsuitable juror. The validity of the challenge shall be determined by the court and be sustained if the court has any doubt as to the juror's being entirely unbiased.

2313.18 Failure to testify; request for in-camera hearing.

(A) No prospective juror shall fail to answer any legal and pertinent question put to the prospective juror by the court or commissioners of jurors.

(B) If a prospective juror is required to answer written questions during the voir dire process, the questionnaire shall contain a prominent legend advising the prospective juror that the juror has the right to request and have an in-camera hearing on the record with counsel for the parties present regarding any legitimate privacy interest of the prospective juror.

(C) The court shall inform a prospective juror that if a question put to the prospective juror involves a legitimate privacy interest of that prospective juror the prospective juror has the right to request and have an in-camera hearing on the record with counsel for the parties present to respond to that question.

2313.19 Employer may not penalize employee for being called to jury duty.

(A) No employer shall discharge, threaten to discharge, or take any disciplinary action that could lead to the discharge of any permanent employee who is summoned to serve as a juror pursuant to Chapter 2313. of the Revised Code if the employee gives reasonable notice to the employer of the summons prior to the commencement of the employee's service as a juror and if the employee is absent from employment because of the actual jury service.

(B) No employer shall require or request an employee to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or for time spent actually serving on a jury. Nothing in this division requires an employer to provide annual, vacation, or sick leave to employees under the provisions of this section who otherwise are not entitled to those benefits under the employer's policies.

2313.20 Mandatory attendance.

No person whose name is drawn and who is notified to attend a jury year, part of a jury year, or specified date within a part of a jury year as a juror or who has had the person's jury service postponed shall fail to attend at the time specified in the notice or from day to day.

2313.21 Discharge for past service.

(A) A person who is summoned as a juror and who has actually served as a juror in any county of the state under Chapter 2313. of the Revised Code for two consecutive calendar weeks shall be discharged by the court, except that the person shall not be so discharged until the close of a trial in which the person may be serving when the person's jury term expires.

(B) A person who is discharged as prescribed in this section is thereafter prohibited from jury service in any court of the state until the second jury year after the day of the person's last service, except that in counties of less than one hundred thousand population the court shall make rules in the county applicable to subsequent jury service by persons of that nature.

(C) Whenever the certificates of the clerk of the court of common pleas show that a person is entitled to a discharge as prescribed in this section, the commissioners of jurors upon request shall certify to that fact. No person shall be exempted from jury service for any reason, but a person may be excused from jury service or have the person's jury service postponed in accordance with Chapter 2313. of the Revised Code and the general statutes of the state.

2313.22 Compensation of jurors.

(A) The board of county commissioners by resolution shall fix the compensation of each juror payable out of the county treasury.

(B) After ten days of actual service, except as otherwise authorized by division (B)(2) of this section, the compensation of a juror shall be fixed for each additional day of actual service at an amount equal to the greater of fifteen dollars or one and one-half times the compensation fixed pursuant to division (B)(1) of this section. The board of county commissioners by resolution may set the compensation at a greater amount that shall not exceed two times the compensation fixed pursuant to division (B)(1) of this section.

(C) Residents of townships that are comprised entirely of islands shall be reimbursed for the additional transportation costs they incur to serve as a juror, in the amount certified to be due by a judge of the court in which the jury service is performed.

2313.23 Retention of documents and electronic media.

The court of common pleas of a county by general order filed with the clerk of the court shall determine the retention period for all documents and electronic media filed with the commissioners of jurors in compliance with applicable rules of superintendence for the courts of Ohio.

2313.24 Jurors in inferior courts not affected.

Chapters 2313. and 2315. of the Revised Code do not contravene or affect any section of the Revised Code relating to jurors in the inferior courts in any county of the state.

2313.99 Penalty.

(A) Whoever violates section 2313.18, 2313.19, or 2313.20 of the Revised Code may be punished as for contempt of court pursuant to Chapter 2705. of the Revised Code.

(B) Whoever violates section 2313.13 of the Revised Code shall be fined not less than fifty nor more than five hundred dollars, imprisoned not less than thirty nor more than ninety days, or both.

(C) Any fine assessed for a contempt against a person summoned or who has qualified as a juror may be collected by execution and shall be paid into the county treasury and disbursed as other fines.

2938.06. Number of jurors; challenges (Felony criminal case)

If the number of jurors to be sworn in a case is not stated in the claim, the number to be sworn shall be twelve, but the accused may stipulate for a jury of six, provided in such case the number of peremptory challenges shall

be limited to two on each side.

2945.21. Peremptory challenges

(A)

(1) In criminal cases in which there is only one defendant, each party, in addition to the challenges for cause authorized by law, may peremptorily challenge three of the jurors in misdemeanor cases and four of the jurors in felony cases other than capital cases. If there is more than one defendant, each defendant may peremptorily challenge the same number of jurors as if he were the sole defendant.

(2) Notwithstanding [Criminal Rule 24](#), in capital cases in which there is only one defendant, each party, in addition to the challenges for cause authorized by law, may peremptorily challenge twelve of the jurors. If there is more than one defendant, each defendant may peremptorily challenge the same number of jurors as if he were the sole defendant.

(3) In any case in which there are multiple defendants, the prosecuting attorney may peremptorily challenge a number of jurors equal to the total number of peremptory challenges allowed to all of the defendants.

(B) If any indictments, informations, or complaints are consolidated for trial, the consolidated cases shall be considered, for purposes of exercising peremptory challenges, as though the defendants or offenses had been joined in the same indictment, information, or complaint.

(C) The exercise of peremptory challenges authorized by this section shall be in accordance with the procedures of [Criminal Rule 24](#).

2945.25. Causes of challenging of jurors

A person called as a juror in a criminal case may be challenged for the following causes:

(A) That he was a member of the grand jury that found the indictment in the case;

(B) That he is possessed of a state of mind evincing enmity or bias toward the defendant or the state; but no person summoned as a juror shall be disqualified by reason of a previously formed or expressed opinion with reference to the guilt or innocence of the accused, if the court is satisfied, from examination of the juror or from other evidence, that he will render an impartial verdict according to the law and the evidence submitted to the jury at the trial;

(C) In the trial of a capital offense, that he unequivocally states that under no circumstances will he follow the instructions of a trial judge and consider fairly the imposition of a sentence of death in a particular case. A prospective juror's conscientious or religious opposition to the death penalty in and of itself is not grounds for a challenge for cause. All parties shall be given wide latitude in voir dire questioning in this regard.

(D) That he is related by consanguinity or affinity within the fifth degree to the person alleged to be injured or attempted to be injured by the offense charged, or to the person on whose complaint the prosecution was instituted, or to the defendant;

(E) That he served on a petit jury drawn in the same cause against the same defendant, and that [petit]* jury was discharged after hearing the evidence or rendering a verdict on the evidence that was set aside;

(F) That he served as a juror in a civil case brought against the defendant for the same act;

(G) That he has been subpoenaed in good faith as a witness in the case;

(H) That he is a chronic alcoholic, or drug dependent person;

(I) That he has been convicted of a crime that by law disqualifies him from serving on a jury;

(J) That he has an action pending between him and the state or the defendant;

(K) That he or his spouse is a party to another action then pending in any court in which an attorney in the cause then on trial is an attorney, either for or against him;

(L) That he is the person alleged to be injured or attempted to be injured by the offense charged, or is the person on whose complaint the prosecution was instituted, or the defendant;

(M) That he is the employer or employee, or the spouse, parent, son, or daughter of the employer or employee, or the counselor, agent, or attorney of any person included in division (L) of this section;

(N) That English is not his native language, and his knowledge of English is insufficient to permit him to understand the facts and law in the case;

(O) That he otherwise is unsuitable for any other cause to serve as a juror.

The validity of each challenge listed in this section shall be determined by the court.

2945.26. Challenge for cause

Challenges for cause shall be tried by the court on the oath of the person challenged, or other evidence, and shall be made before the jury is sworn.

OHIO CIVIL AND CRIMINAL RULES

Civil Rule 47. Jurors

(A) Brief introduction of case.

To assist prospective jurors in understanding the general nature of the case, the court, in consultation with the parties, may give jurors a brief introduction to the case. The brief introduction may include a general description of the legal claims and defenses of the parties.

(B) Examination of prospective jurors.

Any person called as a prospective juror for the trial of any cause shall be examined under oath or upon affirmation as to the prospective juror's qualifications. The court may permit the parties or their attorneys to conduct the examination of the prospective jurors or may itself conduct the examination. In the latter event, the court shall permit the parties or their attorneys to supplement the examination by further inquiry. Nothing in this rule shall limit the court's discretion to allow the examination of all prospective jurors in the array or, in the alternative, to permit individual examination of each prospective juror seated on a panel, prior to any challenges for cause or peremptory challenges.

(C) Challenges to prospective jurors.

In addition to challenges for cause provided by law, each party peremptorily may challenge three prospective jurors. If the interests of multiple litigants are essentially the same, "each party" shall mean "each side." Peremptory challenges shall be exercised alternately, with the first challenge exercised by the plaintiff. The failure of a party to exercise a peremptory challenge constitutes a waiver of that challenge, but does not constitute a waiver of any subsequent challenge. However, if all parties or sides, alternately and in sequence, fail to exercise a peremptory challenge, the joint failure constitutes a waiver of all peremptory challenges. A prospective juror peremptorily challenged by either party shall be excused. Nothing in this rule shall limit the court's discretion to allow challenges to be made outside the hearing of prospective jurors.

(D) Alternate jurors.

(1) Selection; powers.

The court may direct that no more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. Each party is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impaneled, and two peremptory challenges if three or four alternate jurors are to be impaneled. The additional peremptory challenges may be used against an alternate juror.

(2) Retention; discharge.

The court may retain alternate jurors after the jury retires. The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew. If the court does not retain alternate jurors after the jury retires and instead discharges the alternate jurors, the alternate jurors cannot be recalled as jurors.

(E) Taking of notes by jurors.

The court, after providing appropriate cautionary instructions, may permit jurors who wish to do so to take notes during a trial. If the court permits the taking of notes, notes taken by a juror may be carried into deliberations by that juror. The court shall require that all juror notes be collected and destroyed promptly after the jury renders a verdict.

(F) Juror questions to witnesses.

The court may permit jurors to propose questions for the court to ask of the witnesses. If the court permits jurors to propose questions, the court shall use procedures that minimize the risk of prejudice, including all of the following:

- (1)** Require jurors to propose any questions to the court in writing;
- (2)** Retain a copy of each proposed question for the record;
- (3)** Instruct the jurors that they shall not display or discuss a proposed question with other jurors;
- (4)** Before reading a question to a witness, provide counsel with an opportunity to object to each question on the record and outside the hearing of the jury;
- (5)** Read the question, either as proposed or rephrased, to the witness;
- (6)** Permit counsel to reexamine the witness regarding a matter addressed by a juror question;
- (7)** If a question proposed by a juror is not asked, instruct the jurors that they should not draw any adverse inference from the court's refusal to ask any question proposed by a juror.

Amended, eff 7-1-2019

Criminal Rule 24. Trial Jurors

(A) Brief introduction of case.

To assist prospective jurors in understanding the general nature of the case, the court, in consultation with the parties, may give jurors a brief introduction to the case.

(B) Examination of prospective jurors.

Any person called as a prospective juror for the trial of any cause shall be examined under oath or upon affirmation as to the prospective juror's qualifications. The court may permit the attorney for the defendant, or the defendant if appearing *pro se*, and the attorney for the state to conduct the examination of the prospective jurors or may itself conduct the examination. In the latter event, the court shall permit the state and defense to supplement the examination by further inquiry. Nothing in this rule shall limit the court's discretion, with timely notice to the parties at anytime prior to trial, to allow the examination of all prospective jurors in the array or, in the alternative, to permit individual examination of each prospective juror seated on a panel, prior to any challenges for cause or peremptory challenges.

(C) Challenge for cause.

A person called as a juror may be challenged for the following causes:

- (1)** That the juror has been convicted of a crime which by law renders the juror disqualified to serve on a jury.
- (2)** That the juror is a chronic alcoholic, or drug dependent person.
- (3)** That the juror was a member of the grand jury that found the indictment in the case.
- (4)** That the juror served on a petit jury drawn in the same cause against the same defendant, and the petit jury was discharged after hearing the evidence or rendering a verdict on the evidence that was set aside.
- (5)** That the juror served as a juror in a civil case brought against the defendant for the same act.
- (6)** That the juror has an action pending between him or her and the State of Ohio or the defendant.

(7) That the juror or the juror's spouse is a party to another action then pending in any court in which an attorney in the cause then on trial is an attorney, either for or against the juror.

(8) That the juror has been subpoenaed in good faith as a witness in the case.

(9) That the juror is possessed of a state of mind evincing enmity or bias toward the defendant or the state; but no person summoned as a juror shall be disqualified by reason of a previously formed or expressed opinion with reference to the guilt or innocence of the accused, if the court is satisfied, from the examination of the juror or from other evidence, that the juror will render an impartial verdict according to the law and the evidence submitted to the jury at the trial.

(10) That the juror is related by consanguinity or affinity within the fifth degree to the person alleged to be injured or attempted to be injured by the offense charged, or to the person on whose complaint the prosecution was instituted; or to the defendant.

(11) That the juror is the person alleged to be injured or attempted to be injured by the offense charged, or the person on whose complaint the prosecution was instituted, or the defendant.

(12) That the juror is the employer or employee, or the spouse, parent, son, or daughter of the employer or employee, or the counselor, agent, or attorney, of any person included in division (B)(11) of this rule.

(13) That English is not the juror's native language, and the juror's knowledge of English is insufficient to permit the juror to understand the facts and the law in the case.

(14) That the juror is otherwise unsuitable for any other cause to serve as a juror.

The validity of each challenge listed in division (B) of this rule shall be determined by the court.

(D) Peremptory challenges.

In addition to challenges provided in division (C) of this rule, if there is one defendant, each party peremptorily may challenge three prospective jurors in misdemeanor cases, four prospective jurors in felony cases other than capital cases, and six prospective jurors in capital cases. If there is more than one defendant, each defendant peremptorily may challenge the same number of prospective jurors as if the defendant was the sole defendant.

In any case where there are multiple defendants, the prosecuting attorney peremptorily may challenge a number of prospective jurors equal to the total peremptory challenges allowed all defendants. In case of the consolidation of any indictments, informations, or complaints for trial, the consolidated cases shall be considered, for purposes of exercising peremptory challenges, as though the defendants or offenses had been joined in the same indictment, information, or complaint.

(E) Manner of exercising peremptory challenges.

Peremptory challenges shall be exercised alternately, with the first challenge exercised by the state. The failure of a party to exercise a peremptory challenge constitutes a waiver of that challenge, but does not constitute a waiver of any subsequent challenge. However, if all parties, alternately and in sequence, fail to exercise a peremptory challenge, the joint failure constitutes a waiver of all peremptory challenges.

A prospective juror peremptorily challenged by either party shall be excused.

Nothing in this rule shall limit the court's discretion to allow challenges under this division or division (D) of this rule to be made outside the hearing of prospective jurors.

(F) Challenge to array.

The prosecuting attorney or the attorney for the defendant may challenge the array of petit jurors on the ground

that it was not selected, drawn or summoned in accordance with law. A challenge to the array shall be made before the examination of the jurors pursuant to division (A) of this rule and shall be tried by the court.

No array of petit jurors shall be set aside, nor shall any verdict in any case be set aside because the jury commissioners have returned such jury or any juror in any informal or irregular manner, if in the opinion of the court the irregularity is unimportant and insufficient to vitiate the return.

(G) Alternate jurors.

(1) Non-capital cases.

The court may direct that not more than six jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, have the same qualifications, be subject to the same examination and challenges, take the same oath, and have the same functions, powers, facilities, and privileges as the regular jurors. The court may retain alternate jurors after the jury retires to deliberate. The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew. Each party is entitled to one peremptory challenge in addition to those otherwise allowed if one or two alternate jurors are to be impaneled, two peremptory challenges if three or four alternate jurors are to be impaneled, and three peremptory challenges if five or six alternative jurors are to be impaneled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by this rule may not be used against an alternate juror.

(2) Capital cases.

The procedure designated in division (G)(1) of this rule shall be the same in capital cases, except that any alternate juror shall continue to serve if more than one deliberation is required. If an alternate juror replaces a regular juror after a guilty verdict, the court shall instruct the alternate juror that the juror is bound by that verdict.

(H) Control of juries.

(1) Before submission of case to jury.

Before submission of a case to the jury, the court, upon its own motion or the motion of a party, may restrict the separation of jurors or may sequester the jury.

(2) After submission of case to jury.

(a) Misdemeanor cases.

After submission of a misdemeanor case to the jury, the court, after giving cautionary instructions, may permit the separation of jurors.

(b) Non-capital felony cases.

After submission of a non-capital felony case to the jury, the court, after giving cautionary instructions, may permit the separation of jurors during any period of court adjournment or may require the jury to remain under the supervision of an officer of the court.

(c) Capital cases.

After submission of a capital case to the jury, the jury shall remain under the supervision of an officer of the court until a verdict is rendered or the jury is discharged by the court.

(3) Separation in emergency.

Where the jury is sequestered or after a capital case is submitted to the jury, the court may, in an emergency and upon giving cautionary instructions, allow temporary separation of jurors.

(4) Duties of supervising officer.

Where jurors are required to remain under the supervision of an officer of the court, the court shall make arrangements for their care, maintenance and comfort.

When the jury is in the care of an officer of the court and until the jury is discharged by the court, the officer may inquire whether the jury has reached a verdict, but shall not:

- (a)** Communicate any matter concerning jury conduct to anyone except the judge or;
- (b)** Communicate with the jurors or permit communications with jurors, except as allowed by court order.

(I) Taking of notes by jurors.

The court, after providing appropriate cautionary instructions, may permit jurors who wish to do so to take notes during a trial. If the court permits the taking of notes, notes taken by a juror may be carried into deliberations by that juror. The court shall require that all juror notes be collected and destroyed promptly after the jury renders a verdict.

(J) Juror questions to witnesses.

The court may permit jurors to propose questions for the court to ask of the witnesses. If the court permits jurors to propose questions, the court shall use procedures that minimize the risk of prejudice, including all of the following:

- (1)** Require jurors to propose any questions to the court in writing;
- (2)** Retain a copy of each proposed question for the record;
- (3)** Instruct the jurors that they shall not display or discuss a proposed question with other jurors;
- (4)** Before reading a question to a witness, provide counsel with an opportunity to object to each question on the record and outside the hearing of the jury;
- (5)** Read the question, either as proposed or rephrased, to the witness;
- (6)** Permit counsel to reexamine the witness regarding a matter addressed by a juror question;
- (7)** If a question proposed by a juror is not asked, instruct the jurors that they should not draw any adverse inference from the court's refusal to ask any question proposed by a juror.

Amended, eff 7-1-75; 7-1-02; 7-1-05; 7-1-06; 7-1-08; 7-1-09.

RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

Rule 5. Local Rules

(A) Adoption of local rules.

(1) Nothing in these rules prevents the adoption of any local rule of practice that promotes the use of any device or procedure to facilitate the expeditious disposition of cases. Local rules of practice shall not be inconsistent with rules promulgated by the Supreme Court.

(2) A local rule of practice shall be adopted only after the court or division provides appropriate notice and an opportunity to comment on the proposed rule. If the court or division determines that there is an immediate need for the rule, the court or division may adopt the rule without prior notice and opportunity for comment, but promptly shall afford notice and opportunity for comment.

(3) Upon adoption, the court or division shall file a local rule of practice with its clerk and the clerk of the Supreme Court. On or before the first day of February of each year, each court or division of a court shall do one of the following:

(a) File with the clerk of the Supreme Court a complete copy of all local rules of the court or division in effect on the immediately preceding first day of January;

(b) Certify to the clerk of the Supreme Court that there were no changes in the immediately preceding calendar year to the local rules of the court or division.

(B) In addition to local rules of practice adopted pursuant to division (A)(1) of this rule and any other Rule of Superintendence, each court or division, as applicable, shall adopt the following by local rule:

(1) A case management plan for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases. In addition to any other provisions necessary to satisfy the purposes of division (B)(1) of this rule, the plan shall include provisions for an early case management conference, referral to appropriate and available alternative dispute resolution programs, establishment of a binding case management schedule, and a pretrial conference in cases where the trial judge determines a conference is necessary and appropriate. A municipal or county court may establish separate provisions or exceptions from the plan for small claims, traffic, and other types of cases that the court determines would not benefit from the case management plan.

(2) A jury management plan for purposes of ensuring the efficient and effective use and management of jury resources. In addition to any other provisions necessary to satisfy the purposes of division (B)(2) of this rule, the plan shall address the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio on August 16, 1993.

JURY USE AND MANAGEMENT STANDARDS

Standard 1. Opportunity for Service

A. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

B. Jury service is an obligation of all qualified citizens.

NOTES: COMMENTARY

It is the obligation of every court to reasonably accommodate the special needs of physically handicapped jurors. While physically handicapped jurors may pose special issues for courts and their personnel, these issues are manageable.

Support agencies and advancing technologies exist to aid courts in accommodating the special needs of hearing impaired and visually impaired jurors, for example.

The obligation of jury service falls on all citizens; it is vitally important that the legal system open its doors to each person who desires to serve on a jury.

Reference is made to the ADA.

Standard 2. Jury Source List

A. The names of potential jurors should be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the court jurisdiction.

B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

NOTES: COMMENTARY

There should be a periodic review of the representativeness and inclusiveness of the jury source list.

Standard 3. Random Selection Procedures

A. Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods should be documented.

B. Random selection procedures should be employed in:

- 1.** Selecting persons to be summoned for jury service;
- 2.** Assigning prospective jurors to panels; and

3. Calling prospective jurors for voir dire.

C. Departures from the principle of random selection are appropriate:

1. To exclude persons ineligible for service in accordance with Standard 4;

2. To excuse or defer prospective jurors in accordance with Standard 6;

3. To remove prospective jurors for cause or if challenged peremptorily in accordance with Standards 8 and 9; and

4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

4. Eligibility for Jury Service

All persons should be eligible for jury service except those who:

A. Are less than eighteen years of age;

B. Are not citizens of the United States;

C. Are not residents of the jurisdiction in which they have been summoned to serve;

D. Are not able to communicate in the English language; or

E. Have been convicted of a felony and have not had their civil rights restored.

Standard 5. Term of and Availability for Jury Service

A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

B. A term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is longer, is acceptable.

C. Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

NOTES: COMMENTARY

Courts should reduce, to the extent possible, the number of days a person serves and the period of availability.

Standard 6. Exemption, Excuse, and Deferral

A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.

B. Eligible persons who are summoned may be excused from jury service only if:

1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or

2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a judge or a specifically authorized court official.

C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.

D. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

NOTES: COMMENTARY

Deferrals are encouraged rather than the granting of excuses.

With a shorter term of service (see Standard 5), reasons for being excused should be reduced.

Standard 7. Voir Dire

A. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.

C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

NOTES: COMMENTARY

The questionnaire shall be handled in a manner to ensure privacy.

When prospective jurors are initially sworn, the oath should also indicate that the answers to the jury questionnaire are true.

Standard 8. Removal from the Jury Panel for Cause

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

NOTES: COMMENTARY

Jurors should be reminded that jury service is an obligation of each qualified citizen (see Standard 1).

Standard 9. Peremptory Challenges

- A.** Rules determining procedure for exercising peremptory challenges should be uniform throughout the state.
- B.** Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- C.** In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.
- D.** In criminal cases, the number of peremptory challenges should not exceed:
- 1.** Six for each side when a death sentence may be imposed upon conviction;
 - 2.** Four for each side when a sentence of imprisonment (state institution) may be imposed upon conviction; or
 - 3.** Three for each side in all other prosecutions. One additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.
- E.** In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

NOTES: COMMENTARY

Standard 9 has been changed from the ABA Standard to be consistent with the O.R.C. and Ohio Rules of Court

Standard 10. Administration of the Jury System

- A.** The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.
- B.** All procedures concerning jury selection and service should be governed by Ohio Rules of Court.
- C.** Responsibility for administering the jury system should be vested in a single administrator acting under the supervision of the administrative judge of the court.

NOTES: COMMENTARY

Standard 10 suggests that current legislation be repealed.

Standard 11. Notification and Summoning Procedures

- A.** The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:
- 1.** Combined in a single document;
 - 2.** Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
 - 3.** Delivered by ordinary mail.
- B.** A summons should clearly explain how and when the recipient must respond and the consequences of a failure

to respond.

C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

- 1.** Determining whether a person meets the criteria for eligibility;
- 2.** Providing basic background information ordinarily sought during voir dire examination; and
- 3.** Efficiently managing the jury system.

D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

Standard 12. Monitoring the Jury System

Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

- A.** The representativeness and inclusiveness of the jury source list;
- B.** The effectiveness of qualification and summoning procedures;
- C.** The responsiveness of individual citizens to jury duty summonses;
- D.** The efficient use of jurors; and
- E.** The cost-effectiveness of the jury management system.

NOTES: COMMENTARY

Standard 12 is essentially identical to the ABA Standard, and the Jury Standard Project Team recognizes that the information gathered must be analyzed to ensure efficient jury management.

Standard 13. Juror Use

A. Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

B. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

- 1.** Courts using jury pools should ensure that each prospective juror who has reported to the court is assigned for voir dire; and
 - 2.** Courts using panels should ensure that each prospective juror who has reported to the court is assigned for voir dire.
- C.** Courts should coordinate jury management and calendar management to make effective use of jurors.

Standard 14. Jury Facilities

- A.** Courts should provide an adequate and suitable environment for jurors.
- B.** The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C.** Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D.** Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.
- E.** To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

Standard 15. Juror Compensation

- A.** Persons called for jury service should receive a reasonable fee for their service and expenses.
- B.** Such fees should be paid promptly.
- C.** Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

Standard 16. Juror Orientation and Instruction

- A.** Orientation programs should be:
 - 1.** Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
 - 2.** Presented in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.
- B.** Courts should provide some form of orientation or instructions to persons called for jury service:
 - 1.** Upon initial contact prior to service;
 - 2.** Upon first appearance at the court; and
 - 3.** Upon reporting to a courtroom for voir dire.
- C.** The trial judge should:
 - 1.** Give preliminary instructions to all prospective jurors.
 - 2.** Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
 - 3.** Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;

- 4.** Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
- 5.** Recognize utilization of written instructions is preferable.
- 6.** Before dismissing a jury at the conclusion of a case:
 - a.** Release the jurors from their duty of confidentiality;
 - b.** Explain their rights regarding inquiries from counsel or the press;
 - c.** Either advise them that they are discharged from service or specify where they must report; and
 - d.** Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
- D.** All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

NOTES: COMMENTARY

Reference may be made to Ohio Jury Instructions.

Standard 17. Jury Size and Unanimity of Verdict

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

NOTES: COMMENTARY

Standard 17 has been changed from the ABA Standard to be consistent with the O.R.C.

Standard 18. Jury Deliberations

- A.** Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.
- B.** The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16C.
- C.** The deliberation room should conform to the recommendations set forth in Standard 14C.
- D.** The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.
- E.** A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
- F.** Training should be provided to personnel who escort and assist jurors during deliberation.

NOTES: COMMENTARY

Counsel and appropriate court personnel should remain readily available during jury deliberations.

Juries should be provided with a pleasant, comfortable, secure, and safe place in which to work.

Standard 19. Sequestration of Jurors

- A.** A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B.** During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.
- C.** The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- D.** Standard procedures should be promulgated to:
 - 1.** Achieve the purpose of sequestration; and
 - 2.** Minimize the inconvenience and discomfort of the sequestered jurors.
- E.** Training shall be provided to personnel who escort and assist jurors during sequestration.

NOTES: COMMENTARY

Standard 19 differs from the ABA Standard.

- 1.** "Should" was changed to "shall" in C and E.
- 2.** Jury escorts may be law enforcement personnel.

Standard 19 has been changed to be consistent with the O.R.C.

APPENDIX B – GLOSSARY OF COMMON TERMS USED DURING A JURY TRIAL

Action, Case, Lawsuit, Suit

A legal dispute brought into court for a hearing or trial.

Admonish

To advise or caution. For example, the Judge will admonish the jurors to avoid all media reports about the case.

Answer

In a civil case, a pleading filed with the court before the trial by the defendant to answer or deny the plaintiff's claims.

Acquit

In a criminal case, to find the defendant in a criminal trial not guilty.

Bailiff

A court attendant whose duties may include rendering administrative assistance to the Judge, maintaining order in the courtroom and/or keeping custody of the jury. This position may be defined differently by various Judges and/or courts.

Capital Crime

A crime punishable by death. There are two phases in a capital case jury trial. The first is limited to determining if the defendant is guilty or not guilty. If the defendant is found guilty, the jury then hears additional evidence and makes a recommendation on the sentence to be imposed.

Cause of Action

The legal grounds on which a party to a lawsuit relies to get a verdict against an opponent.

Challenge for Cause

A request that a prospective juror be dismissed because there is a specific reason to believe the person cannot be fair, unbiased or capable of serving as a juror. The basis for a challenge for cause is defined by the Ohio Revised Code, Ohio Civil Rules and Ohio Criminal Rules.

Closing Argument

After all the evidence of a lawsuit is heard on both sides, the lawyers tell the jury what they think the evidence proves and why they think the jury should find in favor of their client. This is an "argument" or "summing up." It is not evidence.

Complaint

The first pleading in a civil case stating the alleged facts and demanding relief.

Contempt of Court

Contempt is of two kinds: direct and indirect. Direct contempt is that committed in the immediate presence of the court; indirect is the term used with reference to the failure or refusal to obey a lawful order. Failing to report for jury duty may be considered as indirect contempt of Court.

Conviction

A judgment of guilt against a criminal defendant.

Counterclaim

An answer to the civil complaint in which the defendant claims to be entitled to damages or other relief from the plaintiff.

Court Reporter

A court reporter is present during every trial and is responsible for keeping the official record by recording every spoken word during the trial on a special machine called a stenograph. Some Courts may use an audio/video system in the place of a Court Reporter to capture the verbatim record of a court proceeding.

Credibility Whether testimony is worthy of belief, based on the competence of the witness and likelihood that the testimony is true. The jury determines the credibility of the testimony of each witness.

Crime

Conduct declared unlawful by a legislative body and for which there is a punishment of a jail or prison term, a fine, or both.

Defendant

The party against whom a criminal or civil action is brought.

Deliberations

The discussions of the jury which occur after the judge has instructed the jury to retire to the jury room and determine the verdict.

Deposition

A deposition is testimony taken outside of the courtroom. If a party to a lawsuit or a witness cannot be physically present in the courtroom, that person's testimony may be recorded some time before trial. The testimony may be in the presence of a court reporter and transcribed some time before trial. This testimony is then read at the trial. The testimony may also be captured through audio/video recording and played during trial. Attorneys for both sides are present when a deposition is taken. A deposition may also be used to deny or contradict a witness's testimony or for the purpose of refreshing a witness's recollection.

Examination The questioning of a witness by an attorney.

Direct Examination

The first questioning of a witness during a trial.

Cross-Examination

The opportunity for the attorney to ask questions in court of a witness who has testified in a trial on behalf of the opposing party. The questions on cross-examination are limited to the subjects covered in the direct examination of the witness, but importantly, the attorney may ask leading questions, in which he/she is allowed to suggest answers or put words in the witness's mouth. (For example, "Isn't it true that you told Mr. Smith that he had done nothing wrong?" which is leading, as compared to "Did you say anything to Mr. Smith?")

Redirect Examination

When the witness is again questioned by the original attorney.

Exhibits

Articles such as objects, pictures, books, letters and documents which are the subject of testimony during the trial, admitted into evidence and given to the jury to take to the jury room while deliberating.

Evidence

Every type of proof legally presented at trial (allowed by the judge) which is intended to convince the judge and/or jury of alleged facts material to the case. Evidence can include oral testimony of witnesses, documents, public records, objects, and photographs. It also includes so-called "circumstantial evidence" which is intended to create belief by showing surrounding circumstances which logically lead to a conclusion of fact.

Hung Jury

A jury whose members cannot agree on a verdict. A jury may be instructed by the Judge to continue deliberating in the effort to reach a verdict. A "hung jury" will be determined, once the Judge determines that there is no reasonable expectation of the jury reaching a verdict.

Inadmissible

That which, under the established rules of evidence, cannot be admitted or received into evidence.

Indictment

In a criminal case, the document providing specific information about a crime and informing the defendant that he or she has been charged with a crime.

Instructions

During the trial the judge "instructs" the jury as to its duty and responsibility. After all the evidence is in, and the lawyers have made their arguments, the judge outlines the rules of law which must guide the deliberations and control the verdict of the jury. A judge may, and sometimes must, instruct the jury on some point of law while the trial is in progress.

Interrogatories

A set of written questions to a party to a civil lawsuit asked by the opposing party as part of the pre-trial discovery process. These questions must be answered in writing under oath or under penalty of perjury within a specified time. There may also be interrogatories submitted to a jury in a civil case, primarily to answer a series of questions relating to the damages to be awarded to the prevailing party.

Issue

A disputed question of fact which must be decided.

Jury Panel

This term may be used to describe a group of jurors at several different levels of the jury selection process. The term may refer to all prospective jurors from which the trial jury is chosen. It may also be used to describe the jurors who are ultimately seated as trial jurors.

Mistrial

The termination of a trial before its normal conclusion because of a procedural error, statements by a witness, judge or attorney which prejudice a jury, a deadlock by a jury without reaching a verdict after lengthy deliberation (a "hung" jury), or the failure to complete a trial within the time set by the court.

Objection

A lawyer's protest about the legal appropriateness of a question which has been asked of a witness by the opposing attorney, with the purpose of making the trial judge decide if the question can be asked.

Objection Overruled or Overruled

The judge's ruling that a lawyer's objection is not well taken under the rules for conducting the trial. The judge's ruling, so far as the jury is concerned, is final and may not be questioned. The disputed statement or exhibit is not permitted.

Objection Sustained or Sustained

The judge's ruling that a lawyer's objection is well taken under the rules for conducting the trial. The judge's ruling, for the jury, is final and may not be questioned. The disputed statement or exhibit is not permitted and the Judge will instruct the jury to disregard the statement or exhibit.

Opening Statement

Before introducing any evidence in the case, a lawyer tells the jury what the case is about and what evidence is expected to be brought in to prove that side of the case. It is not evidence. As a jury innovation, a Judge may allow the opening statement to be made prior to jury selection (voir dire) as a method of putting the questions being asked of the jurors into the context of the specific case.

Parties

The plaintiff and defendant in the case – also called the "litigants."

Plaintiff

The party who files a legal action. In a criminal case, the Prosecutor is the plaintiff.

Pleadings

All the documents filed by the parties before the trial begins to establish what issues must be decided by the jury.

Peremptory Challenge

A procedure used in jury selection that allows an attorney to reject a prospective juror without having to give a reason for the dismissal. Each side is allowed a limited number of peremptory challenges.

Preponderance of Evidence

The general standard of proof in civil cases. The weight of evidence presented by one side is more convincing to the trier of facts than the evidence presented by the opposing side.

Probable Cause

Reasonable cause; having more evidence for than against; a reasonable belief that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

Reasonable Doubt

If, in the minds of the jury, a doubt exists which may have arisen from the evidence, or lack of evidence, a doubt that would exist in the mind of a reasonable person after fully, fairly, and carefully considering all the evidence, or lack of evidence.

Record

The official word-for-word copy of the court proceedings, taken in shorthand, stenotype, or audio-transcription by an official court reporter. Often the judge or the lawyers state that something is – or is not- “on the record.”

Rest

The lawyer concludes the evidence to be introduced at that stage of the trial.

Settlement

The conclusion of a legal matter; a compromised agreement between opposing parties in a civil suit before judgment is made, eliminating the need for a judge or jury to resolve the conflict.

Stipulation

An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial. It is not binding unless assented (agreed to freely) to by the parties. Most stipulations must be in writing.

Subpoena

A process to cause a witness to appear and give testimony before a court or magistrate.

Testimony

Any statement made by a witness under oath in a legal proceeding.

Transcript

The official record of proceedings in a trial or hearing, which is kept by the court reporter.

Verdict

The formal decision made by a judge or jury regarding the outcome of a case.

Voir Dire (pronounced “vwar-deer”)

“To speak the truth.” The process of the questioning of prospective jurors, by the court or attorneys, regarding their qualifications to sit on a particular case.

Witness

One who testifies under oath to what he or she saw, heard, or otherwise observed.

APPENDIX C

Jury Draw Samples

**In The Court of Common Pleas
Butler County, Ohio**

**ORDER TO CONDUCT
THE DRAWING OF JURORS
FOR CALENDAR YEAR 2021**

: IN RE: _____
:

In accordance with the Ohio Revised Code and Local Rules of Court, the Commissioners of Jurors are required to conduct a computerized drawing from a randomized list of Butler County registered voters for the purpose of serving as potential jurors for the Common Pleas, Municipal and County Courts.

It is, therefore, hereby **ORDERED** that the Clerk of this Court shall conduct the drawing of the jurors for calendar year 2021. This drawing shall be conducted on Thursday, August 27, 2020.

It is **FURTHER ORDERED** that the Clerk of this Court shall draw 91,000 jurors. From those 91,000 jurors, the following are **ORDERED** to be drawn.

| | | |
|----------------------------|----------------------|---------------|
| Fairfield Municipal Court | Fairfield Municipal | 2,500 |
| Hamilton Municipal Court | Hamilton Municipal | 6,000 |
| Middletown Municipal Court | Middletown Municipal | 2,500 |
| Area I County Court | Area I | 2,000 |
| Area II County Court | Area II | 2,000 |
| Area III County Court | Area III | 2,000 |
| Grand Jury term | Grand Jury | 4,000 |
| Petit Jury term | Petit Jury | 60,000 |
| Special Jury | Petit Jury | <u>10,000</u> |
| | | 91,000 |

IT IS SO ORDERED:

Judge Michael A. Oster, Jr.
Administrative Judge

Mary L. Swain
Clerk of Courts

Joseph L. Statzer, Chief Deputy
Clerk of Courts

Wayne Gilkison
Court Administrator

BUTLER COUNTY 2021 JURY DRAW

August 27, 2020

The draw was held in the office of the Butler County Clerk of Courts in accordance with the procedures set forth in the Ohio Revised Code and Local Rules of Court. The potential jurors, identified from the Board of Elections voter registration master file, were randomly selected by a computerized draw. Exempted from the list are those names that have served in the current year or have been permanently excused by the Common Pleas Court. Randomization is apportioned by precinct and court jurisdiction.

The Clerk of Courts has completed the computerization selection process required by statute for the 2021 jury draw, under the direction of the Jury Commissioners for the courts of Butler County, Ohio.

2021 TERM SELECTION:

| | | |
|-------------------------------|----------------------|---------------|
| 1. Fairfield Municipal Court | Fairfield Municipal | 2,500 |
| 2. Hamilton Municipal Court | Hamilton Municipal | 6,000 |
| 3. Middletown Municipal Court | Middletown Municipal | 2,500 |
| 4. Area I County Court | Area I | 2,000 |
| 5. Area II County Court | Area II | 2,000 |
| 6. Area III County Court | Area III | 2,000 |
| 7. Grand Jury Term | Grand Jury | 4,000 |
| 8. Petit Jury Term | Petit Jury | 60,000 |
| 9. Special Jury | Petit Jury | <u>10,000</u> |
| | | 91,000 |

Mary L. Swain, Clerk of Courts

Joseph L. Statzer, Chief Deputy, Clerk of Courts

Wayne Gilkison, Court Administrator

Hamilton County Common Pleas Court Jury Draw Publication Notice

November 28, 2016

**Cincinnati Court Index
119 W. Central Parkway
Cincinnati, Ohio 45202**

Please publish this notice in one edition of your newspaper on November 28, 2016

LEGAL NOTICE

Pursuant to the Ohio Revised Code, notice is hereby given that on the 5th day of December, 2016 at 2:00 P.M. the drawing of prospective jurors for the session of 2017 will be held in room 455 of the Hamilton County Court House.

**Jury Commissioner-Repub
Jury Commissioner-Dem**

Jury Commissioners by:

**Bradley J. Seitz
Jury Coordinator**

**C.C. PRESIDING JUDGE, COURT OF COMMON PLEAS
C.C. SHERIFF
C.C. CLERK OF COURTS**

g/jury/leg.not

COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

**Re: Order of drawing and summoning
Petit & Grand Jurors for
Common Pleas Court of Hamilton County,
Ohio for the year of 2021.**

**Order
M20-6**

It is ordered that the names of **60,000** persons be drawn from the data processing equipment and that said persons be summoned to appear in this court to serve as jurors in **2021** of the Common Pleas Court, Hamilton County, Ohio.

That **60,000** of said persons be summoned to appear as petit and grand jurors between the weeks of **January 1, 2021 through December 31, 2021.**

Ethna M. Cooper
Assistant Presiding/Administrative Judge, 2020

The following persons were present at the above drawing of jurors.

Judge Ethna M. Cooper

Sheriff's Deputy (Lt. Dennis Brogan)

Clerk of Courts (Christopher Wagner)

Chief Deputy Jury Commissioner Bradley J Seitz

Also in attendance: Patrick Dressing Susan Luken, Debbie Flammer Sherri Donnellon

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

IN THE MATTER OF: PUBLICLY AND
RANDOMLY DRAWING GRAND AND
PETIT JURORS FOR THE SECOND
JURY TERM BEGINNING
JANUARY 2021 IN THE COUNTY
OF MONTGOMERY, OHIO

*
*
*
*
*
*

ORDER AND ENTRY

* * * * *

IT IS HEREBY ORDERED, by the Court that the Commissioners of Jurors or their representative, in the presence of a Judge of the Common Pleas Court or his/her representative, together with the Clerk of Common Pleas Court, shall publicly and randomly draw Grand and Petit Jurors on November 19, 2020 at 1:30 p.m. by automatic data processing equipment located in the Jury Services Office, Room No. 113, First Floor, in the Montgomery County Common Pleas Court Building, 41 North Perry Street, Dayton, Ohio. The automated process is hereby required to utilize a truly random process for generating the pools of prospective jurors by employing an algorithm that generates a number between zero and the number of records in the source list. This random selection process is in accordance with Ohio Trial Court Standards, Number 1 - Opportunity for Jury Service, Number 2 - Jury Source List, and Number 3 - Random Selection Procedures, O.R.C. 2313.08, O.R.C. 2313.09 and *State v. Puente* (1982), 69 Ohio St.2d 136.

It is ordered that **eleven thousand, two hundred and twenty two (11,220)** names of persons whose names appear on automated software containing the Annual Jury List for the Jury Year 2020/2021 be selected to serve as Grand and Petit Jurors for the second term. Said Annual Jury List having been previously selected in accordance with O.R.C. 2313.06 the prospective Grand and Petit Jurors drawn for the second jury term shall be ordered to appear for service as Grand and Petit Jurors at such time and on such dates as may be hereafter prescribed by the Court.

Honorable E. Gerald Parker
or Representative

Clerk of Montgomery County
Common Pleas or Representative

Jury Commissioner of Montgomery
County or Representative

Jury Commissioner of Montgomery
County or Representative

CERTIFICATION OF TERM JURY DRAW:

**COMMON PLEAS COURT
MONTGOMERY COUNTY, OHIO**

November 19, 2020

We, the undersigned, have examined each randomly drawn pool. The Jury Pools are to be used for the January, 2021 Term of Service. There is one Grand Jury Pool, number 0002210201 consisting of 300 juror names and eighty-four Petit Jury Pools drawn from the source list. Petit Jury Pools consist of pool numbers 0001210101 through 0001210420 and consist of 10,920 juror names.

CLERK OF COURTS OR REPRESENTATIVE

JURY COMMISSIONER OR REPRESENTATIVE

JURY COMMISSIONER OR REPRESENTATIVE

JUDGE OR REPRESENTATIVE

IN THE COURT OF COMMON PLEAS
TUSCARAWAS COUNTY, OHIO
GENERAL TRIAL DIVISION

IN THE MATTER OF THE SELECTION : JUDGMENT ENTRY/ORDER FOR
OF NAMES FOR THE ANNUAL JURY : SELECTION OF JURORS
LIST FOR THE 2021 JURY YEAR :

The matter of the selection of the names of prospective jurors for the Jury Year 2021 to begin January 1, 2021 is before the Court for consideration.

IT IS ORDERED:

- ♦ That automatic data processing procedures and/or visual display apparatus shall be utilized in the selection of names and in the actual compilation of the annual jury list.
- ♦ That the selection of names for the annual jury list shall be made under R.C. §2313.08 from the certified list of registered voters appearing on the current master registration list presented to the Jury Commission by the Board of Elections of Tuscarawas County and the list of qualified driver licensees of Tuscarawas County certified by the Registrar of Motor Vehicles under R.C. §2313.06.
- ♦ That in the selection of names for the annual jury list, the Jury Commission shall direct that a total of 22,000 names be retrieved on a random basis. The names so selected shall comprise the prospective annual jury list.

- ♦ That upon the completion of the list, the Commission shall cause such selectees to be placed in the automatic data processing system for drawing under R.C. §2313.23.
- ♦ That a copy of this order shall be certified by the Clerk of Courts to the Jury Commission.

ELIZABETH LEHIGH THOMAKOS, ADMINISTRATIVE JUDGE

EDWARD EMMETT O'FARRELL, JUDGE

cc: Judge Elizabeth Lehigh Thomakos
Judge Edward Emmett O'Farrell
Clerk of Courts, Jeanne Stephen
Jury Commission
IT Department

IN THE COURT OF COMMON PLEAS
TUSCARAWAS COUNTY, OHIO
GENERAL TRIAL DIVISION

IN RE: DRAWING OF JURORS : MISC. CASE NO. _____
FOR JANUARY 2021 TERM :

It is Ordered that the Jury Commission of Tuscarawas County, Ohio, shall draw the names of 4,100 persons for jury duty in the General Trial Division of the Court of Common Pleas, Tuscarawas County, Ohio, during the May 2021 Term.

It is further Ordered that the first 100 names shall comprise the venire of the Grand Jury during the term; the remaining 4,000 names drawn shall comprise the venire for the Trial Jury during the term.

ELIZABETH LEHIGH THOMAKOS, ADMINISTRATIVE JUDGE

EDWARD EMMETT O'FARRELL, JUDGE

cc: Judge Edward Emmett O'Farrell
Judge Elizabeth Lehigh Thomakos
IT Department
Jury Commission

GENERIC ENTRY FOR ANNUAL JURY DRAW

IN THE COURT OF COMMON PLEAS OF ____ COUNTY, OHIO

RE: THE SELECTION OF REGISTERED VOTERS TO BE *
PROSPECTIVE JURORS DURING THE 20__ – 20__ * ORDER JURY
YEAR *

WHEREAS, randomness is an integral part of the jury selection process, and;

WHEREAS, the selection of registered voters to be prospective jurors is a part of the jury process;

IT IS ORDERED that the selection of approximately (fill in the number) registered voters to be prospective jurors shall be from the current list of registered voters maintained by the ____ County Board of Elections and certified as the most recent current list of registered voters in ____ County, Ohio, as provided by R.C. 2313.06.

IT IS FURTHER ORDERED that, pursuant to R.C. 2313.09, the selection of the prospective jurors from the current list of registered shall be random, with all registered voters on the current list having an equal probability of selection. The Commissioners of Jurors are ordered to remove the name of any individual granted a permanent excuse from jury service as provided by R.C. 2313.08 and the name of any individual disqualified from jury service pursuant to R.C. 2313.21.

All names chosen from the record, not subject to removal by the Jury Commission, shall be entered on the ANNUAL JURY LIST of prospective jurors, without exception. This list of names shall be used for the 20__ – 20__ Jury Year, beginning (fill in first date for jury year).

IT IS FURTHER ORDERED that the Jury Commission shall supervise the selection of the prospective jurors in accordance with this order and the Ohio Revised Code and shall certify that all proper procedures were followed. The names of the randomly selected prospective jurors shall be certified by the Jury Commissioners. An alphabetical copy of the annual jury list shall be prepared and filed in the Office of the Jury Commission and the Office of the Clerk of Court.

IT IS FURTHER ORDERED that the Jury Commission shall randomly select (insert number) prospective jurors from the Annual Jury List, to be notified and summoned as needed, to appear for service as GRAND JURORS during the 20__ – 20__ Jury Year. The remainder of the names of the Annual Jury List shall be available for selection as PETIT JURORS, as needed, during the 20__ – 20__ Jury Year.

Administrative Judge

GENERIC DRAW CERTIFICATION ENTRY:

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, OHIO

RE: THE SELECTION OF REGISTERED VOTERS TO BE *
PROSPECTIVE JURORS DURING THE 20__ – 20__ * JOURNAL ENTRY
JURY YEAR *

We hereby certify that, in accordance with R.C. 2313.08, the prospective petit and grand jurors for the _____ County Common Pleas Court during the 20__ – 20__ Jury Year were selected in compliance with the attached order. The selection of the names of the prospective jurors was randomly made from the current list of _____ County Registered Voters. The names of individuals permanently excused from jury service and the names of individuals disqualified from service during the 2012 – 2013 Jury Year were removed. The resulting list is the Annual Jury List which has been certified. We further certify that an alphabetical copy of the Annual Jury List will be filed with the Jury Commission and the Clerk of Courts.

The required notice of the jury drawn was properly published in a newspaper of general circulation. All necessary parties were present for the jury draw. The following individuals were in attendance at the annual jury draw.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

IN WITNESS THEREOF, WE SET OUR
HANDS THIS _____ DAY OF _____,
20__

Jury Commissioner

Jury Commissioner

APPENDIX D

Jury Summons/Jury Questionnaire Samples

SUMMONS FOR PETIT JURY SERVICE

Common Pleas Court

Butler County, Ohio

To: «name»

«addr1», «addr2»

«addr3»

«city», «state» «zip»

**MASTER JUROR NUMBER: «annual» - Internet usage only!
«group1» - Phone line**

JUROR NUMBER:

PLEASE READ THROUGH ALL INSTRUCTIONS BEFORE ATTEMPTING TO CONTACT THE COURT

Dear Prospective Juror:

You are commanded to be available to appear and serve on the petit jury of the Butler County Court of Common Pleas. You will need to be available to serve during the following term:

YOUR PETIT JURY TERM IS MARCH 8, 2021 THROUGH MARCH 19, 2021

This summons notifies you that your name is in the pool of jurors from which the petit jury panel will be selected. You must complete the questionnaire and immediately return it in the self-addressed, stamped envelope. It is important to submit complete juror information so that the Court can either qualify you to serve on the petit jury panel or excuse you from service.

FOR GENERAL JUROR INFORMATION, OR IN CASE OF INCLEMENT WEATHER, PLEASE CALL OUR RECORDING AT 513-785-5155

During your period of jury service, you are required to phone daily to determine if your name has been selected from the pool of jurors. If your juror number (identified above, top right) is mentioned on the recorded message, you must report to jury duty the following business day. If you receive a busy signal, please call back. Remember that you are to report only if your jury number is mentioned.

TO RECEIVE THE RECORDED MESSAGE:

PLEASE CALL (513) 887-3550 OR 1-800-548-2818 EACH DAY AFTER 3:30 P.M.

PLEASE BEGIN PLACING DAILY CALLS ON FRIDAY MARCH 5TH (Phone lines are open through the weekend)

AND STOP PLACING CALLS ON THURSDAY MARCH 18th

YOU MAY ALSO LOG ON TO www.butlercountyclerk.org and ENTER YOUR MASTER JUROR NUMBER

All prospective jurors can be assured that special circumstances will be addressed on an individual basis. This information should be provided on line twelve (12) of the questionnaire. If you encounter a circumstance or emergency that prevents you from appearing, and your juror number has been selected, please notify: Court Administration at (513) 785-6550 between the hours of 8:00 a.m. – 4:30 p.m.

Please note that your potential jury service will require you to enter into a secured area where you will be required to pass through security checkpoints, including metal detectors and scanning devices. Therefore, please leave all unnecessary personal items at home or in your vehicle, i.e. pocket knives, nail files, etc. Such items will be taken into temporary custody of court security and may cause unnecessary delays.

All qualified citizens in the State of Ohio have an obligation to serve on a jury when summoned unless excused by the Court. While it is rare that a juror serve the full two week term, jurors can occasionally serve on more than one trial. Employers are prohibited from discharging or threatening to discharge a permanent employee who gives reasonable notice of jury summons. Employers may not take disciplinary action that could lead to discharge. An employer may not require the use of annual, vacation, or sick leave for time spent on a jury. If a juror fails to attend and serve a term, without having been excused, the Court of Common Pleas may impose a fine of \$100 - \$250 and find him/her in contempt of court.

Please keep this summons available as a reference for the scheduled dates and bring it with you to check in for the first day of service.

Thank you for your time and cooperation.

PETIT JUROR QUESTIONNAIRE

Butler County Court of Common Pleas

MASTER JUROR NUMBER: «annual»
«group1»

JUROR NUMBER:

«name»

«city»

PLEASE COMPLETE THIS SECTION AND RETURN WITHIN THREE DAYS. USE INK ONLY.

1. Years of residence in Butler County:_____ Place of birth:_____ Age: _____
2. Education completed:_____
3. Provide your phone number:_____
4. Your occupation (If Retired, Former Occupation): _____

5. Employer:_____
6. Marital status:_____
7. List the immediate members of your family: (spouse and children only)

| RELATIONSHIP | AGE | LIVING WITH YOU | | OCCUPATION (If Retired, what was your previous occupation) | EMPLOYER |
|--------------|-----|-----------------|----|--|----------|
| | | YES | NO | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

8. Have you, or any member of your family listed above:

a. ever suffered bodily injury? Yes____ No____

b. been sued or sued another person? Yes____ No____

If yes, when? _____

If yes, what type of suit? _____

c. been the victim of a crime? Yes____ No____

d. had a personal injury claim, other than a lawsuit made against you? Yes____ No____

9. Are you a Butler County resident? Yes____ No____

10. Have you served as a juror prior to this term? Yes____ No____

a. If yes, where? _____

11. Are you related to, or a close friend of any law enforcement officer? Yes____ No____

12. Have you ever been convicted of a felony offense? Yes____ No____

13. Are you requesting to be excused from jury duty? Yes____ No____

If there is a reason that you believe would excuse you from serving, please so state:

Jurors requesting to be excused for medical or mental conditions must fill out questionnaire and send in physician's statement as soon as possible, including your juror number, located on the top, right of the summons/questionnaire. (If you wish to be excused, you must include your phone number so that the court can contact you.)

(Persons more than 75 years of age and members of cloistered religious organizations may request to be excused.)

THE COURT HAS EXCLUSIVE AUTHORITY TO QUALIFY OR EXCUSE JURORS FROM SERVICE.

7th Petit Service Session

JUROR NUMBER: «group1»

Pursuant to ORC 149.43, information on your questionnaire may be subject to public disclosure under the Ohio Public Records Act.

JUROR QUESTIONNAIRE

Hamilton County, Ohio

Please legibly print your name

- 1) Name & Age _____ Age _____
- 2) Area of county you reside _____ Length of residence _____
(Example-City of Cinti, Delhi, Wyoming)
- 3) Place of Birth _____ Years of residence in Hamilton County _____
- 4) Highest level of education- Where attended? Field of study? _____
- 5) Occupation & Employer _____
(if retired, write "RETIRED" and give last occupation and employer)
- 6) If you are a widow or widower, give late spouse's occupation and employer _____

- 7) Marital Status: Married _____ Separated _____ Widow _____ Number of
(Please Check) Single _____ Divorced _____ Widower _____ Children _____
Age Range _____

8) List living members of your family: (Do not put names)

| Relationship Spouse - Chlld | Age | Living With You | | Occupation | Employer |
|--------------------------------|-----|-----------------|----|------------|----------|
| | | Yes | No | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

9) Have you served as a juror before? When? Type of Case?

10) Have you or a member of your family been charged with a crime? Explain _____

11) Have you or a member of your family been a victim of a crime? Explain _____

12) Have you or a member of your family been involved in a lawsuit? Explain _____

13) Are you related to or a close friend of any law enforcement officer or prosecutor? What are your feelings about police officers?

14) What clubs/organizations do you belong to? _____

15) What magazines do you read? _____

16)) Do you think you would be a good Juror? Why?

Please NOTE: Prospective Jurors have the right to request and have an In-camera hearing on the record with counsel for the parties present regarding any legitimate privacy interest of the prospective juror,

Juror Signature

Please provide current phone numbers on the back of this Questionnaire.

INSTRUCTIONS FOR JURORS

**YOUR ANSWERS TO THESE QUESTIONS ARE BEING
GIVEN UNDER OATH.**

The attached questions must be answered by you under oath. They will assist the Judge and the lawyers in selecting a jury. Your complete written answers will save a great deal of time for the Judge, for the lawyers, and for you.

Take your time. Answer all the questions to the best of your ability. **DO NOT ASK FOR HELP.** There are no right or wrong answers. The only requirement is that the answers be full and honest.

We need your candid answers so that we pick a fair and impartial jury for a trial involving criminal accusations. The judge and the lawyers realize that every person has beliefs and opinions concerning many things. You should answer with your true feelings, whatever they may be. Do not assume that any of your answers will qualify you or disqualify you from serving on this jury.

If you cannot answer a question because you do not understand it, write "Do not understand" in the space after the question. If you cannot answer because you do not know, write "Do not know" in the space after the question. Write only on the front side of each page. If you need additional space for an answer, there are blank pages at the end of the questionnaire for that purpose. Write "see back page" on your answer. On the back page(s), be sure to include the question number to which you are responding.

JUROR QUESTIONNAIRE

JUROR NAME AND NUMBER _____

1. Age: _____

2. What is your gender? Male _____ Female _____

3. What is your race? (please circle)

a) White/Caucasian

b) Black/African American

c) Hispanic/Latino

d) Asian/Pacific Islander

e) Other (please state) _____

4. If you have children, please list (include children not living with you):

| <u>Sex</u> | <u>Age</u> | <u>Does child live with you</u> | <u>Level of education</u> | <u>Occupation</u> |
|------------|------------|-------------------------------------|-------------------------------|-------------------|
|------------|------------|-------------------------------------|-------------------------------|-------------------|

5. Do you have any medical or physical condition that might make it difficult for you to serve as a juror?
(Please include any hearing or eyesight problem.) Yes_____ No _____

Please describe: _____

6. Are you taking any medications that might make it difficult for you to serve as a juror?

Yes _____ No _____

7. Do you have any problems or areas of concern at home or at work that might interfere with your duties as a juror during trial? Yes No _____

If yes, please describe: _____

8. What type of area do you live in? (Please circle one.)

City_____ Suburb _____ Rural _____

9. How long have you lived at your present residence?

10. Do you own or rent? Own_____ Rent_____

11. List areas of past residence within the last ten years and indicate how long you lived in each location (you do not need to give addresses):

12. Where were you born? _____

13. Where were you raised? _____

14. Is English your first language? Yes _____ No _____

If no, what is your first language? _____

15. Do you have any difficulty:

Reading English? Yes _____ Sometimes _____ No _____

Understanding spoken English? Yes _____ Sometimes _____ No _____

16. Are you currently employed outside the home? Yes _____ No _____

If so, by whom are you employed? _____

Full or part-time? _____

If part-time, how many hours per week? _____

How long have you been so employed? _____

17. What are your specific duties and responsibilities on the job? _____

18. Do you have the authority to hire and fire employees or have a significant say in these decisions if someone else has the final word? Yes _____ No _____

19. If not currently employed outside the home, please check the category that applies to your status:

| | |
|---------------------------------------|----------------|
| _____ Homemaker | _____ Student |
| _____ Unemployed looking for work | _____ Retired |
| _____ Unemployed not looking for work | _____ Disabled |
| _____ Other (please explain) _____ | |

20. If you are not currently employed outside the home, but were previously so employed, please describe your most recent form of employment, stating the name of your employer, whether you were employed full or part-time, when and for how long you were so employed:

21. Please list your work experience over the past ten years and state when and for how long you were employed at each job. Please give a brief description of each job.

22. Do you now work or have you ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)?

Yes _____ No _____

If yes, please describe the position(s) and dates in detail: _____

23. Have any of your relatives and/or close friends ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)?

Yes _____ No _____

If yes, please describe in detail: _____

24. What is the highest grade in school that you completed? _____

25. If you attended any schools or colleges after high school, please name the schools and colleges you attended, your major areas of study, and the field in which you obtained your degree(s):

26. Are you currently in school? Yes _____ No _____

If yes, which school and what are you studying? _____

27. What special training or skills do you have? (Please include any technical, medical, psychology or scientific training and special skills acquired on the job.) _____

28. Do you have any legal training or have you taken any law course? Yes ____ No ____

If yes, please explain: _____

29. Do you now own or have you ever owned a firearm? Yes _____ No _____

If yes, what type of firearm and for what purpose did you own it? _____

30. Have you ever fired a handgun or rifle? Yes _____ No _____

If yes, please explain the type of gun and the circumstances under which you fired it: _____

31. Have you ever had any bad experiences with guns, such as having one pointed at you?

Yes _____ No _____

If yes, please explain _____

32. Have you ever served in the military? Yes_____ No _____

If yes, please list: Branch of service: _____

Rank: _____ Dates of service: _____

33. Do you have combat experience? Yes_____ No _____

If yes, please explain: _____

34. Were you ever involved in any way with military law enforcement, court martial or investigations?

Yes _____ No _____

If yes, please explain: _____

35. Please complete regarding your current spouse or partner:

Spouse/partner's place of birth? _____

Spouse/partner's race or ethnic background? _____

Spouse/partner's current employment status? _____

Spouse/partner's occupation? (If that person is retired, unemployed or disabled, what his or her occupation?)

By whom is he or she employed? _____

How long has he or she worked there? _____

What is the last level of education he or she completed? (Please list any degrees he or she has.)

36. Have you ever been in a courtroom before? Yes_____ No _____

If yes, how many times and for what purpose(s)? _____

37. Have you ever served on a trial jury before? Yes_____ No _____

For each time you have sat on a trial jury, please indicate whether it was a criminal case or a civil case:
Was a verdict reached?

Type of case _____ Year _____ (Please DO NOT state the verdict)

38. Have you ever served on a grand jury? Yes _____ No _____

If yes, was it state or federal and when was it? _____

39. Have you ever been the foreperson of a trial jury or grand jury? Yes _____ No _____

If yes, please state what type of case and when: _____

| |
|--|
| <p>In this case, the defendant has previously been convicted and sentenced by another jury. Based on a change in the law, the Ohio Supreme Court has ordered a new sentencing hearing for the defendant. In any case where a possible punishment may be the death penalty, the law requires that jurors answer questions regarding their thoughts, feelings and opinions about the Death Penalty .</p> |
|--|

40. Please describe your views on the death penalty:

41. Have you ever held a different view on the death penalty? Yes _____ No _____

If "yes," what caused you to change your view?

42. Which of the following statements best reflects your view of using the death penalty (check one)?
- ☐ Appropriate in every case where someone has been murdered.
- ☐ Appropriate with very few exceptions where someone has been murdered. ☐ Appropriate in some murder cases, but inappropriate in most murder cases.
- ☐ Opposed with very few exceptions.
- ☐ Opposed in all cases.

43. DIRECTIONS: Place a check in one of the spaces next to each statement indicating your agreement and/or disagreement with the statement at the left.

| Statement | Strongly Agree | Agree | Slightly Agree | Slightly Disagree | Disagree | Strongly Disagree |
|--|----------------|-------|----------------|-------------------|----------|-------------------|
| The death penalty should never be used as the punishment for any murder. | | | | | | |
| The death penalty should always be used as the punishment for every murder. | | | | | | |
| The death penalty should sometimes be used as the punishment in certain murder cases. | | | | | | |
| Only a guilty person would object to a search of his or her home. | | | | | | |
| A person sentenced to death in Ohio will probably never be executed. | | | | | | |
| It does not make any difference to me whether or not we have a death penalty in Ohio. | | | | | | |
| Convicted criminals always get out of prison too soon. | | | | | | |
| The testimony of law enforcement officers is entitled to more impact merely because they are law enforcement officers. | | | | | | |
| The courts have made it too difficult to prosecute and convict criminals. | | | | | | |

| | | | | | | |
|--|--|--|--|--|--|--|
| If the prosecution goes to the trouble to bring someone to trial that person is probably guilty. | | | | | | |
| People in prison have a better life than most of the taxpayers who pay for the prisons. | | | | | | |

44. A defendant does not have to testify or produce any evidence in a trial. Despite this, do you believe that a defendant in a criminal case should testify or produce some evidence to prove that he or she is not guilty? Yes _____ No _____

If yes, please explain why: _____

45. Because this case has received some publicity, some of you may have heard or read something about this case at some time. It is vitally important that you truthfully answer the following questions concerning what you have learned about this case from the media. Please indicate from what sources you have learned about this case (check as many as apply):

Television _____ Newspapers _____

Radio _____ Have had conversations with other people _____

Have overheard other people discuss it _____

Other (Please specify) _____

46. A previous jury has convicted Mr. Kirkland of Aggravated Murder for the deaths of Casonya Crawford and Esme Kenney. That same jury convicted Mr. Kirkland of Murder for the deaths of Mary Jo Newton and Kimya Rolison, along with other crimes related to all 4 victims. You will hear evidence regarding all of these crimes, but will not be asked to vote on his guilt or innocence. In order to sit on this jury you will have to accept the guilty verdicts of a prior jury and just consider the appropriate punishment. Are you able to accept these guilty verdicts as you will be instructed by the Court? Yes _____ No _____

If "yes," please explain: _____

47. Do you know or are you acquainted with any persons in the following positions (if so, please check the appropriate boxes):

- ☐ The Judge
- ☐ The Bailiff
- ☐ The Clerk of Courts
- ☐ Other Employees in the Courthouse
- ☐ The County Prosecutor or an employee in that Office
- ☐ Law Enforcement Officers working in this County
- ☐ The Defense Attorneys or someone employed by them

48. Do you have a family member or close friend who works in the Legal System (e.g., lawyers, police officers, probation officers, federal agents, prison or jail guards or other institutional employees)?

Yes _____ No _____

If yes, what are their names and please describe how you know them: _____

49. Did you know any of the victims in this case or ever encounter any of them before they died?

Yes _____ No _____

If yes, please explain: _____

50. Do you know any of the victims relatives? Yes _____ No _____

If yes, please explain: _____

51. Do you know Anthony Kirkland, the defendant? Yes _____ No _____

If yes, please explain: _____

52. Do you know any of the defendant's relatives? Yes_____ No _____

If yes, please explain: _____

53. When you were growing up, what was the racial and ethnic make-up of your neighborhood?

54. Is there any racial or ethnic group that you do not feel comfortable being around?

Yes _____ No _____

If yes, please explain: _____

55. With respect to the issue of racial discrimination against African-Americans in our society, do you think it is:

A very serious problem _____ A somewhat serious problem _____

Not too serious_____ Not at all serious _____ Not a problem_____

56. Have you ever had a negative or frightening experience with a person of another race?

Yes_____ No _____

If yes, please explain the circumstances: _____

57. Have you ever been exposed to persons who exhibited racial, sexual, religious and/or ethnic prejudice?

Yes _____ No _____

If yes, please describe the experience: _____

58. "Some races and/or ethnic groups tend to be more violent than others."

Strongly agree_____ Agree_____

Strongly disagree _____ Disagree_____

No opinion_____

If you wish to do so, please explain your answer : _____

58. Are you a member of any group or organization which is concerned with racial or ethnic issues?

Yes _____ No _____

If yes, please identify the groups: _____

59. Are you a member of any private club, civic, professional or fraternal organization which limits its membership on the basis of race, ethnic origin, gender or religion?

Yes _____ No _____

If yes, please identify the group(s) or organization(s): _____

60. Generally speaking, do you consider yourself to be (check one):

Very Conservative _____

Liberal _____

Conservative _____

Very Liberal _____

Moderate _____

Other _____

61. Are you familiar with psychological testing? Yes _____ No _____

If yes, how do you feel about the validity of these tests? _____

62. Have you ever studied psychiatry, psychology, or any related subjects?

Yes _____ No _____

If yes, please explain: _____

63. Have you, or any member of your family, or close friend ever consulted a psychiatrist or psychologist for professional services? Yes _____ No _____

If yes, how did this consultation affect your opinion about the value of psychiatry or psychology? Please explain: _____

64. There is a wide range of opinions about psychologists, psychiatrists, counselors and therapists. Generally, how do you regard these professions? _____

65. Do you know anyone who has a mental health problem? Yes _____ No _____

If so, without violating your sense of the right to privacy, please briefly describe the situation:

66. Do you think people are born with mental health problems or do they develop after birth or both?

Born with _____ After birth _____ Both _____

67. Do you have any specialized training or course work in medicine, science or biology?

Yes _____ No _____

If yes, please describe: _____

68. Have you ever been a victim of a crime? Yes _____ No _____

If yes, how many times? _____ What type of
crime(s)? _____

69. Did you or anyone else report it to the police? Yes _____ No _____ If no, why not?

70. Were you interviewed by police? Yes _____ No _____

71. Was the suspect caught? Yes _____ No _____

72. Did you testify in court? Yes _____ No _____

73. How has that experience affected your impressions about the criminal justice system?

-
-
74. Other than answers you may have already given, have you had a good or positive experience with any police officers? Yes _____ No _____ Please explain and indicate the police agency involved:

75. Other than answers you may have already given, have you had a bad or negative experience with any police officers? Yes _____ No _____ Please explain and indicate the police agency involved:

76. In the past several years there has been much public discussion concerning the issue of crime in our society. Please describe your personal feelings about this issue.

77. Do you feel that people convicted of crimes are treated:

Too leniently _____ Too harshly _____ Justly _____

78. Have you, or a member(s) of your family, or someone close to you ever been accused of or charged with a criminal offense? Yes _____ No _____ If yes, how was this person related to you?

Were you (they) convicted? Yes _____ No _____

What was the crime ? _____

How has that experience affected your impressions about the criminal justice system?

79. Have you ever visited or been inside a prison/jail? Yes _____ No _____

If yes, please explain the circumstances and describe how it made you feel: _____

80. When you have the time, what are your leisure time interests, hobbies, and activities?

81. Is there any reason why, if you were the defendant, you would not want someone in your state of mind on the jury? Yes _____ No _____

82. Apart from what you may have read or heard, do you have any personal knowledge of this case or the charges that have been referred to? Yes _____ No _____

If the answer is yes to the above, please state what your personal knowledge consists of:

83. Do you know any of the other prospective Jurors in this case? Yes _____ No _____

If yes, please explain:

84. If selected to serve as a juror on this case, the Court would order you not to read, listen to or watch any accounts of this case reported by television, radio or other news media. Will you have any difficulty following this order?

Yes _____ No _____ Do not know _____

85. If you are selected as a juror in this case, the Court would order you not to discuss this case with anyone unless and until permitted to do so by the Court. Will you have any difficulty in following this order?

Yes _____ No _____ Do not know _____

86. As a result of answering this Juror Questionnaire, have you started to form any opinions about this case?

Yes _____ No _____

If yes, please explain:

-
87. Is there anything going on in your life either at home or at work that might make it difficult for you or distract you if you were seated as a juror in this case? Yes _____ No _____

If "Yes", please explain:

-
-
88. Is there any matter not covered by this questionnaire that you think the attorneys or Court might want to know about when considering you as a juror in this case? _____
-
-

I DO HEREBY SOLEMNLY SWEAR OR AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: _____

Signature: _____

EXTRA SHEET FOR COMPLETING ANSWERS IF NECESSARY

PLEASE INDICATE THE QUESTION NUMBER BY YOUR ANSWERS

SAMPLE QUESTIONNAIRE FOR HIGH-PROFILE CASES:

TELEPHONE NUMBERS: WILL NOT
BE DISCLOSED. Used by Court Staff
for contact purposes only.

Home: _____

Work: _____

Cell: _____

**JUROR QUESTIONNAIRE
STATE OF OHIO V. JOHN DOE**

The attached questions must be answered by you under oath. Your answers will assist the judge and the lawyers in selecting a jury. Your complete written answers will save a great deal of time for the Judge, for the lawyers, and for you.

Take your time. Answer all the questions to the best of your ability. **DO NOT ASK FOR HELP.** There are no right or wrong answers. The only requirement is that the answers be full and honest.

We need your candid answers so that we pick a fair and impartial jury for a trial involving criminal accusations. The judge and the lawyers realize that every person has beliefs and opinions concerning many things. You should answer with your true feelings, whatever they may be. Do not assume that any of your answers will qualify you or disqualify you from serving on this jury.

If you cannot answer a question because you do not understand it, write "Do not understand" in the space after the question. If you cannot answer because you do not know, write "Do not know," in the space after the question. Write only on the front side of each page. If you need additional space for an answer, there are blank pages at the end of the questionnaire for that purpose. Write "see back page" on your answer. On the back page(s), be sure to include the question number to which you are responding.

EXCEPT FOR YOUR TELEPHONE NUMBER, ALL INFORMATION ON THIS FORM MAY BE PUBLICLY DISCLOSED. If you believe your privacy interests will be hurt by answering any of the following questions, you may leave the response blank and, once you are in the courtroom, ask for a hearing to state your reasons for leaving the answer(s) blank. The hearing will be held in the Judge's office, on the record, with the court reporter and trial counsel present. The judge may require you to answer the question(s).

Judge

1. Full Name _____
2. Place of birth: _____
3. What is your race or ethnic background? (Please circle)
- a) White/Caucasian b) Black/African American
- c) Hispanic/Latino d) Asian/Pacific Islander
- e) Other (please state) _____
4. In what community do you reside? _____
5. Marital status? ☐ Single ☐ Married ☐ Widow(er)
6. How many years of formal education have you had? _____
7. Beginning with high school, please list every school you have attended, degrees you have received, if any, your major area of study, and the years attended:
- _____
- _____
- _____
- _____
8. Have you ever served in the military? ☐ Yes ☐ No If yes, please indicate the branch, years of service, rank attained, and whether you enlisted or were drafted and the nature of your discharge.
- _____
- _____
- _____
9. Are you currently employed outside the home? ☐ Yes ☐ No If yes, where and how long have you been with this employer? Please give your job title and a brief job description. and responsibilities on the job? _____
- _____
- _____

10. If you are married, what is your spouse's occupation?

11. List the name(s) and occupation(s) of any adult children within the family:

12. Do you now work or have you ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)?

☐ Yes ☐ No If yes, please describe your job and the dates you were employed.

13. Have any of your relatives and/or close friends ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)? ☐ Yes ☐ No If yes, please identify the person, the relationship to you and their job.

14. Have you or any member of your family ever been convicted of a crime?

☐ Yes ☐ No If yes, please explain. _____

15. Have you or any close relatives or close friends ever been the victim of a crime?

☐ Yes ☐ No If yes, state who, what happened, and when.

16. Have you ever been called for jury duty before? ☐ Yes ☐ No If yes, state what Court, when, and indicate whether you served as a juror or an alternate, and whether you deliberated to a verdict.

17. Have you ever served on a Grand Jury? ☐ Yes ☐ No If yes, state what Court and the dates of your service. _____

18. What newspapers do you read? _____

19. What magazines do you read? _____

20. What television programs do you like to watch? _____

21. What do you do in your spare time (hobbies, sports, leisure time)?

22. Is there any reason, such as health problems, handicap, family concerns, economic or job related concerns that might impair your ability to serve as a juror? ☐ Yes ☐ No
If yes, please explain _____

23. Would you characterize yourself as a leader or a follower? _____

24. In your opinion, who is (or was) the greatest American to ever live? Why?

25. In your opinion, who do you most admire? Why?

26. Please state any knowledge, thoughts, or comments you may have regarding the case of State of Ohio v. John Doe.

PLEASE SIGN HERE:

I do solemnly swear/affirm that the answers to the foregoing questions are true and correct to the best of my knowledge and belief:

(Signature)

Date

on the Internet at: <https://eresponse.montcourt.oh.gov>

Or complete this paper Questionnaire and mail it within 7 days.

Or complete this paper Questionnaire and mail it within 7 days.

| | | | | | | |
|---|--|---|---|--------------------------------|---|-----------------------------------|
| Last Name [] New | | First Name | Middle Initial | Phone # | Mobile # | Do you live in Montgomery County? |
| Address [] New | | City | State | Zip Code | Are you a citizen of the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| The answers to these questions are true to the best of my knowledge. X | | | | | If you are 76 years of age or older, you will automatically be excused by checking this box. | |
| SIGNATURE | | | | DATE | | |
| Name | | | Zip Code | Age Years | Gender Male Female | Marital Status |
| Your Employer | | | Your Occupation/Prior Occupation if Retired | | | |
| Level of Education Completed: Less-than 12 years - -O H.S.-diploma or 'GÉD- -O College - Bachelor Master Other | | | | | | |
| Are you related to or a close friend of any law enforcement officer? Yes/No | | | | Been Seated as a Juror? Yes/No | | |
| Have you or a family member been convicted of a crime? | | | Yes No | Been the victim of a crime? | | Yes No |
| Have you been convicted of a felony? | | [] Yes [] No If Yes, have you completed probation and sanctions? [] Yes [] No | | | | |
| Have you or any family member been sued or sued another person? [] Yes [] No | | | | | | |
| Number of family members living in your household: | | | | | | |
| To be excused for medical reasons, you must submit a written statement from your doctor. The statement may be faxed to 937.824.7967, Please use "e entre fax number, including the area code or you may e-mail it to eresponse.eresponse@montcourt.oh.gov For non-medical reasons, please indicate below why you wish to be excused or postponed. | | | | | | |

You will receive a \$10 Fee for reporting for jury duty or \$20 a day if you are seated as a juror.

Please check this box if you wish to voluntarily waive your payment for jury duty.



If you believe your privacy interests will be hurt by answering any of these questions, you may leave the response blank and, once you are in the courtroom, ask for a hearing to state your reason for leaving the answer(s) blank. The hearing will be held by the Judge, on the record, with counsel for the parties present.

▲ DETACH AT THIS PERFORATION ▲
Be sure to bring this lower portion with you when you report for jury duty.

REV. 6/18

- You will be notified prior to your on call start date as to whether your request to be excused was approved or denied.
- You may also check eresponse.montcourt.oh.gov to determine your status.
- Visit our website at: montcourt.oh.gov to obtain additional information regarding jury duty.
- Jury Services may be contacted at 937-225-4704 between the hours of 8:30 AM and 4:30 PM. Monday through Friday.

PLEASE DO NOT PARK AT A METER.

The Courts Building is located at 41 N. Perry St. in Downtown Dayton.
(#1 on the map).

MOISTEN RED STRIPED AREAS TO SEAL THIS RETURN ENVELOPE.

Be sure to bring this lower portion with you when you report for jury duty

OFFICIAL DOCUMENT JURY SUMMONS DO NOT DISCARD

PLEASE DO NOT PARK AT A METER.

SECURITY* Upon arrival, you and your personal items will be scanned. Please do not bring any items with you that may be considered a weapon. Cameras are also prohibited.

ADDITIONAL INFORMATION

AS A PETIT JUROR, YOU ARE ON CALL FOR FIVE DAYS FROM YOUR ON CALL START DATE, OR FOR THE LENGTH OF ONE TRIAL IF SEATED AS A JUROR. The length of the average trial is three days.

- Your employer is required to give you time off from work to serve as a juror.
- You will receive a \$10 appearance fee if you are not selected as a juror or \$20 per day compensation if you are seated as a juror.
- Check with your employer to find out your company's policy regarding jury duty.
- TN users may dial the Ohio Relay service toll free number 1-800-750-0750.
- For disability related accommodations or questions regarding your jury service please call (937) 225-4704, Monday through Friday 8:30 a.m. until 4:30 p.m.
- Mail all correspondence to Jury Services, 41 North Perry St., Dayton, Ohio 45422-2154.
- Food service in the courthouse is limited to vending machines.

YOU ARE SUMMONED AS A PETIT JUROR
YOUR APPEARANCE REQUIRED BY OHIO LAW
YOU ARE ASSIGNED TO POOL NUMBER

ON CALL START DATE AT

COURTROOM # / FLOOR # JUROR #

YOU MUST CALL FOR THE RECORDED JURY
MESSAGE ON AFTER 7:00 P.M. FOR YOUR REPORTING
INSTRUCTIONS, WHICH WILL CONFIRM WHERE AND WHEN
YOU WILL NEED TO REPORT.

YOU MAY ALSO CHECK YOUR REPORTING INSTRUCTIONS AT
montcourt.oh.gov

Tuscarawas County Common Pleas Court Personal Information Sheet:

Return this form with the enclosed yellow questionnaire in the enclosed postage pre-paid envelope immediately or via email at: jury@co.tuscarawas.oh.us

Personal Information Sheet *Please Print*

Name: _____ Annual No.: _____

Address: _____ Service/Juror No.: _____

City/State/Zip: _____

1. Address – **only fill in if different from address listed on the paperwork you received:**

Street Address

Mailing address if different from above or P.O. Box

City

State

Zip Code

For Court Use Only:

2. Home Telephone _____

Hours you can be reached at home _____

3. Work/Business Telephone _____ Hours you can
be reached at work _____

4. Cell Phone* _____
Hours you can be reached on your cell phone _____

5. Other telephone numbers where messages can be conveyed to you and the name of the party to contact.

6. In case of a medical emergency while you are serving on jury duty, Name(s), Relationship and Telephone numbers of individual(s) to contact.

7. Name and Telephone number of doctor to be contacted.

Doctor's Name _____

Telephone _____

* If you do not wish to receive automated electronic jury service notifications via text message or cell phone, you must call the Clerk of Courts office at 330-365-3243. If you do so, please provide your cell number in case the Court needs to call you.

Personal Information Sheet for Web 1/2/2018

Court of Common Pleas, General Trial Division Tuscarawas
County, Ohio

Juror Questionnaire

Read this before answering: All information on this form may be publicly disclosed. If you believe your privacy interests will be compromised by answering any of the following questions, you may leave the response blank and once you are in a courtroom, request an in-camera conference on the record with

1. Name _____ Juror # _____ Age _____
2. Education – Completed: Indicate completion by “X” or if uncompleted indicate years attended

☐ Grade School☐ High School

☐ College☐ Graduate/Professional School
3. Your Occupation and Employer _____ (If retired, write “retired” and give last occupation and employer)
4. Are you married: ☐ Yes ☐ No
5. List members of your family living with you:

| Name | Relationship | Age |
|-------|--------------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
6. Have you, or any member of your family listed above, sued or been sued?
☐ Yes ☐ No
If “yes”, complete the following:
Type of Lawsuit _____ Court: _____
7. Have you ever served as a juror prior to this term? ☐ Yes ☐ No (If “yes”, when, which court and type (civil or criminal) of case)

8. Are you related to, or a close friend of, any law enforcement officer?

☐ Yes ☐ No (If “yes”, please identify)

9. Have you ever been convicted of a felony? ☐ Yes ☐ No If your answer is

yes, have you completed your sentence? ☐ Yes ☐ No

10. Is there any other information that you wish to share with the court or attorneys concerning your ability to serve as a fair and impartial juror?

Please note:

Completing this form does not excuse you from jury service. Only a judge or designated court employee can grant an excusal from or postponement of jury service after a request for excusal or postponement is submitted to the Clerk of Courts. You must appear as summoned for jury duty unless you receive an excuse or postponement prior to your service date.

Dated:_____

Signature: _____

TUSCARAWAS COUNTY COMMON PLEAS COURT HIGH PROFILE CASE JURY QUESTIONNAIRE

JURY QUESTIONNAIRE

Name: _____ Juror# _____
(Please Print)

You have been summoned for Jury service in a criminal case alleging that the Defendant, on June 2, 2016, near Mineral City, Ohio in Tuscarawas County committed the following crimes:

- ☐ **Attempted Murder, Kidnapping and Rape** of an eleven (11) year old boy

The Court appreciates your answering the following questions:

1. Have you gained prior knowledge of this case from print, radio or broadcast (TV) media?

(Circle Answer) YES NO

2. If your answer to 1 is Yes, which media source provided this information?

(Name of newspaper, radio or TV station)

3. Have you done an internet search for information about this case?

(Circle Answer) YES NO

4. If your answer to 3 is Yes, please explain briefly what information you discovered from your search?

5. Do you believe that you know or are acquainted with the alleged child victim and/or his family?

(Circle Answer) YES NO

6. If your answer to 5 is Yes, please explain how you know or are acquainted with the alleged child victim and/or his family.

7. Do you know any of the following law enforcement officer and/or witnesses who will testify in the case?

☐ **Law Enforcement Officers (Circle your choices)**

Orvis Campbell, Tusc. County Sheriff

Mike Snider, Tusc. County Deputy

Ryan Hamilton, Tusc. County Deputy

Adam Fisher, Tusc. County Deputy

Phil Valdez, Tusc. County Deputy

Jeff Moore, Tusc. County Detective

Jason Peters, Dover Police Department

Cathy Bickford, Tusc. County Detective

☐ **Non- Law Enforcement Witnesses (Circle your choices)**

Francis Haney

Narali Patel, M.D. Akron Children=s Hospital

Louis Gonzales

Aaron P. Garrison, M.D., Akron Children=s Hospital

Maria F. Bonvechio

Natasha Collia, M.D., Akron Children=s Hospital

Louis Helwig, III

Paul McPherson, M.D., Akron Children=s Hospital

Cheryl Sleutz

David M. Ross, Scientist from BCI-Richfield

John Weber

David M. Miller, Scientist from BCI-Richfield

8. If your answer(s) to 7 is/are Yes, please briefly explain your relationship.

Thank You

Judge Edward Emmett O'Farrell

2/13/20

APPENDIX E

Jury Demographic Information Surveys

DEMOGRAPHICS SURVEY
FRANKLIN COUNTY MUNICIPAL COURT
JURORS

The Franklin County Municipal Court, Jury Commission is conducting a survey of the jury pools to determine if they are representative of the population of Franklin County. Your answers will in no way affect your ability to be impaneled on a jury. All answers will be used only for legitimate research purposes and to determine if there is a need for change in the way jurors are drawn for service in Franklin County.

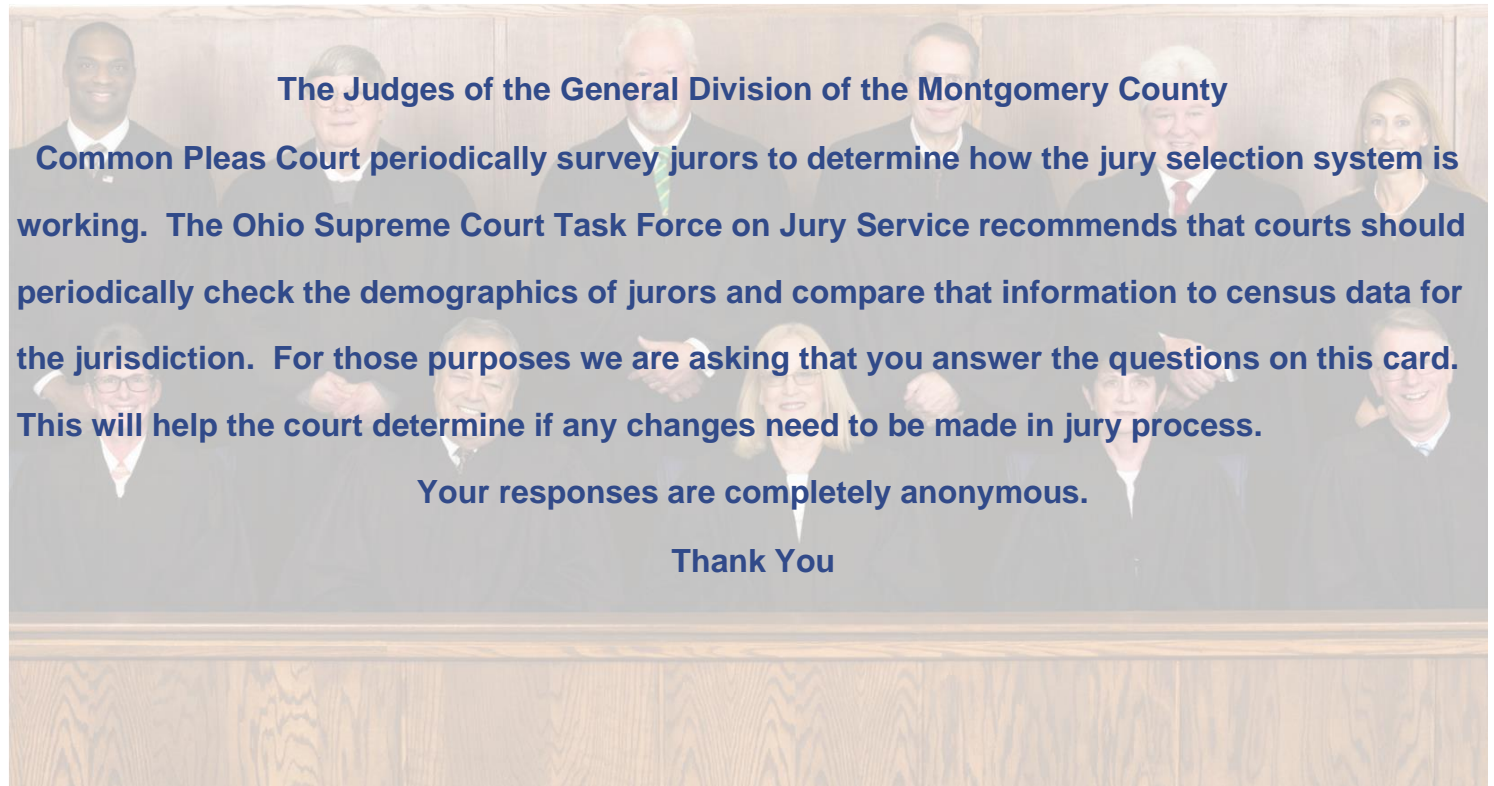
THESE FORMS WILL BE DESTROYED AFTER THEY HAVE BEEN ENTERED IN A SECURE DATABASE.

1. Your highest education level:
- | | |
|-----------------------------|----------------------------|
| Some high school | <input type="checkbox"/> 1 |
| High school diploma or GED | <input type="checkbox"/> 2 |
| Some college | <input type="checkbox"/> 3 |
| Vocational/technical school | <input type="checkbox"/> 4 |
| College degree | <input type="checkbox"/> 5 |
| Some graduate work | <input type="checkbox"/> 6 |
| Graduate degree | <input type="checkbox"/> 7 |
2. Your age: _____
3. Gender: Male ☐1 Female ☐2
4. Marital status: Single ☐1 Married ☐2 Widowed ☐3 Divorced ☐4 Separated ☐5
5. Employment status: Employed ☐1 Unemployed ☐2 Self-employed ☐3 Retired ☐4
6. Race / Ethnicity (Check one only)
- | | |
|---------------------------------|----------------------------|
| African-American/Black | <input type="checkbox"/> 1 |
| Asian-American/Pacific Islander | <input type="checkbox"/> 2 |
| Hispanic/Latino | <input type="checkbox"/> 3 |
| Other | <input type="checkbox"/> 4 |
| White | <input type="checkbox"/> 5 |
7. How many times have you **REPORTED for jury service** in Franklin County in the past five years? **INCLUDE TODAY.** ☐1 ☐2 ☐3 ☐4 ☐5
8. What is your zip code? _____

***PLEASE PRINT YOUR LAST NAME AND YOUR BARCODE NUMBER (ON YOUR BADGE)**

LAST NAME _____ BADGE NUMBER _____

MONTGOMERY COUNTY COMMON PLEAS DEMOGRAPHIC SURVEY:



JUROR DEMOGRAPHIC INFORMATION

1. What is your Zip Code? _____
2. What is your age? ☐ 18-20 ☐ 21-29 ☐ 30-39 ☐ 40-49 ☐ 50-59 ☐ 60-69 ☐ 70 or over.
3. Are you? ☐ Male ☐ Female
4. Are you Hispanic or Latino origin? ☐ Yes ~~☐ No~~
5. Which of the following categories best describe you? *(you may choose more than one category)*
☐ American Indian ☐ Alaskan Native ~~☐ Asian~~ ☐ African American ☐ Native Hawaiian ☐ Pacific
Islander ☐ Caucasian ~~☐ Other~~ *(please specify)*
6. What is your annual income? ☐ less than \$10,000 ☐ \$10,001 to \$20,000 ☐ \$20,001 to \$30,000 ☐
\$30,001 to \$40,000 ☐ \$40,001 to \$50,000 ☐ \$50,001 to \$75,000 ☐ More than \$75,000

APPENDIX F

Jury Panel/Pool Management Forms

LUCAS COUNTY COMMON PLEAS COURT JURY ORDERS MANUAL TRACKING FORM:

JURY ORDERS/TRACKING

DATE: _____

| | | | |
|---|--|--|--|
| Courtroom _____ Civil <input type="checkbox"/> Regular <input type="checkbox"/> _____ Criminal <input type="checkbox"/> Large <input type="checkbox"/> _____ Disposition _____ Case # _____ Caption _____ Time: _____ | Status Out <input type="checkbox"/> Used <input type="checkbox"/> | Voir Dire Start _____ End _____ | Jurors Taken _____ Used _____ |
| Courtroom _____ Civil <input type="checkbox"/> Regular <input type="checkbox"/> _____ Criminal <input type="checkbox"/> Large <input type="checkbox"/> _____ Disposition _____ Case # _____ Caption _____ Time: _____ | Status Out <input type="checkbox"/> Used <input type="checkbox"/> | Voir Dire Start _____ End _____ | Jurors Taken _____ Used _____ |
| Courtroom _____ Civil <input type="checkbox"/> Regular <input type="checkbox"/> _____ Criminal <input type="checkbox"/> Large <input type="checkbox"/> _____ Disposition _____ Case # _____ Caption _____ Time: _____ | Status Out <input type="checkbox"/> Used <input type="checkbox"/> | Voir Dire Start _____ End _____ | Jurors Taken _____ Used _____ |
| Courtroom _____ Civil <input type="checkbox"/> Regular <input type="checkbox"/> _____ Criminal <input type="checkbox"/> Large <input type="checkbox"/> _____ Disposition _____ Case # _____ Caption _____ Time: _____ | Status Out <input type="checkbox"/> Used <input type="checkbox"/> | Voir Dire Start _____ End _____ | Jurors Taken _____ Used _____ |
| Courtroom _____ Civil <input type="checkbox"/> Regular <input type="checkbox"/> _____ Criminal <input type="checkbox"/> Large <input type="checkbox"/> _____ Disposition _____ Case # _____ Caption _____ Time: _____ | Status Out <input type="checkbox"/> Used <input type="checkbox"/> | Voir Dire Start _____ End _____ | Jurors Taken _____ Used _____ |
| Courtroom _____ Civil <input type="checkbox"/> Regular <input type="checkbox"/> _____ Criminal <input type="checkbox"/> Large <input type="checkbox"/> _____ Disposition _____ Case # _____ Caption _____ Time: _____ | Status Out <input type="checkbox"/> Used <input type="checkbox"/> | Voir Dire Start _____ End _____ | Jurors Taken _____ Used _____ |

_____ Number to call in = Number needed/reporting percentage _____/.81
 _____ Number of jurors reporting for service

Standard Panel Sizes: Civil Regular – 18 Large – 22 Criminal Regular – 25 Large – 30 Municipal/Probate/Juvenile: 16 -18

LUCAS COUNTY COMMON PLEAS COURT MANUAL DAILY TRANSACTION FORM:

DAILY TRANSACTION RECORD

DATE_____

JUDGE_____

| TIME | CASE TYPE | TRANSACTION | # IN TRANS. | # IN POOL | # IN VOIR DIRE/TRIAL | TOTAL IN SERVICE |
|------|--------------|-------------|----------------|--------------|-------------------------|---------------------|
| | | START-UP | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

DAILY SUMMARY:

TOTAL IN SERVICE _____
 CARRYOVERS _____
 REPORTING TO POOL _____
 SENT TO VOIR DIRE _____
 VOIR DIRES BEGUN _____
 VOIR DIRES ANTICIPATED _____
 PEAK _____

JUROR APPEARANCE RATE:

AVAILABLE TO REPORT _____
 INSTRUCTED TO REPORT _____
 REPORTED _____

LUCAS COUNTY COMMON PLEAS COURT MANUAL JURY PANEL USAGE FORM:

JURY PANEL USAGE RECORD

CASE NUMBER: _____

JUDGE: _____

CASE TYPE: ☐ CIVIL ☐ CRIMINAL CHARGE(S): _____

EVENTS:

DATE

TIME

- | | | |
|------------------------|-------|-------|
| • PANEL ORDERED FOR | _____ | _____ |
| • PANEL TAKEN TO CRTM. | _____ | _____ |
| • VOIR DIRE STARTED | _____ | _____ |
| • VOIR DIRE ENDED | _____ | _____ |
| • TRIAL STARTED | _____ | _____ |
| • TRIAL ENDED | _____ | _____ |

PANEL USE:

=

+

+

+

Panel taken
To courtroom

Size of jury
plus alternates

Challenge
for cause

Peremptory
challenges

Jurors not
sworn or
challenged

CASE DISPOSITION:

- ☐ Tried to verdict
- ☐ Settlement/Plea
- ☐ Continued
- ☐ Other _____

Prepared by: _____

BUTLER COUNTY COMMON PLEAS COURT JURY MANAGEMENT WORKSHEET:

BUTLER COUNTY CLERK OF COURTS

JURY MANAGEMENT WORKSHEET

Plaintiff _____

-VS-

Defendant _____

Judge _____ Case Number _____

Number of jurors requested _____ Estimated days of service _____

Jury Date ____ / ____ / ____ Jury Time _____ a.m. / p.m.

JURY MANAGER PROCEDURES

- ☐ Name of JuryView clerk completing this worksheet _____
- ☐ Jury confirmed _____ (name of court personnel) _____
- ☐ Complete the Panel Scheduling in JuryView
- ☐ Print the Courtroom Worksheet in alphabetical order
- ☐ Hand write "Date: _____" on the Courtroom Worksheet
- ☐ Print 5 copies of the Courtroom Group
- ☐ Assemble the Juror questionnaires in order of the Courtroom Group and make 5 copies.
- ☐ Assemble 5 packets of the Courtroom Group and the questionnaires to distribute as follows: two for Attorneys, one for the Judge, one for the Bailiff, and one for the Jury Trial Clerk. Each packet should be labeled.
- ☐ Assemble the sign-in packet for the Bailiff with 5 additional copies of the Courtroom Worksheet for each additional day of the trial.
- ☐ Assemble the Jury Trial Clerk clipboard to include: a copy of the Courtroom Group, the questionnaires, a copy of the Courtroom Worksheet dated for the first day of the trial, and _____ attendance vouchers and juror parking passes.

- ☐ Place the message on the Jury phone line to call the jurors that are listed on the Courtroom Panel in numerical order.

LEGAL DIVISION JURY TRIAL CLERK PROCEDURES

- ☐ The following Jury Clerk is assigned to this trial and has been given the jury trial clipboard. _____
- ☐ Time and date clipboard was given to Jury Clerk _____
- ☐ Jury Trial Clerk: record the first day of juror attendance from Courtroom Worksheet Date served _____
- ☐ JuryView Clerk record of daily juror attendance:

| | |
|--------------------|--------------------------------|
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
| Date served: _____ | Date entered in JuryView _____ |
- ☐ Verify that this jury is closed.
- ☐ List the actual number of days jurors were seating during the trial _____
- ☐ Number of jurors seated _____ Number of alternates _____
- ☐ Input jury payment information.
- ☐ Forward the Voucher List, Jury Management Worksheet, Courtroom Juror Status, and the daily sign in sheets to the scanning department.

Jury Manager signature: _____

Date Voucher List was sent to the Auditor: _____

APPENDIX G

Juror Exit Questionnaires

(APPEARED, NOT SEATED) DELAWARE MUNICIPAL COURT

www.municipalcourt.org

JUROR EXIT SURVEY

2021 TERM – PART

Please take the time to respond to this survey. Your answers and opinions will assist us in monitoring our jury management system and to identify areas for improvement. DO NOT SIGN YOUR NAME. ALL RESPONSES ARE VOLUNTARY AND CONFIDENTIAL.

1. Have you been called for jury service at this court prior to this term? ☐ Yes ☐ No
If yes, indicate the number of times previously called: _____ times
2. During this period of service, how many times did you report to the courtroom for the jury selection (voir dire) process? _____ times
3. Were you seated as a trial juror? ☐ Yes ☐ No
4. Did you find the questioning of jurors by attorneys hard to understand or difficult to tolerate? ☐ Yes ☐ No
5. Did you understand the law as explained by the Judge? ☐ Yes ☐ No
6. Did the Judge appear fair and impartial? ☐ Yes ☐ No
7. Should the Judge have done anything differently? ☐ Yes ☐ No

Please specify: _____

8. Were you paid by your employer during jury service? ☐ Yes ☐ No
9. Did you lose income as a result of jury service? ☐ Yes ☐ No
10. Did you have contact with the jury commissioners prior to or during your term of jury service? ☐ Yes ☐ No
11. If yes, were your questions or concerns answered? ☐ Yes ☐ No
12. How would you describe your contact with the Jury Commissioners?
☐ Efficient ☐ Inefficient ☐ Friendly ☐ Unfriendly
☐ Professional ☐ Unprofessional ☐ Other: _____
13. How were you greeted when you appeared for jury duty?
☐ Professionally ☐ Unprofessionally ☐ With courtesy ☐ Lack of courtesy
☐ Friendly ☐ Unfriendly ☐ Other: _____
14. Did you have contact with the Clerk's Office? ☐ Yes ☐ No
1. Was it helpful? ☐ Yes ☐ No
2. If not, please specify: _____

15. How would you rate the following:

| | | |
|---------------|---------------------------------|-------|
| 1 - Excellent | Video-tape orientation (online) | _____ |
| 2 - Good | Written orientation materials | _____ |
| 3 - Adequate | Treatment by court personnel | _____ |
| 4 - Poor | Personal safety | _____ |
| | Physical comforts | _____ |
| | Scheduling of your time | _____ |

- PLEASE CONTINUE ON REVERSE SIDE-

16. Was jury service meaningful to you? [] Yes [] No
Why? _____

17. What impressed you most about your jury service? _____

18. What disappointed you most about your jury service? _____

19. In what ways can we improve jury service at the Delaware Municipal Court? _____

20. Would you use an online system to complete and return your juror questionnaire, if it were available? [] Yes [] No

OPTIONAL STATISTICAL INFORMATION:

Age: (circle) 18-20 21-30 31-40 41-50 51-60 61-70 Over 70

Gender: (circle) Female Male

Race: _____

Educational Level: (circle the highest number of years completed)

Elementary and High School
1 2 3 4 5 6 7 8 9 10 11 12

College
1 2 3 4

Graduate School
1 2 3 4 5 6

Occupation: _____

(SERVED ON TRIAL)

DELAWARE MUNICIPAL COURT

www.municipalcourt.org

JUROR EXIT SURVEY

2021 TERM - PART

Please take the time to respond to this survey. Your answers and opinions will assist us in monitoring our jury management system and to identify areas for improvement. **DO NOT SIGN YOUR NAME. ALL RESPONSES ARE VOLUNTARY AND CONFIDENTIAL.**

19. Have you been called for jury service at this court prior to this term? ☐ Yes ☐ No
If yes, indicate the number of times previously called: _____ times

20. During this period of service, how many times did you report to the courtroom for the jury selection (voir dire) process? _____ times

21. Were you seated as a trial juror? ☐ Yes ☐ No

22. Did you find the questioning of jurors by attorneys hard to understand or difficult to tolerate? ☐ Yes ☐ No

23. Did you understand the law as explained by the Judge? ☐ Yes ☐ No

24. Did the Judge appear fair and impartial? ☐ Yes ☐ No

25. Should the Judge have done anything differently? ☐ Yes ☐ No

Please specify: _____

26. Were the number of breaks adequate? ☐ Yes ☐ No

27. Were the lunch breaks adequate? ☐ Yes ☐ No

28. Were the refreshments adequate? ☐ Yes ☐ No

29. Were jury deliberations
1. Too long? ☐ Yes ☐ No
2. Confusing? ☐ Yes ☐ No
3. Other? Please specify: _____ ☐ Yes ☐ No

30. Were you paid by your employer during jury service? ☐ Yes ☐ No

31. Did you lose income as a result of jury service? ☐ Yes ☐ No

32. Did you have contact with the jury commissioners prior to or during your term of jury service? ☐ Yes ☐ No

33. If yes, were your questions or concerns answered? ☐ Yes ☐ No

34. How would you describe your contact with the Jury Commissioners?
☐ Efficient ☐ Inefficient ☐ Friendly ☐ Unfriendly
☐ Professional ☐ Unprofessional ☐ Other: _____

35. How were you greeted when you appeared for jury duty?
☐ Professionally ☐ Unprofessionally ☐ With courtesy ☐ Lack of courtesy
☐ Friendly ☐ Unfriendly ☐ Other: _____

36. Did you have contact with the Clerk's Office? [] Yes [] No
 a. Were they helpful? [] Yes [] No
 If not, please specify: _____
37. How would you rate the following:
- | | | |
|---------------|---------------------------------|-------|
| 1 - Excellent | Video-tape orientation (online) | _____ |
| 2 - Good | Written orientation materials | _____ |
| 3 - Adequate | Treatment by court personnel | _____ |
| 4 - Poor | Personal safety | _____ |
| | Physical comforts | _____ |
| | Scheduling of your time | _____ |
38. Was jury service meaningful to you? [] Yes [] No
 Why? _____
39. What impressed you most about your jury service? _____

40. What disappointed you most about your jury service? _____

41. After having served as a juror, what is your impression of jury service?
 [] The same as before, favorable.
 [] The same as before, unfavorable.
 [] More favorable than before.
 [] Less favorable than before.
24. In what ways can we improve jury service at the Delaware Municipal Court? _____

25. Would you use an online system to complete and return your juror questionnaire, if it were available? [] Yes [] No

OPTIONAL STATISTICAL INFORMATION:

Age: (circle) 18-20 21-30 31-40 41-50 51-60 61-70 Over 70

Gender: (circle) Female Male

Race: _____

Educational Level: (circle the highest number of years completed)

Elementary and High School
 1 2 3 4 5 6 7 8 9 10 11 12

College
 1 2 3 4

Graduate School
 1 2 3 4 5 6

Occupation: _____

LUCAS COUNTY COMMON PLEAS COURT EXIT QUESTIONNAIRE FOR SEQUESTERED JURY
(2 SIDED)

JURY EXIT QUESTIONNAIRE

Your answers to the following questions will assist the Court in monitoring the current operations of the jury system and identifying areas for improvement.

Have you ever been called for jury service before? ☐ Yes ☐ No If yes, how many times?_____

| Please rate the following: | Poor | Adequate | Good | Excellent |
|-------------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|
| Treatment by Jury Office staff | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] |
| Treatment by Courtroom staff | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] |
| Treatment by Court Security staff | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] |
| Treatment by other Court staff | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] |
| Courtroom/deliberation room comfort | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] | <input type="checkbox"/> [] |

Comments on any of the above:

What suggestions do you have to improve future sequestrations? (keeping realistic financial limitations in mind)

- OVER -

After your service, what is your impression of jury service?

- ☐ The same as before – favorable
- ☐ The same as before – unfavorable
- ☐ More favorable than before
- ☐ Less favorable than before

Any other comments you would like to make about your experience as a juror:

Optional Information:

Your name: _____

Your age: ☐ 18 – 20 ☐ 21 – 30 ☐ 31 – 40 ☐ 41 – 50 ☐ 51 – 60 ☐ 61 – 70
☐ over 70

Your gender: ☐ Male ☐ Female

Did you lose income as a result of your jury service? ☐ Yes ☐ No

Thank you for taking the time to respond to this questionnaire. The Court is always interested in providing for the best possible jury service experience possible and your feedback is greatly appreciated. THANK YOU!

Completed forms may be returned to:

**Office of the Jury Commissioner
Lucas County Common Pleas Court
700 Adams Street
Toledo, OH 43604**



MONTGOMERY COUNTY
COMMON PLEAS COURT - GENERAL DIVISION

JUROR SATISFICATION SURVEY

Judge _____ Date(s) of Service _____

In an effort to continually improve jury service, the Common Pleas Court would like to know how you feel about your experience as a juror. Would you please take a few minutes to complete this optional and confidential survey?

1. How many times have you been previously summoned for jury duty? _____
2. How many times have you been previously seated as a juror? _____

| | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree |
|---|-------------------|-------|---------|----------|----------------------|
| 3. The directions to parking and the courthouse were helpful..... | 0 | 0 | 0 | 0 | 0 |
| 4. The courthouse was comfortable and inviting..... | 0 | 0 | 0 | 0 | 0 |

Court Personnel

| | | | | | |
|--|---|---|---|---|---|
| 5. Jury Services Staff were helpful and courteous prior to your service... | 0 | 0 | 0 | 0 | 0 |
| 6. The Security Personnel were helpful and courteous..... | 0 | 0 | 0 | 0 | 0 |
| 7. The Courtroom Bailiff was helpful and courteous..... | 0 | 0 | 0 | 0 | 0 |

Judge

| | | | | | |
|---|---|---|---|---|---|
| 8. The Judge was knowledgeable in the application of rules and law..... | 0 | 0 | 0 | 0 | 0 |
| 9. The Judge was fair and impartial..... | 0 | 0 | 0 | 0 | 0 |
| 10. The Judge was patient, courteous, and communicated well..... | 0 | 0 | 0 | 0 | 0 |

Attorneys

| | | | | | |
|--|---|---|---|---|---|
| 11. The Prosecutor/Attorney for the Plaintiff presented the case well..... | 0 | 0 | 0 | 0 | 0 |
| 12. The Attorney for the Defendant presented the case well..... | 0 | 0 | 0 | 0 | 0 |
| 13. The Prosecutor/Attorney for the Plaintiff was courteous and effective... | 0 | 0 | 0 | 0 | 0 |
| 14. The Attorney for the Defendant was courteous and effective..... | 0 | 0 | 0 | 0 | 0 |

Jury Service

| | | | | | |
|---|---|---|---|---|---|
| 15. The initial orientation prepared me for my duties as a juror..... | 0 | 0 | 0 | 0 | 0 |
| 16. The physical comforts and deliberation room furnishings were good | 0 | 0 | 0 | 0 | 0 |
| 17. The scheduling of my time was effective and efficient..... | 0 | 0 | 0 | 0 | 0 |
| 18. I felt secure and safe while serving..... | 0 | 0 | 0 | 0 | 0 |
| 19. Parking was convenient..... | 0 | 0 | 0 | 0 | 0 |

Please turn over for additional questions.



MONTGOMERY COUNTY

COMMON PLEAS COURT - GENERAL DIVISION

Miscellaneous

20. Did you lose income as a result of jury serviceYes ☐ No ☐

21. Did you incur additional expenses..... Child care ☐ Meals ☐ Parking ☐ Other ☐ _____

22. Your age.....18-20 21-29 30-39 40-49 50-59 60-69 70+

23. Your gender..... Male ☐ Female ☐

24. Your occupation..... _____

25. Your level of education..... Elementary/High School College Graduate School
1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 1 2 3 4 5 6

26. Which of the following describes you best..... American Indian ☐
(You may choose more than one) Asian ☐
Black or African American ☐
Caucasian ☐
Hispanic or Latino ☐
Pacific Islander ☐
Other ☐

27. In which zip code do you live..... _ _ _ _ _

28. After having served as a juror, what is your impression of jury service.....

The same as before – favorable ☐
The same as before – unfavorable ☐
More favorable than before ☐
Less favorable than before ☐

29. Comments, Questions, Concerns, and Recommendations

For more information about the Common Pleas Court, please visit www.montcourt.oh.gov

Name (Optional) _____ Phone Number (Optional) _____

APPENDIX H – CHECKLIST FOR MANAGING A CAPITAL CASE AND THE OATH TO OFFICERS IN CHARGE OF A SEQUESTERED JURY

PLANNING FOR THE CAPITAL CASE JURY NEEDS

- ☐ Obtain information for the jury draw (at least 6 weeks prior to trial date)
 - ☐ Judge's name
 - ☐ Case caption
 - ☐ Case number
 - ☐ Defendant's name
 - ☐ Date for the trial start
 - ☐ What type of panel is the Judge requesting?
 - ☐ Special venire (separate administration)
 - ☐ Regular draw jurors (no separate administration)
 - ☐ Special, to be supplemented by regular jurors, if needed
 - ☐ How many jury summons should be sent out for the capital case?
- ☐ Obtain information from the courtroom (either the Judge or the courtroom staff may be able to respond)
 - ☐ Estimated length of the trial
 - ☐ Voir Dire
 - ☐ Phase 1 (Guilty/Not Guilty)
 - ☐ Phase 2 (Mitigation/Sentencing) – if needed
 - ☐ Which courtroom will be used for
 - ☐ Introductory remarks by the Judge to entire jury panel
 - ☐ Individual voir dire

- ☐ General voir dire
- ☐ Trial
- ☐ What jury selection method will be used?
 - ☐ Individual voir dire
 - ☐ What will be parameters of voir dire questions?
 - ☐ Will this be conducted in open court to accommodate media interest? If yes, will need space for waiting jurors?
 - ☐ Small group voir dire
 - ☐ What will be parameters of voir dire questions?
 - ☐ Will this be conducted in open court to accommodate media interest? If yes, will need space for waiting jurors
 - ☐ Traditional (strike and replace)
 - ☐ Strike (question large panel and exercise challenges in proceeding held outside of jury presence)
- ☐ How many jurors need to be retained after individual voir dire to begin general voir dire?
- ☐ How many alternate jurors will be seated?
- ☐ Use of a jury questionnaire
 - ☐ What will be the format of the questionnaire?
 - ☐ Regular
 - ☐ Special
 - ☐ How will the questionnaire be distributed to the jurors?
 - ☐ Send out with the summons
 - ☐ Send out separately in advance of the reporting date
 - ☐ Give to all jurors upon initial reporting
 - ☐ Give only to jurors being retained after *Witherspoon* questioning

- ☐ Copying of the questionnaire
 - ☐ When will copies be made?
 - ☐ Who will make the copies? (staffing issue)
 - ☐ How many copies will be made?
 - ☐ Who will receive the original? copies?
 - ☐ Will the copies be returned to the Court? If yes, when? Who will monitor return?
 - ☐ What will be the response to a media request for a copy of the questionnaires?
- ☐ Jury Excuse Process
 - ☐ Who has the authority to excuse jurors?
 - ☐ Will special jury excuse pretrials be scheduled? If yes, when? Who needs to attend to present jury excuses?
 - ☐ What documentation should be maintained on the request for a jury excuse and the decision made on the excuse?
 - ☐ What will be the follow-up for denied excuses?
- ☐ What will need to be done with the jurors who fail to appear on the first day of the trial?
- ☐ Secure funding for jury needs
 - ☐ Estimate costs for
 - ☐ Extra postage – mailing summons and, possibly, jury questionnaires
 - ☐ Juror fees (reminder that jury fees increase after the 10th day of service)
 - ☐ Food/beverages for the jury during the trial
 - ☐ Sequestration costs
 - ☐ Lodging for jurors and staff
 - ☐ Meals for jurors and staff

- ☐ Transportation for jurors between courthouse and hotel
- ☐ Overtime costs for personnel, especially security (if provided by the Sheriff, is reimbursement by the Court expected?)
- ☐ Prepare explanation re: necessity of incurring expenses
- ☐ Discuss costs with funding source (Commissioners and/or County Administrator/Budget Office)
- ☐ Budgeting options (must be determined and communicated at time of annual budget preparation)

PREPARATION FOR ARRIVAL OF JURORS

- ☐ Determine location where jurors are to assemble
 - ☐ Is there proper separation from the parties?
 - ☐ Is there proper separation from potential witnesses?
 - ☐ Is there proper separation from the media?
 - ☐ Will another location be used for the actual trial/jury selection?
- ☐ Will additional seating for jurors be needed?
 - ☐ If yes, where will additional chairs be obtained?
 - ☐ What room set-up is needed?
 - ☐ Who will perform set-up and when?
- ☐ What accommodations will be made for the capital case jurors?
 - ☐ Will beverages (coffee, water) be provided?
 - ☐ Will reading material be provided? If yes, who will review to ensure that no improper information is contained in the material?
 - ☐ Will separate restroom facilities be made available for exclusive use by jurors?

- ☐ What staffing is needed?
 - ☐ Will jurors be reporting for other cases? Does this affect staff assignments to the capital case?
 - ☐ Who will perform check-in of jurors? (should keep capital case jurors separated from jurors for other cases)
 - ☐ Who will maintain the attendance of the jurors?
 - ☐ Who will remain with the jurors in the room where jurors are assembled?
 - ☐ Who will follow-up on the jurors who failed to appear (if such action is directed by the Judge)?
 - ☐ Will a change in the regular work hours for assigned staff be necessary?
 - ☐ Will overtime, compensatory time, or a work schedule adjustment be used in the event that a change in regular work hours is needed? Who needs to approve?

- ☐ What signage, if any, is needed?
 - ☐ Is a sign to be used to direct capital case jurors to room used for assembly (use juror numbers or panel numbers, not name of case)?
 - ☐ Is a sign needed to restrict access to the area being used by the jurors?
 - ☐ Where will signs be posted?
 - ☐ Who will put up and take down signs? When?

CHECK-IN PROCESS

- ☐ Determine location of check-in area
 - ☐ In immediate vicinity of room where jurors will be reporting
 - ☐ Sufficient space for all check-in activity
 - ☐ Easy access by jurors, including those with mobility limitations

- ☐ Arrange for set-up of check-in area
 - ☐ Table/chairs for use by staff during check-in process
 - ☐ Tables/chairs for use by jurors who need to complete juror information forms
 - ☐ Cart or other means of distributing/collecting clip boards/questionnaires from jurors

- ☐ Prepare materials needed at check-in desk
 - ☐ Alphabetical list of jurors scheduled to report for the capital case
 - ☐ Extra copies of the jury summons/juror information forms (this is the form included in the jury summons to provide juror name, address, and limited other information which is to be complete prior to reporting for service).
 - ☐ Pens to be used by jurors for paperwork completion
 - ☐ Labels with juror names and numbers (to place on juror information forms to assist with legibility of juror names)
 - ☐ Juror badges/badge holders
 - ☐ Numbered cards to be used for managing scheduling of individual voir dire
 - ☐ Juror questionnaires (distribution at check-in if all reporting jurors are to complete the questionnaire)
 - ☐ Clip boards for use by jurors in completing questionnaires in the room used to assemble the jurors

- ☐ Check-in Process
 - ☐ Collect juror information form from juror
 - ☐ Write the number from the card on the clip board on the juror information form
 - ☐ Provide clip board with number card, questionnaire, pen, jury badge holder to the juror
 - ☐ Instruct the juror to wear the jury badge at all times while in the courthouse, have a seat in the room being used for assembly and complete the questionnaire. The questionnaires will be collected from the jurors by staff.

- ☐ In the assembly room, staff directs jurors to a specific seat (maintaining jurors in the order in which they checked in for service)
- ☐ If a line develops, make an announcement that everyone should have their juror information form ready to be turned in and, if the form has not yet been completed, step to one of the side tables to complete the form.
- ☐ Jurors indicating a problem at the time of check-in should be advised that they must go through the check-in process and that they will have the opportunity to explain their problem to the Court at a later time. If the problem is of a critical nature that will obviously impact their ability to remain through individual voir dire (i.e., funeral of immediate family member that afternoon), use the procedure previously set up with the Judge for the review and determination of such excuses.
- ☐ Either through the assistance of another staff person or as time permits, place the labels with the names and juror numbers on each juror information form. Keep the information forms in the check-in order (number written on each form to coincide with the numbered card given to the juror at the time of check-in).
- ☐ Collect the completed jury questionnaires, along with the clip boards and the pens.

USE OF JURY QUESTIONNAIRES

- ☐ Determination regarding use of jury questionnaire
 - ☐ Judge will make decision whether or not a special jury questionnaire will be used for the capital case
 - ☐ Judge will generally permit input from counsel on the content of the questionnaire
 - ☐ Timing on decision to permit special jury questionnaire approval of content and preparation of the form must take plan for distribution into account (see next)
- ☐ Design of Questionnaire
 - ☐ Limit questions to what is relevant to the specific case and questions that are not routinely asked during voir dire

- ☐ Incorporate area for use by staff in organizing the questionnaires (i.e., the check-in number of each juror) and for communication with the jurors (home, work and cell phone numbers)
 - ☐ Include notice required by R.C. 2313.18 regarding public disclosure of questionnaire responses and option for juror to leave a question blank, with request for a hearing.
 - ☐ Print questionnaires on one-sided paper rather than duplexing to make copying less burdensome and time consuming.
-
- ☐ Decision regarding distribution of special jury questionnaires
 - ☐ Send out with summons for jury service
 - ☐ will need questionnaire at least 4 weeks before trial
 - ☐ will questionnaires be returned prior to the trial date or will jurors bring them to the courthouse when reporting for service?
 - ☐ if jurors are returning questionnaires prior to the trial date
 - ☐ will a postage-paid return envelope be provided?
 - ☐ what is the due date?
 - ☐ what follow up is expected if a questionnaire is not returned by the due date?
 - ☐ Send out separately from summons
 - ☐ will need questionnaire 2 – 4 weeks before trial
 - ☐ will questionnaires be returned prior to the trial date or will jurors bring them to the courthouse when reporting for service?
 - ☐ if jurors are returning questionnaires prior to the trial date
 - ☐ will a postage-paid return envelope be provided?
 - ☐ what is the due date?
 - ☐ what follow up is expected if a questionnaire is not returned by the due date?

- ☐ Give to all jurors upon initial reporting
 - ☐ will need questionnaire a few days before trial
 - ☐ follow procedures outlined for check-in process
- ☐ Give only to jurors being retained after *Witherspoon* questioning
 - ☐ will need questionnaire a few days before trial
 - ☐ Court staff give questionnaire to juror being retained, provide location for juror to complete questionnaire, and collect completed questionnaire before juror departs
- ☐ Questionnaires copied for authorized use (see material above in "Planning for Capital Case Jury Needs")
 - ☐ Need to be given priority use of a copier which has copy, collate, and staple capabilities
 - ☐ Need to keep questionnaires in order
 - ☐ Court needs to be aware of how long it will take to copy questionnaires if forms are needed prior to start of individual voir dire (give priority to copying of questionnaires of first 5 – 10 jurors – can continue copying remaining questionnaires while Court conducts voir dire of first group of jurors)

ARRANGEMENTS FOR INDIVIDUAL VOIR DIRE

- ☐ What room will be used for individual voir dire
 - ☐ Must be large enough for those who will attend the individual voir dire
 - ☐ Must be convenient to where the jurors are assembled
- ☐ Who will attend the individual voir dire
 - ☐ Judge
 - ☐ Prosecutor(s)
 - ☐ Defense attorneys
 - ☐ Defendant

- ☐ Judicial Assistant/Bailiff
- ☐ Court Reporter
- ☐ Security Personnel
- ☐ Media
- ☐ If the Media will be covering the individual voir dire
 - ☐ Use of Courtroom for individual voir dire is recommended
 - ☐ Media order needs to be clear regarding the restrictions on photographing of jurors and broadcasting the voices of jurors
- ☐ A secondary room for the assembly of the jurors waiting for individual voir dire will be needed
 - ☐ Large enough to be comfortable for the number of jurors waiting
 - ☐ Restroom facilities available, preferably within the secured space of the waiting area
 - ☐ May need staff assigned to the room to monitor jurors who are waiting
 - ☐ Provide juror comforts to minimize movement from the space (i.e., reading material which has been screened, beverages, possibly snacks)
 - ☐ May need to take secured smoke breaks for waiting jurors
- ☐ Jurors must be instructed at the conclusion of their individual voir dire
 - ☐ Juror is excused
 - ☐ from all further service
 - ☐ from only this case, with instructions regarding continuing jury service
 - ☐ be prepared to provide juror with documentation of their service (may be needed by the juror's employer)
 - ☐ note excused status on attendance record
 - ☐ Juror retained for general voir dire

- ☐ prepare written instructions to be given to each juror at conclusion of their individual voir dire
 - ☐ date, time, place to return for general voir dire
 - ☐ may set up call-in system to give jurors further reporting instructions if timing for general voir dire is unknown/uncertain
 - ☐ include admonition regarding prohibition on discussion of case with others, exposure to media coverage, independent research
 - ☐ advise juror that any and all concerns should be immediately reported to the Court
 - ☐ Judge may want to consider juror as continuing to be on active jury duty during the “down time” between their individual voir dire and the general voir dire. Will need to determine ability of jurors to attend work, school, to other personal business. If there are restrictions, jurors should be paid as if they reported to the courthouse.
- ☐ note status on attendance record

JUROR ATTENDANCE

- ☐ If a special venire is used, need to track all jurors drawn for the case
 - ☐ Jurors requesting an excuse from service prior to the trial date
 - ☐ Excuse granted – document reason and end service
 - ☐ Excuse denied – contact juror with information that must report
 - ☐ Jurors requesting postponement – if meet requirements for statutory entitlement, remove juror from the special venire and set for agreed upon date
 - ☐ Jurors – no contact prior to expected appearance for service
 - ☐ Juror appears
 - ☐ Document attendance
 - ☐ Tracking form may be used to assist with attendance record, particularly during phases of voir dire

- ☐ Juror fails to appear
 - ☐ What does the Judge want for follow-up, if any?
 - ☐ If directed to make contact, what information is available on the juror to assist with contact? Address? Telephone number? Employer? – A lack of information will reduce the ability to quickly contact the juror
 - ☐ Contacted jurors will need to be instructed on when and where to report for service. Will also need to plan for a second check-in process.
- ☐ Track jurors at every stage
 - ☐ Individual voir dire
 - ☐ Excused – document all time juror was present and reason excused
 - ☐ Retained – to attend general voir dire
 - ☐ General voir dire
 - ☐ Excused – document all time juror was present and reason excused
 - ☐ Seated
 - ☐ Seated trial jurors
 - ☐ Regular juror
 - ☐ Alternate juror (pursuant to Criminal Rule 24 (G)(2), alternate jurors may be retained during deliberation and substituted if a regular juror is excused from the case)
 - ☐ Jurors excused/dismissed during trial – document reason
- ☐ Attendance record used for juror pay and documentation of service
 - ☐ Days/Half-Days served
 - ☐ Record when excused/dismissed
 - ☐ Compensation rate must be increased after 10 days of service

SEQUESTRATION ISSUES TO REVIEW WITH JUDGE

- ☐ 6 – 8 Weeks Prior to Trial
 - ☐ Inquire as to estimated length of the trial
 - ☐ Inquire as to estimated length of each phase of the trial
 - ☐ Inquire into anticipated break, if any, between the phases
 - ☐ Review basic needs to schedule lodging, transportation, food service, staffing on notice

- ☐ 4 – 6 Weeks Prior to Trial
 - ☐ Inquire as to more precise timetable for the trial
 - ☐ Inquire as to anticipated break, if any, between the phases
 - ☐ Inquire as to initial orientation/introduction process for jurors
 - ☐ Inquire as to individual voir dire process
 - ☐ Inquire as to juror management parameters (i.e., if jurors will be permitted to consume alcohol while sequestered, possible activities if there is downtime during sequestration)
 - ☐ Inquire as to any special security issues

- ☐ 1 Week Prior to Trial
 - ☐ Review the plan for sequestration
 - ☐ Anticipated timetable
 - ☐ Place of lodging – contact with more precise dates
 - ☐ Method of transportation
 - ☐ Food service arrangements
 - ☐ Staffing levels
 - ☐ Role of the courtroom Bailiff

- ☐ Placement of alternates during deliberation
- ☐ Process for emergency contact with Judge during sequestration

- ☐ During the Trial
 - ☐ Inquire into pertinent information concerning the seated jurors
 - ☐ Confirm timetable for the trial – request that time closing arguments and instructions to permit jury deliberations to begin as early in the day as possible
 - ☐ Frequent contact with the Judge is needed to insure that all needs are anticipated and met

PREPARATION FOR SEQUESTRATION IN ADVANCE OF THE TRIAL

- ☐ 6 - 8 Weeks Prior to Trial
 - ☐ Meet with the trial Judge re: time frames and concerns
 - ☐ Lodging – inquire into available and adequate facilities/services from area hotels
 - ☐ Availability during projected sequestration dates
 - ☐ Lay-out of space meets security needs for sequestration
 - ☐ Willingness to adjust telephones and televisions in rooms
 - ☐ Willingness to permit cancellation with at least 24 hour notice
 - ☐ Price
 - ☐ Availability of on-site food service
 - ☐ Transportation – inquire into availability of needed vehicles to transport jury on jury view and between the hotel and the courthouse during sequestration
 - ☐ Vehicle(s) with sufficient room for all jurors and escort personnel
 - ☐ Check with County Risk Management on insurance issues prior to rental – may affect number of vehicles needed and cost

- ☐ Accommodate possibility of jurors with mobility issues
- ☐ Availability during projected dates of sequestration – cannot guarantee pick-up and return dates
- ☐ Cost per day for vehicle rentals
- ☐ May need Purchase Order or contract
- ☐ Restaurant/Food Service - Inquire into available and adequate facilities/services from area restaurants
 - ☐ Meal service for breakfast, lunch and/or dinner
 - ☐ Separate room for exclusive use for jury preferred
 - ☐ Service must be efficient – buffets should be considered
 - ☐ Restaurants willing to deliver to the courthouse should be identified
 - ☐ Cost of meals must be within the established budget
 - ☐ Restaurants must be willing to bill for services unless the Court has access to a credit card for such expenses
- ☐ 4 – 6 Weeks Prior to Trial
 - ☐ Meeting with trial Judge, Prosecutor and Defense Counsel
 - ☐ Obtain general information about trial schedule
 - ☐ Identify special security issues
 - ☐ Identify level of media interest in the case
 - ☐ Identify lodging to be used by witnesses for the state and defense
 - ☐ Lodging – personal visits to area hotels for final selection of sequestration location
 - ☐ Do not disclose hotel to be used for sequestration except on need to know basis
 - ☐ Avoid use of same hotel being used for State or defense witnesses

- ☐ Secured parking for the jurors is needed
 - ☐ Transportation – reserve vehicle(s) needed – may require Purchase Order or Contract approval
 - ☐ Restaurants/Food Service – compile a list of sit-down and delivery restaurants which may be used during trial (if juror movement is restricted) and during sequestration
- ☐ 2 Weeks Prior to Trial
 - ☐ Familiarization with case and participants
 - ☐ Prepare forms and other documents
 - ☐ Prepare staffing schedule (Court Deputies, Uniformed Deputies, possibly the Courtroom Bailiff)
 - ☐ Meet with all staff to review sequestration and security plans
 - ☐ Prepare plan to accommodate alternates in a secured and comfortable waiting area in the courthouse while regular jurors are deliberating
 - ☐ Prepare plan for possible “down time” with the jury
- ☐ 1 Week Prior to Trial
 - ☐ Verify all prior arrangements
 - ☐ Meet privately with the trial Judge to review security, arrangements for juror lodging, transportation, food service, emergency situations, and overall plan for sequestration
 - ☐ Meet with supervisor for Uniformed Deputies regarding plan review and officer staffing schedules

JURY MANGEMENT DURING THE TRIAL

- ☐ Higher than usual visibility of trial
 - ☐ Planning, preparation, and performance is critical
 - ☐ Weaknesses or failures negatively impact public trust and confidence in the Court
 - ☐ Communication among staff and with jurors is a critical issue

- ☐ Get to know the Jurors
 - ☐ Starts with pretrial contact with jurors with jury office and/or at check-in – communicate any observations/experiences to courtroom/security personnel to assist with jury management
 - ☐ Listen during voir dire to learn more about juror's backgrounds
 - ☐ Courtroom personnel may consider review of questionnaires of seated jurors to gain more insight into the jurors they will be managing
 - ☐ **CRITICAL – must properly balance being professional and friendly**
 - ☐ must not be abrupt or impatient with jurors
 - ☐ must be approachable
 - ☐ must maintain authority and dignity of the court
 - ☐ being overly friendly is not advised – watch the chit chat or sharing personal information with jurors
 - ☐ failure to maintain proper balance may lead to issues that result in a mistrial

- ☐ Evaluate the Group Dynamics
 - ☐ Is one of the jurors the “leader” – asking questions on behalf of the other jurors, someone the other jurors turn to for guidance?
 - ☐ Is there tension between any of the jurors?
 - ☐ Tension can be subtle or openly displayed through comments/body language
 - ☐ Possible impact on deliberations and sequestration

- ☐ Are jurors well organized?
 - ☐ In court and ready on time each day?
 - ☐ Process of entering the courtroom and the jury box
 - ☐ Can signal how deliberations will proceed

- ☐ Be aware of juror stress
 - ☐ Change of their daily lives and the content of the trial will likely cause stress for the jurors
 - ☐ Remember – they cannot speak with anyone about what they are experiencing – not even other jurors – if it involves anything about the case
 - ☐ Will likely observe a change in the demeanor of the jury during the course of the trial, deliberation, and sequestration

- ☐ Anticipate Special Needs of Jurors
 - ☐ Isolation of any of the jurors – i.e., don't go out to lunch with the other jurors – can you make them more comfortable by providing a secure place in the courthouse for them to have lunch (remember, it may be a financial issue for a juror to go out to eat rather than a social issue)
 - ☐ Emotionally fragile jurors – i.e., cries during testimony – try to calm the juror as much as possible – may want to signal the Judge to take a break
 - ☐ Jurors with young children – may reduce their stress and help their attention to the trial if can volunteer to have the children make contact with court personnel when they arrive home from school or at other designated times during the day
 - ☐ Medical needs of jurors – i.e., diabetic juror needs to eat or have a snack at a particular time each day – help remind the Judge to break at the necessary times – be discrete so as not to bring attention to the juror's situation
 - ☐ Other needs identified through getting to know the jurors

- ☐ Increased awareness of possible use of technology by jurors
 - ☐ Listen for any references to blogging, Facebook, twitter, etc.
 - ☐ Consider policy to take cell phones from jurors while in the courthouse in trial – avoid accessing internet
 - ☐ Consider the admonition developed by the Ohio State Bar Association which incorporates language relating to technology

- ☐ Security Related Issues
 - ☐ Parking
 - ☐ Secured parking is best option. Reserved parking in attended public lot is acceptable.
 - ☐ Keeps jurors together and helps to avoid tardy jurors due to inability to locate parking
 - ☐ Escort jurors to and from cars each day during trial to avoid any issues with jury tampering or improper communication
 - ☐ Breaks
 - ☐ Consider providing jurors with beverages and snacks during trial to minimize juror movement in the courthouse
 - ☐ If jurors are not “semi-sequestered” during trial, ensure a security presence in all areas of the courthouse where the jurors may go (snack bar, restrooms, etc.)
 - ☐ Provide separate area for trial jurors to smoke to avoid contact with public and parties – should escort jurors during this break
 - ☐ Security Plan
 - ☐ Movement of the defendant must be controlled to avoid jurors seeing the defendant in restraints
 - ☐ Contingency plan in the event of a disturbance in the courtroom in front of the jurors, in the courtroom/courthouse outside of the direct observation of the jurors, protestors insider or outside of the courthouse, weather related issues (evacuation plans specific to the jury)

- ☐ Additional security added to the courtroom should be low-key to avoid any potential issues regarding creating bias – the least obtrusive means to have the proper level of security is best
- ☐ Consider draping both the defense and prosecution tables in the courtroom prior to the beginning of the trial. In the event that the defendant needs to be shackled at some point in the trial, can be accomplished without it being obvious to the jury
- ☐ Review the Court's regular security plan and adjust as needed for the particular concerns on the capital case

PRE-SEQUESTRATION

- ☐ During the Trial Prior to Sequestration
 - ☐ Familiarization with the jurors
 - ☐ Arrange for Oath to Officers of a Sequestered Jury

- ☐ Day Prior to Sequestration
 - ☐ Contact hotel with final time projections
 - ☐ Pick up transportation vehicles
 - ☐ Meet with jurors
 - ☐ Explain sequestration process and distribute written guidelines for sequestration
 - ☐ Explain transportation to Court the next day
 - ☐ Distribute Juror Information Forms and explain reason the information is needed
 - ☐ Assignment of rooms to jurors/documentation
 - ☐ Make specific arrangements for location of alternate jurors during deliberation

- ☐ Notifications of all arrangements and anticipated time table to court security personnel, uniformed deputies, and Court Administrator

EXPECTED FIRST DAY OF SEQUESTRATION/FOLLOWING DAYS OF SEQUESTRATION

- ☐ Court Deputies assigned to transportation vans
 - ☐ Meet jurors at designated parking area at hotel
 - ☐ Jurors will leave luggage locked in their vehicles
 - ☐ Collect juror information forms
 - ☐ Transport jurors from hotel to courtroom
- ☐ Discuss tentative schedule for the day with the trial Judge
- ☐ Make tentative arrangement for juror meal(s)
- ☐ Make plans for juror breaks
 - ☐ Beverages/snacks
 - ☐ Secured area for jurors to smoke
- ☐ Prepare map of hotel floor and assign rooms
- ☐ Make personal contact with the hotel
 - ☐ Verify that all rooms to be used by jurors have been properly prepared (television and telephone disabled)
 - ☐ Obtain room keys

- ☐ Update hotel contact on tentative schedule for arrival
- ☐ Obtain after-hours number for hotel contact person

MANAGING JURORS DURING SEQUESTRATION

- ☐ Arrive with jurors at hotel
 - ☐ Jurors retrieve luggage from their cars
 - ☐ Escort jurors to floor/corridor where rooms are located
 - ☐ Assign rooms and distribute keys to jurors and staff
 - ☐ Review sequestration procedures with jurors and staff
 - ☐ emergency situations
 - ☐ movement of jurors
 - ☐ jurors not permitted in hotel rooms of other jurors
 - ☐ accommodation for jurors who smoke
 - ☐ use of community room
 - ☐ meal schedule and menu selections for breakfast
 - ☐ preparations for the next day
 - ☐ wake-up time
 - ☐ breakfast time
 - ☐ pack luggage and move it to secured room
 - ☐ time to depart for court
- ☐ Security escorts jurors to their respective rooms and conducts a security check of their luggage (i.e., reading material, alcohol, electronic devices)

- ☐ Restrictions on juror communications
 - ☐ Use of community room for making monitored telephone calls
 - ☐ No visitors (for jurors or staff)
 - ☐ No contact by jurors with hotel personnel (except for food service personnel during escorted meals)
 - ☐ Immediate notification to security personnel in the event of an improper contact

- ☐ Meals during sequestration
 - ☐ Separation from other diners (private room for jurors preferred)
 - ☐ Consider pre-ordering meals prior to arrival at restaurant by providing menus to jurors in advance for meal selection
 - ☐ Clearly indicate any cost restrictions on menu selections
 - ☐ Clearly indicate restrictions, if any, on personal purchase by jurors of alcoholic beverages
 - ☐ Provide same gender security escort for any juror movement from the dining area (i.e., restroom visit)

- ☐ Issues/Needs if extended period of sequestration
 - ☐ Anticipated Court/jury schedule on holidays, weekends, religious days, election day
 - ☐ Will there be an accommodation for jurors to attend religious services?
 - ☐ Escort jurors to their homes to obtain additional clothing, medication
 - ☐ Accommodate jurors personal needs (i.e., over the counter medications, additional reading material, etc.) – at juror's expense
 - ☐ Anticipate increased anxiety of jurors
 - ☐ Response to possible staffing issues if security personnel for sequestration are also maintaining regular work schedule
 - ☐ Additional funding may be needed for increased sequestration costs

MANAGING JURORS AT THE VERDICTS

- ☐ **Remember that there are possibly two verdicts in a capital case, one for guilty/not guilty and a second for sentence/mitigation – if the first verdict is guilty, the trial is not over**

- ☐ Have a plan, which has been communicated to all necessary parties, in the event of a disturbance during the verdict
 - ☐ Judge or security personnel should instruct gallery on expected decorum before the jury enters the courtroom to announce their verdict
 - ☐ Have sufficient security personnel in the courtroom to handle a problem and assign the bailiff or an officer specifically to take charge of the jury and remove them from the courtroom in the event of a disturbance
 - ☐ Have understanding with Judge that security personnel will act immediately upon a disturbance without waiting for direction from the Judge
 - ☐ If the jury is removed from the courtroom, no comment should be made to the jury by anyone about the incident – if necessary, the Judge will question the jurors on the record about the impact of the disturbance
 - ☐ Anticipate that the jurors may be upset, frightened, agitated by the disturbance – reassure the jury without making improper comments

- ☐ Anticipate that the jurors may be emotional during the verdict
 - ☐ Have Kleenex available to jurors in the jury box – place in jury box prior to the time the jury enters the courtroom
 - ☐ Often times the jurors will comfort each other, particularly upon their return to the jury deliberation room after announcing the verdict – be supportive and give the jurors the opportunity to help each other
 - ☐ Be prepared in the event that a juror experiences a medical concern at the verdict (lighted headed, nauseous, panic attack, etc.)

- ☐ For jurors continuing to the second phase of the trial
 - ☐ The Judge will explain that the second phase of the trial will be required and information regarding the time and place for the jurors to report back to the Court – the admonition will be given by the Judge
 - ☐ Escort the jurors from the courthouse
 - ☐ As quickly as possible
 - ☐ As discretely as possible to avoid contact with the media, parties, and/or public
 - ☐ Staff must be very careful in answering any questions from the jury since the trial is not yet over
- ☐ For jurors at the conclusion of the trial
 - ☐ The Judge will often advise the jurors, in open court, about the possibility of a media contact following the trial, their options regarding any response and, in the event of perceived media harassment, to contact the Court
 - ☐ The Judge will meet with the jury in private to answer questions
 - ☐ If relevant, the Judge will advise the jurors about the post-trial media conference and their option to attend
 - ☐ If available, advise the jurors about post-trial counseling that the Court will make available to assist the jurors who have a high level of stress resulting from their jury service
 - ☐ Provide jurors with an exit questionnaire to provide feedback to the Court on their experience
 - ☐ Reassure jurors about their safety and security – provide them with contact information in the event they have concerns
 - ☐ Escort the jurors from the courthouse
 - ☐ As quickly as possible
 - ☐ As discretely as possible to avoid contact with the media, parties, and/or public
 - ☐ Conduct debriefing meeting with Judge, courtroom personnel, jury personnel, security personnel – what went well? What could be handled better in the future?

SAMPLE OATH TO THE OFFICERS IN CHARGE OF THE SEQUESTERED JURY:

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, OHIO

STATE OF OHIO

Case No. _____

Plaintiff

v.

Judge _____

Defendant

ORDER

OATH TO OFFICERS OF SEQUESTERED JURY

You do solemnly swear that you will, to the best of your ability, keep the persons sworn as jurors on this trial, from separating from each other; that you will not suffer any communications to be made to them, or any of them, orally or otherwise; that you will not communicate with them, or any of them, orally or otherwise, except by the order of this court, or to ask them if they have agreed on their verdict, until they shall be discharged, and that you will not, before they render their verdict communicate to any person the state of their deliberations or the verdict they have agreed upon, so help you God.

Clerk of Court

Judge

APPENDIX I

Other Information

HAMILTON COUNTY JUROR HANDOUT:

HAMILTON COUNTY COURTS



JUROR HANDBOOK

WELCOME

Welcome to jury service. We sincerely hope that your stay with us will provide you with an enjoyable, interesting, educational and meaningful experience regarding the law, the Courts and our own system of justice.

To decide cases correctly, jurors must be honest and intelligent. They must have both integrity and judgment. The jury system is based on these attributes. Jurors must decide the facts and apply the law impartially. They must not favor the rich or the poor. They must treat alike all men and women, corporations and individuals. Justice should be rendered to all persons regardless of race, color or creed.

The performance of jury service is the fulfillment of a civil and moral obligation. Conscientious service brings its own reward in the satisfaction of an important task well done. There is no more valuable work that a citizen can perform in support of the juridical system of our government than the full and honest discharge of jury duty.

The purpose of this booklet is to familiarize you with some of the facets of jury service and it should not be used in your jury room deliberations. It is not intended to advise you about the law. This is the judge's responsibility and the law can be different in each case. Should you need help with a point of law, please ask the Court.

QUESTIONS AND ANSWERS

Who may be called to serve as a juror?

You may be called to serve if you are at least 18 years old, a United States citizen and a resident of Hamilton County. In addition, you must have a reasonable knowledge of English and be physically and mentally capable of serving.

How did my name get selected for jury duty?

Jurors' names are selected at random by a computer from a list of registered voters provided by the Board of Elections.

How long will I be required to serve?

Normal length of service is for two weeks. However, if you are not serving on a jury in progress, you will call a recording each night for reporting instructions for the next day. If your services are not required, it is recommended that you report to work.

Do I get paid for jury duty?

You will receive a fee of \$19.00 for each day that you are required to attend. Work statements for your company indicating the days that you served as a juror and the amount paid will be furnished upon request.

STEPS IN A TRIAL

1. Selection of a Jury

Jurors are selected for a courtroom from the pool of available jurors. The judge and attorneys question the jurors in a process called voir dire (vwar deer) “to speak the truth,” to determine if any juror has a personal interest in the case, a prejudice or bias that may wrongly influence him/her as a juror. The attorneys may challenge some jurors and ask the Court to excuse them from the trial. There are two types of challenges; challenge for cause and peremptory challenge. Although peremptory challenges are limited in number, each side has an unlimited number of challenges for cause.

2. Opening Statements

Each side may outline the proof to be presented to the jury during the trial. Opening statements are not evidence, only expectations of what each side expects the evidence to prove.

3. Presentation of Evidence and Testimony of Witnesses

The plaintiff’s or prosecution’s case is presented first. As each witness testifies, the side that called the witness asks questions in direct examination. Then the side that did not call the witness has an opportunity to ask questions in cross-examination. Physical evidence, such as documents, weapons or photographs are admitted into evidence and numbered for identification.

During the trial, if one attorney objects to a question, he/she presents his/her objection to the judge. These are questions of legal technicality and may be argued out of your hearing. Do not be concerned. The judge will advise the jury of any information you need to make your decision, or instruct you to disregard what should not be considered. A ruling by the judge to sustain or overrule an objection does not mean that the judge is taking sides. He/she is applying the law which permits or does not permit the question to be asked or the answer to the question.

When each side has presented all their evidence, they “rest” their case.

4. Closing Arguments

The attorneys summarize the evidence and try to persuade the jury to find in favor of their client. The plaintiff has the burden of proof and therefore has the opportunity to open and close the arguments.

5. Presentation of Jury Instructions (Charging the Jury)

The judge reads the instructions of law to the jury, defines the issues the jurors must decide and informs them of the law that governs the case. Jurors may not decide cases based on the laws as they would like them to be, but must reach a verdict on the laws as they are. This is your sworn duty.

6. Deliberation

The jury retires to the deliberation room to consider the case and reach a verdict. The jury first elects a foreperson who will see that discussions are conducted in a sensible and orderly fashion, that all issues are fully and fairly discussed, and that every juror is given a fair chance to participate. If the jurors have a question during their deliberations, they may write it down and have the bailiff deliver it to the judge.

When a verdict has been reached, the jurors agreeing to the verdict sign the form and notify the bailiff. The verdict is read by the clerk and the judge dismisses the jurors.

JUROR CONDUCT

- * Be on time. The trial cannot proceed until all jurors are present.
- * Pay close attention to what is being said by everyone.
- * Keep an open mind throughout the trial.
- * Don't talk about the case with anyone while the trial is in progress, not even other jurors or family members.
- * Don't try to discover evidence on your own. Cases must be decided only on the basis of evidence admitted in Court.
- * Listen carefully to the instructions before deliberations.
- * It is your duty to accept what the Judge says about the law to be applied to the case, whether you agree or disagree with the law.

JURY COMMISSIONERS' OFFICE

Room 455 Courthouse

Bradley Seitz Jury Commissioner

Alicia Vollner Jury Clerk

Liz Jeffries Jury Clerk

Office **Fax**
(513) 946-5879 (513) 946-5885



Jury Debriefing

Montgomery County Common Pleas Court

General Division

“Together we provide fair and efficient justice under the law for all”

What is Jury Debriefing?

Jury debriefing is a process designed to help jurors reduce stress by giving them an opportunity to share their feelings about their experience in a group setting.

Some signs of stress following jury duty include: anxiety, sleep or appetite changes, moodiness, physical problems, i.e., headaches, stomach aches, no energy, and the like, second guessing your verdict, feeling guilty, fear, trouble dealing with issues or topics related to the case, a desire to be by yourself, or decreased concentration or memory problems.

Debriefing decreases the immediate unhealthy emotional response of jurors to what they experienced during and immediately following a trial.

Who Conducts Jury Debriefing?

The Jury Debriefing session is led by a counseling professional in a safe, confidential environment.

The session, which lasts about two hours, provides jurors with a forum to talk about their experiences as a juror, helps resolve feelings that may linger after the trial ends, and provides support for each juror to re-enter their world.

Is Participation a Requirement?

Participation in Jury Debriefing is completely voluntary.

If you find that you need to speak with someone at a later date, please contact the counselor listed below within two months of completion of your jury service.

**Robert Skipper,
M.Div., LPCC, LICDC
Therapy and Addiction
Counseling LLC
2621 Dryden Road**

Suite 310
Dayton, Ohio 45439
(937) 299-9005

Jury Debriefing Session

A debriefing session is scheduled for _____ at _____ in
Judge _____ courtroom. Parking is available behind the Courts Building. Please ring the
buzzer and security will let you in.

An employee of the Court's Jury Services' office will contact you to inquire about your interest in attending this
session.

Thank you again for serving as a Juror in our court!

Montgomery County Common Pleas Court General Division

Montgomery County Courts Building

41 North Perry Street

Dayton, Ohio 45422



Judge Gregory F. Singer

Administrative Judge

Judge Mary Katherine Huffman

Judge Timothy N. O'Connell

Judge Mary L. Wiseman

Judge Steven K. Dankof

Judge Dennis J. Adkins

Judge Michael W. Krumholtz

Judge Richard S. Skelton

Judge E. Gerald Parker

Judge Mary E. Montgomery

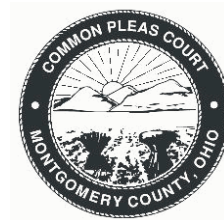
Judge Susan D. Solle

Steven Hollon, Court Administrator

Montgomery County Common Pleas Court

41 N. Perry Street

Dayton, OH 45422



To Whom It May Concern:

Re : Juror Name
Juror Address
City, State, Zip Code

This letter is to certify that _____ served as a juror on the following day(s):

Wednesday, 3 March, 2021

Thursday, 4 March 2021

Friday, 5 March 2021

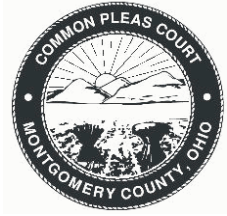
Number of Attendances : 3

Juror fees of \$60.00 have been paid with cash.

Very truly yours,

Judge Mary L. Wiseman

Montgomery County Common Pleas Court
41 N. Perry Street
Dayton, OH 45422



March 05, 2021

Juror Name
Juror Address
City, State, Zip Code

Dear Toni L Campbell:

On behalf of the Common Pleas Court and all the citizens of our community, thank you for serving as a juror.

The vast majority of countries in the world do not use the jury system. It is sometimes inefficient, expensive, and inconvenient, yet the "right to a speedy public trial by an impartial jury" has been at the core of American jurisprudence for over 200 years. The willingness of individuals such as yourself to commit the time and energy guarantees that this right will be maintained.

I trust that you acquired a greater familiarity with and appreciation of the jury's role in our system of justice. I hope you will encourage your family, friends, and neighbors to serve willingly as jurors when summoned.

I have enclosed a certificate to recognize your service. Thank you again.

Very truly yours,

Mary L. Wiseman, Judge
Common Pleas Court of
Montgomery County, Ohio

Montgomery County Common Pleas Court Certificate of Appreciation:



Montgomery County Common Pleas Court

State Of Ohio

Certificate of Jury Service
To

NAME OF JUROR

IN RECOGNITION OF RESPONSIBLE, DILIGENT AND UNSELFISH DEVOTION
TO THE CAUSE OF JUSTICE THROUGH JURY SERVICE IN THE
MONTGOMERY COUNTY COMMON PLEAS COURT

Date

Signature of Judge

APPENDIX 3:

STATEMENT ON

PROTECTING JUROR

PRIVACY



PROTECTING JUROR PRIVACY
DURING THE VOIR DIRE PROCESS
PRINCIPLES AND SUGGESTIONS
Prepared by the OJC Jury Service Committee
December 2006

Principles

Through the First Amendment, the parties, the public and the media have a coextensive right to access to court proceedings. Public confidence in the fairness of jury trials can only be maintained through such openness and access. This right of access extends to the voir dire of prospective jurors and any questionnaires submitted by prospective jurors prior to the commencement of voir dire.

Completed juror questionnaires are not public records subject to inspection under R.C. 149.43. Blank juror questionnaires, before they are sent to jurors, are public records.

For good cause shown, there may be a compelling interest that touches on a deeply personal matter that a potential juror has legitimate reasons for keeping out of the public domain. A judicial response must be narrowly tailored to serve that juror's privacy interest.

If a juror questionnaire is used, it must contain a legend complying with ¶123 of the *Bond* case. The following is a sample Bond legend:

READ THIS BEFORE ANSWERING – ALL INFORMATION ON THIS FORM MAY BE PUBLICLY DISCLOSED. IF YOU BELIEVE YOUR PRIVACY INTERESTS WILL BE HURT BY ANSWERING ANY OF THE FOLLOWING QUESTIONS, YOU MAY LEAVE THE RESPONSE LINE BLANK AND ONCE YOU ARE IN A COURTROOM, ASK FOR A HEARING TO STATE YOUR REASONS FOR LEAVING THE ANSWER(S) BLANK. THE HEARING WILL BE HELD IN THE JUDGE'S CHAMBERS, ON THE RECORD, WITH THE COURT REPORTER AND COUNSEL PRESENT. THE JUDGE MAY REQUIRE YOU TO ANSWER THE QUESTION(S).

Social security numbers, telephone numbers, and driver's license numbers may be redacted as they are on the questionnaires for identification purposes and are not part of the voir dire process.

Suggestions

Extensive and lengthy questionnaires provide counsel with information with which they can sharpen and shorten their voir dire inquiry. Concise and brief questionnaires reduce the risk of an invasion of a juror's privacy interests. A judge, for example, may determine to disclose only a prospective juror's name. A judge must balance these competing interests.

At the beginning of voir dire, the judge should announce to the jurors: "If there is a matter that is particularly private or deeply personal that you do not wish to discuss in open court, please tell me. We can then discuss the matter privately in chambers, on the record, with counsel present." If a member of the press or public subsequently requests a copy of the transcript of the in-chambers voir dire sessions,

the judge must review each in-chambers session and determine whether the prospective juror had a legitimate reason for keeping the juror's answers out of the public domain.

The prospective juror must initiate the request for an in-camera hearing.

Important Cases

State v. Drummond, 111 Ohio St.3d 14, 2006-Ohio-5084, at ¶¶ 49-60.

State ex rel. Beacon Journal Publishing Company v. Bond, 98 Ohio St.3d 146, 2002-Ohio-7117, 781 N.E.2d 180.

Press-Enterprise Co. v. Superior Court (1986), 478 U.S. 1.

Waller v. Georgia (1984), 467 U.S. 39.

Press-Enterprise Co. v. Superior Court (1984), 464 U.S. 501.

APPENDIX 4:

OCPJA CRIMINAL

BENCH BOOK



Court of Common Pleas
General Division

BENCH BOOK CRIMINAL

Edited Regularly

OHIO COMMON PLEAS JUDGES ASSOCIATION



Practice Tip:

It is mandatory that the waiver is filed in clerk's office, preferably before the trial begins.

Section II. Selection

See Appendix 4-1, Sequential Outline of Jury Trials

A. The Strike Method for Jury Selection

1. This method allows a more efficient procedure in selecting juries in both civil and criminal cases.
2. The strike method is similar to the conventional method of selecting juries but it expands the number of prospective jurors in the jury box by the number of peremptory challenges available in the trial and by the number of alternate jurors needed in the trial. For example, in a one defendant felony criminal trial with one alternate needed, 23 people would be placed in the jury box (12 jurors, 1 alternate, 4 peremptory challenges by State, 4 peremptory challenges by defendant and 2 peremptory challenges to alternate).
3. After questioning by the attorneys and after passing for cause, the attorneys exercise their peremptory challenges. If any of the 23 are excused for cause, replace that juror so that the entire panel is free from "cause" challenges before the peremptory challenges begin. The exercise of these peremptory challenges may be done in chambers or in open court. Peremptory challenges should only be made against the first 12 jurors (which changes with each challenge).
4. Judges report that the strike method for jury selection results in less disruption of the courtroom and provides less delay in excusing unneeded jurors.

B. Court Control of *Voir Dire*, Generally

1. The scope of *voir dire* is within the trial court's discretion and varies depending on the circumstances of each case.
2. All questions in the *voir dire* examination must be propounded in good faith. The character and scope of the questions cannot become standardized, but must be controlled by the court in the exercise of its sound discretion, the court having for its purpose the securing to every litigant an unbiased jury. *Dowd-Feder v. Truesdell*, 130 Ohio St. 530, ¶ 3 of syllabus (1936).
3. The character and scope of questions should be controlled by the court. Judicial discretion is not abused when a party's rights are not prejudiced. *Krupp v. Poor*, 24 Ohio St. 2d 123 (1970).
4. Authorities:

- a. Civil Rule: Civ.R. 47 (A), (B), (C)
- b. Revised Code: See Chapter 2313
- c. *State v. Dunn*, 2nd Dist. No. 16904, 2000 WL 1433873 (Sept. 29, 2000) (challenge to jury pool on grounds of systematic minority exclusion failed in criminal case).

C. Time Constraints

Decisions to be made before jury is impaneled. Impose time limits.

D. Group Jury Seating Criminal

- 1. Bailiff seats all jurors in numerical order, randomly drawn.
- 2. Bailiff/judge provides oath to all prospective jurors.
- 3. Bailiff or court insures that each juror is in an accurate seat by calling each juror's number so that counsel for both sides can identify each juror with that juror's particular number.
- 4. Courts should at least inquire as to the "cause" issues, the state and defense shall be allowed to supplement inquiry.

E. Group *Voir Dire* by the Court

- 1. Questions will be directed to all jurors and not simply jurors seated in the jury box.
- 2. Indicate to jurors that they will be referred to by juror number only.
- 3. Indicate to jurors the ability to approach the bench if personal questions or answers are needed.
- 4. Indicate the type of case: Read indictment.
- 5. Introduce the parties to the case.
- 6. Discuss the function of the court and the function of the jury as in any other criminal case. Cases decided by the evidence; explain evidence.
- 7. Discuss the qualifications to be a good juror. No right or wrong answers. Need to be truthful and answer the questions. A willingness to be fair and impartial.
- 8. Inquire as to anyone knowing any of the participants, counsel, or the defendant or the court or staff.

9. Inquire further as to anyone knowing any specific facts regarding this case. Do not discuss any of these issues in open court. These issues should be discussed at the bench in order to avoid tainting the jury pool.
10. Inquire as to whether anyone knows of any the witnesses involved. Read lists of potential witnesses.
11. Inquire regarding prior jury service and the type of cases previously decided by various jurors.
12. Inquire as to whether anyone has been a victim of crime. (Family, Friends)
13. Inquire as to whether anyone has ever been charged with a crime. (Family, Friends)
14. Inquire as to whether any juror has a prior felony conviction, as a prior felony conviction may disqualify them under certain circumstances from sitting on a jury.
15. Inquire as to anyone's relationship with any law enforcement officers such as family, friends.
16. Inquire as to whether anyone would provide law enforcement officers with more or less credibility simply because they are law enforcement officers.
17. Inquire as to physical, mental or emotional problems of any jurors.
18. Inquire as to any financial hardship for sitting on the jury or any other personal hardship.
19. Provide all seated jurors with oath.
20. Give jurors Preliminary Instructions in OJI-CR 203.03. Include social media admonitions. See OJI-CR 205.03, OJI-CR 401.09, OSBA Instruction I (C)-Jury Admonition, [Sample Instruction](#).
21. Give specific admonitions and excuse jurors for break. Explain to jurors that they may not be photographed or contacted by the press or anyone during their jury service or during any recesses while the case is progressing. Report any violations to the court.
22. Explain to jurors that they are to meet the bailiff in the jury assembly room. Explain the following terms:
 - a. You are to meet the bailiff in the jury assembly room.
 - b. You are not to enter this courtroom or any other courtroom under any circumstances unless accompanied by the bailiff.
 - c. You shall always report to the jury assembly room until you are accompanied to the courtroom by the bailiff under my instructions.

- d. Once you leave the courtroom you should not, under any circumstances, re-enter this courtroom or any other courtroom for any purpose unless you are specifically directed to do so by the bailiff.
 - e. You are to communicate with the court through the bailiff but s/he may not discuss any aspect of this case with you. The bailiff will answer questions regarding scheduling or other related matters but cannot discuss any aspect of the case with you whatsoever. Report problems to the bailiff.
 - f. If you have any particular problem, we will try to help you in any way possible and the bailiff will act as my eyes and ears with you and will report directly to my office.
23. Beyond general admonitions, if trial is being broadcast by television advise jurors as follows:
- a. You will note that these proceedings are being broadcast or photographed or recorded by members of the news media. You must not allow this fact to divert your attention from this case or to interfere with your duties as jurors.
 - b. You are not allowed to talk to members of the media during the trial and members of the media are not permitted to contact you. Should any member of the media attempt to contact you, you should notify the bailiff immediately.
 - c. Jurors may not be photographed and may not be contacted during the course of the trial. Should any violation of this occur, you shall immediately notify the court bailiff of such violation.
24. Provide at the initial jury seating and at any recess, the general admonitions found in OJI.
25. If jurors will be permitted to take notes, read special instructions from OJI. ([See Chapter 4, Section VI](#))
26. Provide jurors admonitions regarding the use of social media during or regarding trial. (See OJI)

Section III. Trial Juror Challenges

A. Challenges for Cause- Crim. R. 24(C); see also R.C.2945.25

- 1. A person called as a juror in a criminal case may be challenged for the following causes: (determined by court)
 - a. Convicted of crime that by law disqualifies him or her from serving;
 - b. Chronic alcoholic or drug dependent;
 - c. Member of grand jury that found indictment;

- d. Member of petit jury that previously heard same case;
- e. Served as juror in civil case against defendant for the same act;
- f. Juror has action pending with state or defendant;
- g. Juror or spouse is party to another action then pending where attorney in present case is for or against him or her;
- h. Juror was subpoenaed in good faith as trial witness.
- i. Juror expresses bias or enmity against the state or the defendant; but not to be disqualified based on previous opinions of guilt or innocence if the court is satisfied the juror will render an impartial verdict based on the law and the evidence.
- j. Related to victim, complainant, or defendant, by consanguinity or affinity within fifth degree;
- k. Juror is the victim, complainant or defendant;
- l. Juror is the employer or employee, spouse or child of the employer or employee or counselor, agent or attorney of the victim, complainant, or defendant;
- m. English is not native language and knowledge of English is insufficient to permit understanding of law or evidence;
- n. Otherwise unsuitable for any other cause to serve.

B. Peremptory Challenges-Crim. R. 24(D)

1. Peremptory challenges can be made in addition to challenges for cause.
 - a. Under the following circumstances, where there is a single defendant B each party may peremptorily challenge:
 - i) Misdemeanor - 3 jurors;
 - ii) Felony - 4 jurors;
 - iii) Capital Case - 6 jurors;
 - b. If there is more than one defendant, then *each* defendant may challenge the same number as if the defendant was the sole defendant.
 - c. With multiple defendants the state peremptorily may challenge a number of jurors equal to the total peremptory challenges allowed to all defendants.

- d. Treat consolidated cases as though all had been joined in same indictment, information or complaint.
2. Manner of exercising peremptory challenges:
 - a. Exercise after minimum number of jurors passed for cause;
 - b. Exercise alternatively with state going first;
 - c. Failure to exercise constitutes waiver;
 - d. If all parties, alternatively and in sequence, fail to exercise a peremptory challenge the joint failure constitutes a waiver of all remaining peremptory challenges for the panel, except for alternate jurors.

NOTE: Be careful of order when case involves multiple defendants.

NOTE: If using strike method, challenges must always be made to the first 12 jurors (*i.e.* if there are 20 jurors in the box, challenges cannot be to the 13th or 19th juror). Some judges modify this method by allowing strikes in any sequence; if so, specify to the attorneys that a literal strike method is not being used.

C. Challenges to Array-Crim. R. 24(F)

State or defendant may challenge the array of petit jurors on grounds it was not selected, drawn or summoned properly.

1. Court decides issue and must be done before the examination of the prospective jurors.
2. No array set aside nor verdict set aside if irregularity is unimportant or insufficient to vitiate.

D. Batson Challenges

1. *Batson v. Kentucky*, 476 U.S. 79 (1986) (prohibits State from purposely excluding potential jurors on grounds of race); *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614 (1991) (extends *Batson* to civil trials); *Powers v. Ohio*, 499 U.S. 400 (1991) (extends challenges under equal protection clause to any defendant regardless of race); *J.E.B. v. Alabama ex. rel. T.B.* 128 L. Ed.2d. 89, 114 S.Ct. 1419 (1994) extends *Batson* to gender).
2. Procedure to Pose a *Batson* Challenge
 - a. A party opposing a peremptory challenge must demonstrate a prima-facie basis of racial discrimination in the use of the strike by showing he or she is a member of a cognizable racial group and that the peremptory challenge will remove a member of the litigant's race from the venire. The peremptory challenge opponent is

entitled to rely on the fact that the strike is an inherently discriminating device, permitting Athose to discriminate who are of a mind to discriminate. *State v. Hernandez*, 63 Ohio St. 3d 577,589 N.E.2d 1310 (1992) certiorari denied (1992), 506 U.S. 898. The trial court should consider all relevant circumstances in determining whether a prima-facie case exists, including statements by counsel exercising the peremptory challenge, questions by counsel during *voir dire*, and patterns of strikes against minority venire members.

- b. Next, assuming a prima-facie case exists, the striking party must then articulate a race-neutral explanation Arelated to the particular case to be tried. A simple affirmation of general good faith is not enough but the explanation need not rise to the level justifying exercise of a challenge for cause. *Batson* at 97. The critical issue is whether discriminatory intent is inherent in counsel's explanation for use of the strike; intent is present if the explanation is merely a pretext for exclusion on the basis of race.
- c. Last, the court must determine whether the party opposing the peremptory strike has proved purposeful discrimination. The critical question is whether counsel's race-neutral explanation should be believed.

See *State v. Johnson*, 88 Ohio St.3d 95 at 116, 723 N.E. 2d 1054 (2000).

3. Findings

Trial judges must exercise considerable care in reviewing a claim of racial discrimination in jury selection. A judge should make clear, on the record, that he or she understands and has applied the precise *Batson* test when racial discrimination has been alleged in opposition to a peremptory challenge. In other words, were reasons offered believable and persuasive? The trial court is to decide whether granting the strike will contaminate jury selection through unconstitutional means. Because review of a *Batson* claim largely hinges on issues of credibility, appellate courts generally defer to the factual findings of the trial court. See *Batson*.

4. Time

Decisions are to be made before the juror is excused. Instruct counsel that if a *Batson* challenge is made, it must occur before the juror leaves the courtroom or is excused.

Section IV. Alternate Jurors

A. Alternate Jurors, Criminal Rule 24(F)

1. Basics:

- a. No more than six;
- b. Replace regular jurors in the order they were called;

- c. Drawn in same manner;
- d. Have same qualifications;
- e. Subject to same examination and challenges;
- f. Take same oath;
- g. Same powers, functions, facilities and privileges as regular jurors;
- h. If there are one or two alternates – each party gets one* peremptory challenges;
- i. If there are four alternates – each party gets two* peremptory challenges;
- j. If there are five or six alternates – each party gets three* peremptory challenge.

*These peremptory challenges may only be used against alternate jurors.

- 2. In non-capital cases: if alternate juror does not replace regular juror, discharge the alternate juror before jury retires to consider its verdict. Instruct alternate(s) not to re-enter the jury room. Instruct alternate that s/he is subject to the same admonitions until verdict is reached, and may be subject to recall until that time.
- 3. In capital cases, the same rules apply with the following additions:
 - a. Alternate jurors shall continue to serve if more than one deliberation is required;
 - b. If an alternate juror replaces a regular juror after the verdict, the court shall instruct the alternate juror that they are bound by the verdict;
 - c. No alternate juror shall be substituted during deliberations;
 - d. Alternate juror discharged after jury retires to consider penalty.

See R.C. 2939.03.1; R.C. 2945.29 for what to do if judge runs out of alternates. See also *State v. Braden*, 98 Ohio St. 3d 354 (2003), *State v. Group*, 98 Ohio St. 3d 248 (2002), *State v. Gross*, 97 Ohio St. 3d 121 (2002).

B. OJI 25.30 Alternate Jurors – Instructions

Jurors selected as alternates are not permitted to participate in the jury's deliberations unless one or more of the regular jurors is unable to complete (his) (her) service due to illness or other misfortune. We are pleased that no such incident has occurred. It will not be necessary for the alternate(s) to render further service in this case.

Caution to alternate(s)

Even though you will not be required to render further service in this case, the court must restrict you from discussing the case with anyone or revealing to anyone how you would have voted. After the jury has returned its verdict and it is announced in court, you are released from this restriction and at that time you may, if you wish, discuss the

case.

Comment:

Some Ohio courts, by local rule, forbid jurors ever talking to parties, attorneys or their representatives.

After the jury retires to the jury room to deliberate, you are to return to the jury assignment room for further instructions.

Comment:

Some courts call jurors for a single trial, and in such cases, jurors may be granted permission to remain in the courtroom as spectators but must be instructed to refrain from discussion of the case.

I want to acknowledge the valuable service rendered by the alternate(s) and express my thanks as well as the thanks of the community.

SECTION V. Jury View-R.C. 2945.16

- A.** Do not automatically grant a jury view request. Require the parties to specify exactly why the jury view would help this jury understand the evidence.
- B.** If you grant a jury view, plan it out beforehand with great detail and foresight. Remember, the new jury will be out of the courthouse and subject to improper influence, accident and other mishaps that could lead to a mistrial and/or adverse public policy.
- C.** Require the parties to stipulate in writing to everything the bailiff is to point out to the jury. Specify that disputes will be resolved by you at a hearing. Order the parties to refrain from any conversation during the view. Advise the jury they may not comment or gesture. Require them to speak to the bailiff or other person in charge privately on any matter requiring communication.
- D.** Arrange (by order if necessary) for the police department or sheriff=s department to provide the jury and court staff an escort to the scene.
- E.** Think through what media involvement, if any, you will permit during the jury view.
- F.** Is there a need for the Defendant to attend? Consider obtaining a waiver of defendant's statutory right to attend a jury view. If no waiver is forthcoming, insist that the defendant remain in the custody of the sheriff and in the sheriff's vehicle. If attendance is waived, make a written or oral record.

State v. Were, 118 Ohio St.3d 448 at 462, 890 N.E.2d 448 (2008) is leading case. The Defendant's attendance at the view is not a constitutional right. Is there any material prejudice to the Defendant in not attending? Consider whether his attorney's presence is sufficient.

- G.** Try to anticipate and plan your response should any individual connected to the defendant, the victim's family or the community at large will try to make a statement or stage a demonstration or other event at the jury view.

Section VI. Jury Note-Taking

A. Principles

A trial court has the discretion to permit or prohibit note-taking by jurors. If a trial court determines that a particular case warrants note-taking, the court can, *sua sponte*, furnish jurors with materials for notes and instruct the jurors that they are permitted to take notes during the trial.

See *State v. Waddell*, 75 Ohio St. 3d 163 (1996).

B. Jury Instructions

1. Note-Taking Prohibited

The court will not permit (further) note-taking by the jurors. The taking of notes may distract you from the evidence while you are writing.

2. Note-Taking Permitted

- a. The court will permit those jurors who desire to take notes during the trial to do so. No juror is required to take notes; the taking of notes is entirely up to you.
- b. The fact that someone has taken notes does not make that juror's memory more reliable than that of the jurors who do not take notes.
- c. Do not let note-taking divert your attention from what is being said or is happening in the court room during the trial. Some persons believe that taking notes is not helpful because it may be too distracting and might interfere with your ability to hear all the evidence. The choice is yours.
- d. All notes are confidential to the note-taker. Leave your notes face down on your chair during all recesses and until deliberations begin. At that time, you will be allowed to take your notes to the jury room. All notes will be destroyed when the jury is discharged.

C. Practice Tip

Instructions should be given as part of any preliminary instructions and then repeated at the closing.

Section VII. Questions by Jurors During Trial-Crim R. 24(J)

A. Principles

Criminal Rule 24(J) provides as follows:

(J) Juror questions to witnesses. The court may permit jurors to propose questions for the court to ask of the witnesses. If the court permits jurors to propose questions, the court shall use procedures that minimize the risk of prejudice, including all of the following:

- (1) Require jurors to propose any questions to the court in writing;
- (2) Retain a copy of each proposed question for the record;
- (3) Instruct the jurors that they shall not display or discuss a proposed question with other jurors;
- (4) Before reading a question to a witness, provide counsel with an opportunity to object to each question on the record and outside the hearing of the jury;
- (5) Read the question, either as proposed or rephrased, to the witness;
- (6) Permit counsel to reexamine the witness regarding a matter addressed by a juror question;
- (7) If a question proposed by a juror is not asked, instruct the jurors that they should not draw any adverse inference from the court's refusal to ask any question proposed by a juror.

NOTE: The decision whether to allow questions by the jury lies within the trial court's decision.

B. Jury Instructions-OJI CR 401.21

1. Questions Prohibited

"You are not permitted to ask questions of witnesses. It is the responsibility of the lawyers to present all the evidence necessary for you to decide the issues in this case."

2. Questions Permitted

"You are permitted to submit questions for the witnesses to answer. You must submit your question in writing. If you have a question, wait until the end of the questioning of the witness by the lawyers. When the questioning is finished, I will ask if you have any questions. If you do, raise your hand and you will be furnished with pen and paper so that you may write your question. You must not display or discuss your question with other jurors.

The written question will be delivered to me for consideration, and I will decide whether the question may be asked of the witness and in what form. You should not draw any conclusions if your question is not asked."

C. Practice Tip

Instructions should be given as part of any preliminary instructions and then repeated at the appropriate time during trial, if permitted.

See *State v. Fisher*, 99 Ohio St. 3d 127, 789 N.E.2d 222 (2003), predated amendment to Criminal Rule 24(J).

Section VIII. Questions by Jurors During Deliberations

A. Principles

1. Jurors have historically been permitted to address questions to the court during deliberations. The procedure for response is within the discretion of the court. To minimize prejudicial results, the trial court may adopt the following procedure:
 - a. Instruct the jury about procedure for questions during deliberation;
 - b. Advise counsel and parties on the record after the jury has departed about the procedure that will be followed;
 - c. Have all questions from the jury submitted in writing, signed by the foreman or forewoman of the panel, and given to the bailiff who delivers the question to the judge;
 - d. Judge marks question as exhibit and reads the question into the record in the presence of counsel and the parties (ensure defendant is present);
 - e. After discussion, the judge writes the response to the jury questions and signs it. A written admonition to “save this paper” is provided. Orally give response at jury room door with court reporter present. Give note to court reporter for the record.
2. No statute or rule governs how a court handles questions from a deliberating jury on either law or fact. Questions on law generally are resolved by reference to written Jury Instructions.
3. If instructions on law are repeated to a deliberating jury, a cautionary instruction should be given that says this repeated instruction does not minimize the importance of all other instructions. OJI-CR 429.07 has sample language.
4. Answers on questions about facts are within the discretion of the court, and if information is given, it must be done fairly and impartially. Procedures available include playing portions of a videotape or audiotape or by a partial reading from the trial reporter’s notes or from an item of evidence.

B. Authority

1. **Supreme Court Rules of Superintendence Ohio Trial Court Jury Case and Management Standard 18 Jury Deliberations**

- a. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16C. See OJI-CR-425.37 Conduct while deliberating.

2. Criminal

- a. **Interrupting deliberations**

Set forth instructions for general interruptions of deliberations. Anticipate interruptions for meals, using the telephone during recesses, and overnight adjournment. See OJI-CR 429.01

- b. **Questions by the jury**

Set forth general instructions for dealing with jury questions regarding evidence and instructions advising jurors to exhaust the collective memory of the group before submitting questions. See OJI-CR 429.05.

- c. **Additional instructions on matters of law**

Set forth instructions on giving additional instructions at the request of the jury. See OJI-CR 429.07.

- d. **Possibility of verdict**

Set forth instructions on the difficulty and importance of reaching a verdict as well as instructions when a verdict is impossible, and when a verdict is possible but the jury is deadlocked. See OJI-CR 429.09.

C. Jury Instruction

1. Jury has a question

If during your deliberations you have a question, it should be discussed in the privacy of your jury room. It should not reflect the status of your deliberations. It should be reduced to writing so that there will be no misunderstanding as to what you request. It should then be delivered to the bailiff who will submit it to the court.

See OJI-CR 429.05

2. Questions as to the law or the evidence

It may be difficult to remember all the evidence or the law. If you disagree as to the evidence or as to the law, the court may under certain circumstances furnish such information. Do not make a request at this moment. If, after you return to the jury room, you require such information, the foreman should reduce the request to writing, indicating specifically what you request. Such communication must be delivered to the bailiff who will submit it to the court.

See OJI-CR 429.05

3. Verdict possible – Deadlocked jury

In a large proportion of cases, absolute certainty cannot be attained or expected. Although the verdict must reflect the verdict of each individual juror and not mere acquiescence in the conclusion of other jurors, each question submitted to you should be examined with proper regard and deference to the opinions of others. It is desirable that the case be decided. You are selected in the same manner, and from the same source, as any future jury would be. There is no reason to believe the case will ever be submitted to a jury more capable, impartial, or intelligent than this one. Likewise, there is no reason to believe that more or clearer evidence will be produced by either side. It is your duty to decide the case, if you can conscientiously do so. You should listen to one another's opinions with a disposition to be persuaded. Do not hesitate to reexamine your view and change your position if you are convinced it is erroneous. If there is disagreement, all jurors should reexamine their positions, given that a unanimous verdict has not been reached. Jurors for acquittal should consider whether their doubt is reasonable, considering that it is not shared by others, equally honest, who have heard the same evidence, with the same desire to arrive at the truth, and under the same oath. Likewise, jurors for conviction should ask themselves whether they might not reasonably doubt the correctness of a judgment not concurred in by all other jurors.

See OJI-CR 429.09

4. Verdict impossible

It is conceivable that after a reasonable length of time honest differences of opinion on the evidence may prevent an agreement upon a verdict. When that condition exists you may consider whether further deliberations will serve a useful purpose. If you decide that you cannot agree and that further deliberations will not serve a useful purpose, you may ask to be returned to the courtroom and report that fact to the court. If there is a possibility of reaching a verdict, you should continue your deliberations.

See OJI-CR 429.09

D. Additional Information Sources

1. Jury Trial Guide

The Ohio Supreme Court Jury Trial Innovations project. The manual contains a suggested guide for jury deliberation. Page 21 reads as follows:

- a. *Question:* What if we don't understand or are confused by something in the judge's instructions, such as a legal principle or definition?

Answer: Ask the judge because you must understand the instruction in order to do a good job.

- b. *Question:* Is there any type of information we cannot ask for from the judge?

Answer: Yes. Some examples of information you cannot ask for include:

- i) Police reports, doctors' reports, etc., that were referred to during the trial, but were not received in evidence as an exhibit.
 - ii) A reading back of the testimony of witnesses. You will be required to rely upon your collective recollections and notes for testimony of the witnesses.
 - iii) Reports and other information that were not referred to during the trial, but which you assume might or should be available.
 - iv) There may be some other information you ask for that the judge is not permitted to give you.
- c. *Question:* Are there items or other things that we might ask for that would assist us in our review and understanding of the evidence?

Answer: Yes. You may ask for a calculator, VCR for playing tapes that were admitted into evidence, tape player, easel and paper, blackboard, chalk and items of that nature.

2. Sample jury instruction:

If during your deliberations, questions arise concerning my instructions, the law, or the evidence, I may, under certain circumstances, furnish answers to them. The question(s) should not reflect the status of your deliberations. Any such questions should be reduced to writing by the foreman or forewoman, indicating specifically what is requested. The foreman or forewoman should notify the bailiff (by ringing the bell), and deliver the questions to the bailiff. The ultimate aim of all jury instructions is to help the jury. The written copy of the instructions of the law that the court has previously given each of you should help to avoid most, if not all, questions during deliberations.

Section IX. Verdicts

A. Criminal Rule 31

Criminal Rule 31 provides as follows:

- (A) Return.** The verdict shall be unanimous. It shall be in writing, signed by all jurors concurring therein, and returned by the jury to the judge in open court.
- (B) Several defendants.** If there are two or more defendants the jury at any time during its deliberations may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed. If the jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again.
- (C) Conviction of lesser offense.** The defendant may be found not guilty of the offense charged but guilty of an attempt to commit it if such an attempt is an offense at law.

When the indictment, information, or complaint charges an offense including degrees, or if lesser offenses are included within the offense charged, the defendant may be found not guilty of the degree charged but guilty of an inferior degree thereof, or of a lesser included offense.

NOTE: A Defendant has no right to decline an instruction on a lesser included offense. Instructions on lesser offenses are within the Court's discretion and should be given when the evidence presented could reasonably support a conviction on a lesser offense. *State v. Wine*, 2014-Ohio-3948.

(D) Poll of jury. When a verdict is returned and before it is accepted the jury shall be polled at the request of any party or upon the court's own motion. [See Section X of these materials.] If upon the poll there is not unanimous concurrence, the jury may be directed to retire for further deliberation or may be discharged.

B. Offenses with various degrees of severity. (Added 7/27/17)

(A) R.C. 2945.75 should to be consulted along with *State v. Pelfrey*, 112 Ohio St.3d 422 (2007) and *State v. Eafford*, 132 Ohio St.3d 159 (2012).

(B) The practical point to understand is that the Verdict Form must include either (1) the degree of the offense which the jury considers or (2) all the elements of the offense, notably those that elevate the offense to a higher degree. If either (1) the degree of the offense is not stated on the Verdict Form or (2) the element(s) which increase the level of the offense is/are not included, then the Defendant must be found guilty of the lowest degree of the offense.

(C) Practice Suggestion. Provide a separate jury interrogatory for the additional element(s) which increase the degree of the offense, such as the weight of the drug, or the type/schedule of drug involved, or the location of the offense, etc. See Civil Rule 49(B) and its purpose to test the general verdict since the Civil Rules can be applied per Criminal Rule 57(B).

(D) NOTE: For a discussion of the jurisprudence involving an offense where there are alternative means to commit the offense, see *State v. Gardner*, 118 Ohio St.3d 420 (2008); *State v. Adams*, 144 Ohi St.3d 429 (2015).

C. Verdict in Writing-R.C. 2945.171

In all criminal cases the verdict of the jury shall be in writing and signed by each of the jurors concurring therein.

CAUTION- Review Verdict Forms: Where an offense could be various degrees, the verdict form must either (1) state the degree of the offense; or (2) include the aggravating element(s) that make it a higher level. *See State v. McDonald*, 137 Ohio St. 3d 517 (2013).

Practice Tip: Additionally, consider whether the aggravating element(s) could be the subject of a separate verdict form, such as is required for a firearm specification, etc. This method will test the verdict process and eliminate possible confusion or questions about the degree of the offense.

D. Recording the Verdict-R.C. 2945.78

When the verdict given is such as the court may receive, it must be immediately entered in full upon the minutes.

E. Practical Pointer on Verdicts

In a criminal case, file and journalize the verdict forms with your clerk of courts.

Section X. Polling the Jury

A. Poll of Jury-Crim.R. 31(D)

When a verdict is returned and before it is accepted, the jury shall be polled at the request of any party or upon the court's own motion. If upon the poll there is not unanimous concurrence, the jury may be directed to retire for further deliberation or the jury may be discharged.

B. Polling Jury-R.C. 2945.77

When the jurors agree upon their verdict, they must be conducted into court by the officer having them in charge. Before the verdict is accepted, the jury may be polled at the request of either the prosecuting attorney or the defendant. If one of the jurors, upon being polled declares that said verdict is not his verdict, the jury must further deliberate upon the case.

C. Practical Pointers on Polling

1. Either counsel may request polling and the court may initiate on its own motion. Ask both parties whether they would like to poll the jury.
2. Polling is required upon counsel's request, however, the criminal rule is silent as to the procedure proscribed. Crim. R. 31 (D). However, Civ. R. 48 states "the jury shall be polled by asking each juror if the verdict is that of the juror."
3. Recommended practice is to poll each individual juror by name or summons number which can be matched up with names for the record (addressing by summons or seat number may be best when jurors fear reprisal in a high profile criminal matter).

4. Explain to your jurors that the attorney has a right/intent to request that they be polled; otherwise they may be intimidated, especially in a criminal case.

Appendix 4-1, Sequential Outline of Jury Trials (Updated 6-12-18)

This general outline is suggested to ensure all aspects of the trial are considered and in the approximate order; thought should be given to modifications that may be appropriate on a case by case basis.

A. Introductory Remarks

1. Thank Jurors for Attendance/Remarks re: Civic Duty, Contribution to Justice System
2. The case on for trial: State of Ohio, Plaintiff, vs. _____, Defendant
Case No. _____

This is a criminal case. An indictment has been returned by the Grand Jury alleging that.... (Read indictment or generally explain the type of charges involved).

3. Court personnel:

- a. Court Reporter: _____
- b. Bailiff: _____
- c. Clerk, if any: _____

4. Prosecutor: _____ and State's representative: _____

5. Defense counsel: _____ and Defendant: _____

6. Qualified jurors

B. Voir Dire / Jury Selection

1. Opening remarks and orientation
2. Oath and remarks to panel of prospective jurors
3. Court's inquiry of prospective jurors
4. Rules of *voir dire* for counsel
5. Mini opening statements, if made, by counsel (this may better be done earlier, if made)
6. Counsel's *voir dire* inquiry
7. Juror challenges (for cause and peremptory)
8. Selection of alternate juror(s). Consider not identifying the alternate jurors until end of case
9. Panel of jurors given oath

10. Recess instruction

C. Admonitions (see OJI CR 401.11)

1. General duties of jurors
2. Avoiding media reports; cell phone distractions; independent and internet research, etc.
3. Procedure, expected duration for trial, length of days

D. Preliminary Instructions Given

1. Purpose of instructions
2. General duties of jurors
3. Roles of participants
4. Objections and rulings thereon
5. Burden of proof
6. Elements of crime (optional) or issues in civil trial (negligence etc.)
7. Necessary definitions
8. Direct and circumstantial evidence
9. Credibility of witnesses
10. Use of written or video questions
11. Note taking and jurors questions
12. Jury view if requested

E. Opening Statements

1. Explanation to jury of purpose

F. Order of Presentation of Evidence

1. State's case
2. Rule 29 motions.
3. Defense's case, if any. Defendant has no burden of proof

4. Rebuttal case and sur-rebuttal case, if any.

G. Jury Instruction and Charge Conference s and/or Direction of Issues

1. Consideration of special instructions requested by counsel
2. Approval of final charge to jury by counsel
3. Counsel's objections to general charge noted on the record

H. General Charge Given (including preliminary instructions and instructions given during the presentation of the evidence)

1. Introduction
2. Evidence, direct and circumstantial
3. Inferences and Opinions (lay and expert)
4. Credibility of witnesses
5. Burden of proof
6. Instruction on consideration of punishment (criminal)
7. Presentation of issues: Criminal
 - a. Statute(s) violated
 - b. Elements of crime(s)
 - c. Definitions
 - d. Stipulated facts and/or issues
 - e. Prior convictions and other acts, if appropriate
 - f. Defendant's silence
 - g. Defense and burden of proof, if appropriate
 - h. Specifications, special findings

I. Final Argument by Trial Counsel

J. Final Instructions for the Jury

1. Introduction
2. Conduct during deliberations
3. Questions /contacting the court during deliberations
4. Verdict forms and interrogatories, if any
5. Dismiss Alternate Juror

6. Jury retires to deliberate.

K. Receiving the verdict of the Jury

1. Polling the jury, if requested

L. Thanking and Dismissing the Jury

APPENDIX 5:

AMCJO

BENCH BOOK



AMCJO Bench Book

A QUICK REFERENCE GUIDE FOR
MUNICIPAL & COUNTY COURT JUDGES

AMCJO BENCH BOOK COMMITTEE

AMCJO JUDICIAL PRACTICE & PROCEDURE COMMITTEE

JURY TRIAL PREPARATION

SCOPE

This article discusses advice for preparing for a jury trial from other trial judges. Your pre-trial preparation, policies, procedures, and local Court rules will allow you the best chance of success for a smooth jury trial. This list is by no means exhaustive, but as a Judge, you can count on having each of these issues come to your attention within your first two or three jury trials.

FINAL PRE-TRIAL

1. The mechanism to conduct an informative and candid discussion of all issues at a final pre-trial is crucial. The various requirements of the final pre-trial should be set forth in your local court rules, including:
 - a. The mandatory presence of the Defendant
 - b. Attorneys present have full authority to act and negotiate
 - c. The attorneys should be the actual attorneys at trial
 - d. All discovery should be exchanged and fully reviewed by counsel prior to the final pre-trial
2. Require a final pre-trial statement involving various factors including:
 - a. Statement of the issues of fact involved
 - b. All expected questions of law
 - c. Exhibits expected to be offered as evidence at the trial
 - d. Names and addresses of all expert and lay witnesses expected to be called
 - e. Whether or not a jury view is requested
 - f. Whether or not a jury trial will be waived
3. The final pre-trial statement should be due no later than the date of the final pre-trial
4. Any anticipated evidentiary issues should be discussed. This allows you a little more time to check the Bench Book for answers.
5. Discovery issues must be resolved. Make sure discovery is completed.
6. Requests for special equipment: Power Point, Overheads, Audio/Video etc.
7. Establish and let it be known that you require a candid conversation with both counsel prior to a jury trial being held, regarding the factors stated in the final pre-trial statement as well as the strengths and weaknesses of each case. CAVEAT: Do not allow this to become an *ex parte* situation.
8. To the extent that a Judge has the say as to whether the case goes to jury trial or not, *i.e.* whether to accept a recommendation of a plea to the charge, the final pre-trial is the time to ferret out the information needed for you as the Judge to decide whether the case is worthy to go to a jury trial. This would come into play in the criminal arena regarding whether the Judge wishes to accept and approve a recommended plea agreement.

MOTIONS *IN LIMINE*

1. To the extent possible, require that the motions *in limine* also be filed prior to the day of trial. If you anticipate a significant number of pre-trial motions, consider holding an evidentiary hearing prior to the jury trial date.
2. [Crim.R. 45\(D\)](#) requires that all motions and notices of hearings regarding the motions be served at least 7 days prior to the hearing date unless a different period is fixed by rule or order of the court.
3. Requiring motions *in limine* to be filed before the date of trial will potentially give you additional time, rather than on the morning of trial, to sort through, hear arguments, and decide said motions.

ESTABLISH A PLEA POLICY

1. Large courts v. small courts
 - a. Large courts have a juror pool which is required to be present every day for potential trials.
 - b. Small courts must summon a new panel of jurors for each jury trial.
2. Example: Generally, in smaller jurisdictions, several trials are scheduled for each panel and jury summons cards are mailed for that trial date at least two (2) weeks in advance. These Jury Summons Cards also give the juror a "Jury Hot Line Number" to call day or night to check on the current trial status. In some Courts, a plea to anything other than the original charge must be approved by the judge before Jury Summons Cards are mailed. In my court, this is known as the "Per-Jury Trial Pre-Trial" conducted the day prior to trial. After the "Pre-Jury Trial Pre-Trial", the oldest case without a time waiver, that remains unresolved, is assigned to go to trial with only three available options: (1) An unconditional plea of Guilty. (2) A dismissal by the State, or (3) A Jury trial. There are of course, exceptions in the interest of justice and the Court's docket.

JURY INSTRUCTIONS

1. USE THE OHIO JURY INSTRUCTIONS
 - a. A committee appointed by the Supreme Court, formulates recommended jury instructions that cover 95% of jury trial issues.
 - b. The above is especially true for the standard introductory remarks, preliminary instructions to the jury, recess instructions, charge by court to the jury, final instructions, and verdict forms.
2. When counsel wishes to have special jury instructions (non-standard OJI instructions), the following will be helpful:
 - a. Require them to prepare jury instructions to review before the jury trial date.
 - b. Require counsel to submit proposed jury instructions in electronic format as well as hard copy format.
 - c. Require that they identify whether the instruction is a standard OJI instruction with the accompanying OJI number or if it is a special instruction or a combination of a standard OJI with changed verbiage for a special instruction.
 - d. Require that the case law basis be put at the bottom of the proposed jury instruction. Be prepared to have them explain in detail the need for the special instruction or the reason why the standard OJI was modified to add some special language.
3. For sample instructions for an entire trial from start to finish, as well as some special instructions, see the "Jury Instruction" section of this Bench Book.

GENERALLY

1. It is your courtroom to control.
2. Prepare to decide, establish policies, and set a precedent regarding the small matters as well as the large matters. Suggestions:
 - a. Requiring (or not) jury trial demands in a formal motion
 - b. Accepting pleas on the date of trial
 - c. Continuance of jury trials
 - d. Timeliness of the parties, witnesses, and their attorneys
 - e. Recesses
 - f. When to break for lunch
 - g. Dress code for parties and witnesses - hopefully you won't have to remind the attorneys

- h. Code for behavior regarding the attorneys addressing the court, each other, and witnesses
- i. Last minute motions – whether to have the hearing on the motion before trial or to reset the trial and have a motion hearing in its place
- j. Emergencies, which raise the issues as to whether the jury trial should be cancelled
- k. Special equipment requests and setting up the same in a timely manner so as to not disrupt the cadence of the trial.

NOTES

SUMMONING JURORS

SCOPE

This article discussing the procedure for summoning jurors and their rights

REFERENCES

ORC Chapter 2313
ORC §149.43

SELECTION AND NOTICE

1. Jurors shall be selected quarterly in the manner provided by R.C. Chapter [2313](#).
2. The number of Jurors selected shall be sufficient to insure that prospective jurors will not be called to serve on a rotating basis more than every five (5) to six (6) weeks.
3. When a juror reports of service, the bailiff shall seat the prospective juror in the Courtroom to the exclusion of all other persons except other jurors.

NOTIFICATION

1. The Clerk shall notify each prospective juror of his or her being drawn for jury service and send each prospective juror a Juror Questionnaire form to be completed and returned to the Court within ten (10) days.
2. All jurors shall be notified of jury service at least two (2) weeks prior to that service by postal card and each juror shall be provided a phone number to call for a recorded message concerning the current status of that service.

EXCUSES

1. Excuse from jury duty is governed by R.C. [2313.16](#). The court is authorized to delegate the authority to make determinations as to whether a juror should be excused.
2. The court shall not excuse a person from jury service unless it is shown to the satisfaction of the judge that one or more of the following applies:
 - a. The juror has a mental or physical condition that causes the juror to be incapable of performing jury service-this condition must be supported by a physician's documentation. R.C. [2313.16](#) (A)(4).
 - b. The juror can demonstrate that jury service would cause "extreme undue physical or financial hardship." R.C. [2313.16](#) (A)(5) and (C)(1)(a-c).
 - i. "Extreme undue physical or financial hardship" is limited to circumstances in which any of the following would occur:
 - a. Juror would be required to abandon a person under their personal care;
 - b. Juror would incur costs that would have a substantial adverse impact on the payment of daily living expenses;
 - c. Juror would suffer physical hardship that would result in illness or disease.
 - d. The fact that a juror would have to be absent from their place of employment alone is not "extreme undue financial hardship."
 - e. The juror is a member of a "Recognized Amish Sect" and holds a sincerely held belief against passing judgment on another person. R.C. [2313.16](#) (A)(7) (See Forms).

- f. The juror informs the court that they are over seventy-five (75) years of age and would like to be excused. R.C. [2313.16](#) (A)(6).
3. A person is excused permanently from jury service only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature. R.C. [2313.16](#) (B).
4. A perspective juror who requests to be excused from jury service shall take all actions necessary to obtain a ruling on that request by not later than the date of the scheduled jury trial. The perspective juror shall inform a court employee of the request by appearing in person, or by telephone, in writing, or by E-mail. R.C. [2313.16](#) (B)(1-2).

POSTPONEMENT

1. The court must postpone a juror's initial appearance for jury duty provided the juror has not previously been granted a postponement and
 - a. The juror contacts the court at least 2 business days before the initial appearance and
 - b. Agrees to appear on a specified date within six months of the originally scheduled appearance, unless extraordinary circumstances exist. R.C. [2313.13](#)(A).
 - c. Authorizes the court to grant a second postponement in the event of extreme emergency (i.e., death in family, sudden illness). R.C. [2313.13](#)(B).
2. The juror may
 - a. Appear in person or
 - b. Contact the appropriate court employee by
 - i. Phone,
 - ii. Writing, or
 - iii. Email to make the request for postponement. R.C. [2313.13](#)(A).
 - c. Employment - The court is required to postpone and reschedule the service of jurors when it is demonstrated to the satisfaction of the court that the juror is employed by an employer with
 - i. Less than 26 full-time employees and
 - d. Another employee was summoned during the same term or part of term of court.
 - e. This postponement does not count as the potential juror's automatic postponement outlined above. R.C. [2313.18](#) (C).

EMPLOYER PROHIBITIONS

An employer may not

1. Take any disciplinary action that could lead to the discharge of any permanent employee as a result of being summoned to serve as a juror. R.C. [2313.18](#)(A).
2. Requiring or requesting employees to use annual, vacation, or sick leave for time spent on a jury. R.C. [2313.18](#)(B).

FINE FOR FAILURE TO APPEAR FOR JURY SERVICE

The minimum fine is \$100.00. R.C. 2313.99

The maximum fine is \$250.00. R.C. 2313.99

COURT COSTS FOR SUMMONING JURORS

Court costs for summoning jurors are permitted to be included in the costs of prosecution, if the defendant fails to appear without good cause. The costs are to be paid to the public treasury that pays for jurors. R.C. [2947.23](#).

JUROR PRIVACY DURING *VOIR DIRE*

1. Through the First Amendment, the parties, the public and the media have a right to access to the *voir dire* of prospective jurors and any questionnaires submitted by prospective jurors prior to commencement of *voir dire*.
2. Juror Questionnaires
 - a. Completed questionnaires are not public records under R.C. [149.43](#).
 - b. Blank questionnaires, before they are sent to jurors, are public records.
 - c. Social security numbers, telephone numbers, and driver's license numbers may be redacted because they are only on the questionnaires for identification purposes.
3. Potential Juror's Privacy Interest
 - a. For good cause shown, there may be a compelling interest that touches on a deeply personal matter that a potential juror has legitimate reasons for keeping out of the public domain. A judicial response must be narrowly tailored to serve the juror's privacy interest.
 - b. During *voir dire*, a prospective juror may request an *in camera* or side bar hearing to discuss matters that are particularly private or deeply personal that he or she does not wish to discuss in open court.
 - i. Counsel is present at the hearing and the hearing is on the record.
 - ii. The judge must review each request by a member of the press or public for a copy of the transcript in chambers session and determine whether the prospective juror had a legitimate reason for keeping his or her answers out of the public domain.

NOTES

JURY EXAMINATION AND SELECTION

SCOPE

This article discusses pertinent issues for examination and selection of the jury panel.

REFERENCES

ORC Chapter 2945
Ohio Criminal Rules 23 and 24

REQUIRED NUMBER OF JURORS

Number of jurors in each case ([Crim.R. 23\(B\)](#))

1. Felony cases – 12 members
2. Misdemeanor cases – 8 members
3. For cases involving a felony and a misdemeanor – 12 members
4. For cases involving a felony and a misdemeanor and multiple defendants joined for trial – 12 members

EXAMINATION OF PROSPECTIVE JURORS

1. To assist prospective jurors in understanding the general nature of the case, the court, in consultation with the parties, may give jurors a brief introduction to the case. ([Crim.R. 24\(A\)](#)).
2. Any person called to be a juror must be examined under oath or affirmation as to their qualifications to become a juror. (R.C. [2945.27](#) and [Crim.R. 24\(B\)](#)). The following may conduct the examination:
 - a. Attorney for the defendant
 - b. Defendant (if appearing *pro se*)
 - c. Attorney for the state
 - d. Court
3. Oath before court begins questioning prospective jurors:

“Do you solemnly swear or affirm that you will truly and fully answer all questions put to you by the Court and Counsel in this case now called for trial, and this you will do under the penalty of perjury.” If so, answer “I do.”
4. Types and purposes of questions that may be asked during this examination:
 - a. “The overriding purpose of the voir dire is to examine the prospective jurors and determine whether a potential juror both meets the statutory qualifications of a juror and is not biased or prejudiced towards either litigant.” **Vega v. Evans** (1934), 128 Ohio St. 535; *cited by State v. Neal*, 2009-Ohio-1743 (6th Dist.).
 - b. “The scope of the inquiry will not be confined strictly to the subjects which constitute grounds for the sustaining of a challenge for cause; but it extends beyond such subjects it must be conducted in good faith with the object of obtaining a fair and impartial jury and must not go so far beyond the parties and the issues directly involved that it is likely to create a bias, prejudice, or an unfair attitude toward any litigant.” *Id.* at paragraph two of the syllabus.
 - c. Although questions regarding religion are permissible during voir dire, they must be presented for the sole purpose of determining whether bias exists, and not done in a mode or manner that creates bias, prejudice, or unfair attitude toward any litigant.” **State v. Jones** (1984), 20 Ohio App.3d 331.

5. No prospective juror shall fail to answer any legal and pertinent question put to him or her by the court and that the court shall inform prospective jurors of their right to request an in-camera hearing regarding such questions. The court is not required to hold an in-camera hearing unless the information contained in the response has been requested and the prospective juror requests that the information not be released. (R.C. [2313.11](#))

CHALLENGES

CHALLENGES FOR CAUSE

1. The court should at least inquire as to the cause issues before the state and defense question the jurors.
2. The state and defense shall be allowed supplemental inquiry regarding cause issues.
 - a. It is the judge's discretion to direct the cause questions to all jurors or simply the
 - b. jurors seated in the jury box. There are various pros and cons to each approach:
 - c. By questioning all jurors, any issues as to cause can be fully addressed with those seated in the jury box and touched upon for those jurors who are not seated, therefore giving advance warning to the counsel of record before their questioning begins.
 - d. By questioning all jurors, you may waste time initially exploring a cause issue on a juror that will never be seated in the jury box.
 - e. Regardless of how you choose to question on issues of cause, you should address every seated juror regarding the issue of cause before allowing counsel to question said juror.
3. Challenges for cause (R.C. [2945.25](#) and [Crim.R 24\(B\)](#))
 - a. A juror may be dismissed for the following reasons:
 - i. The juror has been convicted of a crime which by law renders the juror disqualified to serve on a jury.
 - ii. The juror is a chronic alcoholic, or drug dependent person.
 - iii. The juror was a member of the grand jury that found the indictment in the case.
 - iv. The juror served on a petit jury drawn in the same cause against the same defendant, and the petit jury was discharged after hearing the evidence or rendering a verdict on the evidence that was set aside.
 - v. The juror served as a juror in a civil case brought against the defendant for the same act.
 - vi. The juror has an action pending between him or her and the State of Ohio or the defendant.
 - vii. The juror or the juror's spouse is a party to another action then pending in any court in which an attorney in the cause then on trial is an attorney, either for or against the juror.
 - viii. The juror has been subpoenaed in good faith as a witness in the case.
 - ix. The juror is possessed of a state of mind evincing enmity or bias toward the defendant or the state; but no person summoned as a juror shall be disqualified by reason of a previously formed or expressed opinion with reference to the guilt or innocence of the accused, if the court is satisfied, from the examination of the juror or from other evidence, that the juror will render an impartial verdict according to the law and the evidence submitted to the jury at the trial.
 - x. The juror is related by blood or law within the fifth degree to the victim, complainant, or defendant.
 - xi. The juror is the victim of the offense charged, complainant, or the defendant.
 - xii. The juror is the employer or employee, or the spouse, parent, son, or daughter of the employer or employee, or the counselor, agent, or attorney, of the victim, complainant, or defendant.

- xiii. English is not the juror's native language, and the juror's knowledge of English is insufficient to permit the juror to understand the facts and the law in the case.
 - xiv. That the juror is otherwise unsuitable for any other cause to serve as a juror.
 - b. Challenges for cause by state and defense
 - i. After the judge has questioned jurors for cause, the State begins its voir dire of the eight impaneled members only.
 - ii. At the end of the State's questioning, if the State has no objections for cause, the defense begins its questioning.
 - iii. If the State challenges a juror for cause, the court must make a ruling and has the discretion to make further inquiry as to whether or not the juror can be fair and impartial or other relevant inquiry. If the challenge for cause is sustained, the juror is excused with thanks and a new juror is seated. The State can then conduct voir dire on the new juror only and the process continues.
 - iv. Under R.C. [2313.42\(A\)](#) there are ten principal challenges to prospective jurors. Challenges (A) – (I) do not call for judicial discretion. These nine challenges to a juror, if raised at trial and found to be valid, result in a presumption of disqualification. The trial court must dismiss the juror and cannot rehabilitate the juror or allow that juror to stay on the panel based on the juror's pledge of fairness.
 - 1. The tenth principal challenge to prospective jurors is found in [2313.42\(J\)](#). This challenge calls for judicial discretion in determining the potential juror's impartiality and fairness.
 - 2. In this case, the juror was challenged under section E. After questioning the juror, the court denied Hall's challenge for cause.
 - 3. The Supreme Court held that the trial court was barred from exercising discretion and was required to dismiss the juror once it was established that the challenge was valid. [Hall v. Banc One Mgt. Corp.](#) (2007), 114 Ohio St.3d 484, 2007-Ohio-4640; [Grundy v. Dhillon](#), 120 Ohio ST. 3d 415, 2008-Ohio-6324.
- 2. Once all jurors are passed for cause by both sides, the preemptory challenges begin.

PEREMPTORY CHALLENGES

1. Challenges for cause are to be exercised alternately, with the first challenge exercised by the state. [Crim. R. 24\(E\)](#)
 - a. Number of strikes ([Crim. R. 24\(D\)](#), R.C. [2945.21\(A\)](#))
 - i. If there is one defendant, each party is entitled to strike 3 jurors in misdemeanor cases, 4 jurors in felony cases, and 6 in capital cases.
 - ii. If there are multiple defendants, each defendant may strike the same number as above as if they were the sole defendant.
 - iii. The prosecuting attorney may also strike a number of jurors equal to the total that the combined defendants may strike.
 - b. Failure to exercise a preemptory challenge constitutes waiver for that turn only unless all parties, ultimately and in sequence, fail to exercise preemptory challenge. The joint failure constitutes a waiver of all preemptory challenges.
2. Challenging the array – [Crim.R. 24\(F\)](#)
 - a. The prosecuting attorney or attorney for the defendant may challenge the array of petit jurors on the ground that it was not selected, drawn or summoned in accordance with the law before the examination of jurors. [State v. Walker](#), 2009-Ohio-1936 (2nd Dist.)
 - b. A challenge to the array shall be made before the examination of the jurors *Batson* challenges - The U.S. Supreme Court in [Batson v. Kentucky](#) (1986), 476 U.S. 79 prohibited the State from

purposely excluding potential jurors on the grounds of race. The Court in [*Powers v. Ohio*](#) (1991), 499 U.S. 400 extended the challenges under the equal protection clause to any defendant regardless of race. The Court also extended *Batson* to include gender strikes in [*J.E.B. v. Alabama ex. rel.*](#) (1994), 114 S. Ct. 1419.

3. Batson Procedure

- a. The party opposing a peremptory challenge must demonstrate a prima-facie basis of racial discrimination in the use of the strike by demonstrating that they are a member of a cognizable racial group and that the peremptory challenge will remove a member of the litigant's race from the venire. The challenger is entitled to rely on the fact that the strike is an inherently discriminating device as stated by the Ohio Supreme Court in *State v. Hernandez* (1992), 63 Ohio St. 3d 577.
- b. The court must consider all circumstances in determining whether a prima-facie case exists, including any statements made by the counsel exercising a peremptory challenge, questions posed by this counsel during voir dire, and any patterns of strikes against minority venire members.
- c. Assuming a prima-facie case exists, the striking party must then demonstrate a race neutral explanation for striking the prospective juror under the circumstances of the present case.
 - i. Counsel's explanation is not required to rise to the level of a challenge for cause, however, a simple affirmation of general good faith is not enough. The issue is whether discriminatory intent is inherent in the counsel's basis for the use of the strike.
 - ii. Finally, the Court must decide whether the party opposing the peremptory strike has proved purposeful discrimination. In other words, should striking counsel's race neutral explanation be believed.
- d. Findings
 - i. The Judge should make a clear record that they understand and have applied the *Batson* test when racial discrimination has been alleged.
 - ii. The Judge should go into some detail regarding the factors reviewed before making a decision and whether or not the testimony offered was believable and persuasive.
 - iii. Appellate review of a *Batson* decision (that is, a trial court's decision that a peremptory strike was based on discrimination) predominately hinges on issues of credibility, therefore, appellate courts generally defer to the factual findings of the trial court, be clear and have as many factual findings as you deem relevant stated in the record.
- e. Timing – *Batson* challenges and decisions must be made prior to the juror being excused.

ALTERNATE JURORS IN NON-CAPITAL CASES

1. The court may direct not more than 6 in addition to the regular jury to be called and impaneled to sit as alternate jurors. [Crim. R. 24\(G\)](#)
2. Alternate jurors are to be drawn in the same manner, with the same qualifications, be subject to the same challenges, take the same oath, and have the same functions, powers, and privileges as the regular jurors.
3. Each party is entitled to one peremptory challenge in addition to those otherwise allowed if one or two alternate jurors are to be impaneled, two peremptory challenges if three or four alternate jurors are to be impaneled, and three peremptory challenges if five or six alternative jurors are to be impaneled. **The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by this rule may not be used against an alternate juror.**
4. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict.

NOTES

JURY DELIBERATIONS AND VERDICT

SCOPE

This article discusses pertinent issues regarding jury deliberations including deadlocked juries and mistrials.

REFERENCES

ORC Chapter 2945
Ohio Criminal Rule 31
Ohio Jury Instruction 415

QUESTIONS DURING DELIBERATIONS

1. There is no prescribed manner of handling questions from a deliberating jury regarding evidence. Giving information regarding evidence is discretionary with the court and should be given only if it can be accomplished fairly, completely and impartially. (From OJI 415.05)
2. Any jury questions should be reduced to writing, be placed on the record by reading the question outside the preview of the jury, with objections or comments by counsel also placed on the record. OJI 415.05.
3. Jury questions as to the law (OJI 415.10).
 - a. The court is not obligated by rule or statute to give further instructions on the law in the case if the jury has questions during deliberation.
 - b. Under [Crim.R.30\(A\)](#), the court must give a copy of the final jury instructions to the jury for them to use during deliberations. The copy may be in writing or an audio, electronic, or other recording of the instructions.

VERDICTS

1. Requirements for a duly rendered verdict ([Crim. R. 31](#) and R.C. [2945.171](#)):
 - a. Unanimous,
 - b. In writing,
 - c. Signed by all jurors concurring in the verdict, and
 - d. Returned by the jury to the Judge in open court.
2. Verdict requirements when there are several defendants ([Crim. R.31 \(B\)](#))
 - a. If there are multiple defendants, the jury at any time during its deliberations may return a verdict or verdicts with respect to the defendant(s) on whom it has agreed.
 - b. If the jury cannot agree with respect to all defendants, those on whom the jury does not agree may be tried again.
3. Verdict requirements for a conviction on lesser offenses ([Crim. R.31\(C\)](#))
 - a. The defendant may be found not guilty of the offense charged but guilty of an attempt to commit it that offense if such an attempt is an offense at law.
 - b. When the indictment, information, or complaint charges an offense including degrees, or if lesser offenses are included within the offense charged, the defendant may be found not guilty of the degree charged but guilty of an inferior degree thereof, or of a lesser included offense.
4. The verdict must be recorded immediately upon the minutes in open court. R.C. [2945.78](#)
5. It is also recommended that in a criminal case the verdict be filed and journalized with the Clerk of Courts. (See Jury Verdict Forms)

6. When the court submits a verdict form containing a statutory description of the offense, it is reversible error if the description does not include all elements of the offense. **State v. Lampkin** (1996), 116 Ohio App. 3d 771 (6th Dist.).
7. When a jury unanimously finds the defendant not guilty and uses the wrong verdict form, the court must allow correction of verdict rather than declare a mistrial. **Cleveland v. Walters** (1994), 98 Ohio App. 3d 165 (8th Dist.).

DEADLOCK

1. If after a reasonable period of time of deliberations, the jury states that it cannot reach a conclusion as to guilt or innocence, a new jury instruction should be given.
2. The Supreme Court of Ohio set out specific instructions that are to be given when the jury is in a deadlock. **State v. Howard**, (1989) 42 Ohio St. 3d 18 (Para. 2 of syllabus):
 - a. The approved deadlock instruction is: "The principal mode, provided by our Constitution and laws, for deciding questions of fact in criminal cases, is by jury verdict. In a large proportion of cases, absolute certainty cannot be attained or expected. Although the verdict must reflect the verdict of each individual juror and not mere acquiescence in the conclusion of your fellows, each question submitted to you should be examined with proper regard and deference to the opinions of others. You should consider it desirable that the case be decided. You are selected in the same manner, and from the same source, as any future jury would be. There is no reason to believe the case will ever be submitted to a jury more capable, impartial, or intelligent than this one. Likewise, there is no reason to believe that more or clearer evidence will be produced by either side. It is your duty to decide the case, if you can conscientiously do so. You should listen to one another's arguments with a disposition to be persuaded. Do not hesitate to re-examine your views and change your position if you are convinced it is erroneous. If there is disagreement, all jurors should re-examine their positions, given that a unanimous verdict has not been reached. Jurors for acquittal should consider whether their doubt is reasonable, considering that it is not shared by others, equally honest, who have heard the same evidence, with the same desire to arrive at the truth, and under the same oath. Likewise, jurors for conviction should ask themselves whether they might not reasonably doubt the correctness of a judgment not concurred in by all other jurors."
 - b. See also OJI 27.50 for approved alternative wording.
3. No verdict reached- If a considerable length of time has passed, and if becomes apparent that there is no probability of the jury agreeing, the jury can be discharged without an agreement. R.C. [2945.36 \(B\)](#).
4. OJI 415.75 - Dismissal after deadlock

"You have considered this case for a considerable length of time and reported to the court that you are unable to reach a verdict. The court accepts this conclusion and finds that there is no probability of the jury agreeing....[The prosecutor] is instructed to prepare and present an entry on this finding. Thank you, members of the jury. You are now excused (and may return to the general jury room) (and will see the bailiff-clerk before you leave)."
5. The entry must show the reason for the discharge of the jury. R.C. [2945.36](#).
 - a. It is recommended that Judge include such factors as:
 - i. Length of the jury's deliberation,
 - ii. Additional jury instructions given, and
 - iii. Other factors showing a careful consideration by the Court and its conclusion of a lack of probability of this jury reaching an agreement.

DISMISSING THE JURY (OTHER THAN FOR DEADLOCK)

1. A jury can also be discharged for other factors including: (R.C. [2945.36](#))
 - a. Sickness,
 - b. Corruption of a jury,
 - c. Accident or calamity,
 - d. A juror being a witness in the case, or
 - e. With the consent of both parties. If there is a discharge by consent, the defendant should be advised of the rights being waived in open court and understand that he may be tried again and required to personally express his approval to be tried again. R.C. [2945.36](#)
2. The entry should fully state the reason for the discharge of the jury. R.C. [2945.36](#)

POLLING THE JURY

1. When a verdict is returned and before it is accepted, the jury shall be polled at the request of any party or upon the Court's own motion. If upon the poll there is not unanimous concurrence, the jury may be directed to retire for further deliberation or may be discharged. [Crim.R. 31](#)(D)
2. Differences between [Crim. R. 31](#) (D) and R.C. [2945.77](#).
 - a. Who may poll the jury:
 - i. R.C. [2945.77](#) states that the prosecuting attorney or the defendant may poll the jury but does not specifically state that the judge may do so.
 - ii. [Crim. R. 31](#)(D) also permits the court to poll the jury, even if the defendant and prosecuting attorney do not.
 - iii. When one juror declares the verdict is not his verdict:
 1. R.C. [2945.77](#) states that the jury must further deliberate.
 2. [Crim. R. 31](#) (D) states that "the jury *may* be directed to retire for further deliberation.....".
 3. It would appear to be the best practice, according to case law that the jury should further deliberate to learn why the juror is now disavowing his verdict and to see if there is a consensus that can be had. See **State v Gibson**, 1994 Ohio App. LEXIS 5336 (2nd Dist.).
 4. Some districts hold that when a juror ambiguously disavows his verdict they may be questioned by the court and the verdict may stand if it is in fact found to be unanimous. See **State v Brumback**, (1996), 109 Ohio App. 3d 65.
 5. The court is not required to re-instruct the jury prior to further deliberation when a juror disclaims a verdict upon being polled. See **State v Green**, (1990), 67 Ohio App. 3d 72.
3. It appears to be up to the discretion of the court as whether or not the court asks both parties whether they would like to poll the jury. However, polling of the jury is seen as a fundamental right and therefore the court must allow a polling of the jury if it is requested by either counsel.
4. When polling is requested, it is good practice to explain to each juror that the attorney has the right by statute and the criminal rules to request that they be polled as the process may intimidate some jurors.
5. If a polling of the jury is requested, the verdict is not official until each juror substantiates their verdict.
6. The Criminal Rules are silent as to the procedure used to poll the jury. There is some guidance found in [Rule 48](#) of the Ohio Rules of Civil Procedure where the rule states if polling is requested by either party the process would include each juror being asked if the verdict is that of the juror. It is recommended that you poll each individual juror by name or juror number and after polling is complete to state for the record that each of the jurors has been polled and the results.

MISTRIAL

1. Mistrials generally occur under two circumstances, prejudicial misconduct by the prosecutor, defense counsel, jurors, witnesses, etc. and when there is a hung jury.
2. Standards for Mistrial
 - a. The general standard for mistrial caused by misconduct is a remark or action that is so improper that it prejudicially affected the substantial rights of the accused.
 - b. It is your decision and you must decide whether or not the person's comments or actions were inappropriate and if so, whether they rise to the level of prejudicing a defendant so that in the interests of justice a new trial is warranted.
3. The following test should be applied: Were the person's remarks or actions improper, and if so did they prejudicially affect the substantial rights of the accused?
4. The general standard to be utilized is that of "Harmless Error" ([Crim. R.52 \(A\)](#))
 - a. Reversible error exists if after a review of the record as a whole the person's comments or actions are to the level that it is clear beyond doubt that the jury would not have found the defendant guilty absent the persons comments and or actions. If the comments or actions do not rise to this level it could be considered harmless error per Appellate Court analysis. Courts have also considered whether or not the comments or actions of the person are enough to have inflamed the jury and influenced it to render a verdict other than what it would have normally returned.
 - b. The Court must also decide whether or not the situation can be cured by the person being admonished, a curative instruction given and the jurors further instructed to disregard the matter. Remember, not all improper statements or actions are prejudicial.
5. Prosecutorial misconduct.
 - a. The following may rise to the level of or contribute to the finding of a mistrial.
 - i. Comment on failure of defendant to testify
 - ii. Defendants failure to offer evidence of his good character
 - iii. Reference to evidence that was not offered or was excluded
 - iv. Defendant's rejection of a plea bargain or his withdrawal of a guilty plea.
 - v. Inflaming the jurors by appealing to their passion, prejudice or sympathy.
 - vi. When the prosecutor expresses his personal opinion on defendant's guilt or the credibility of witnesses.
 - vii. Attacking defense counsel's integrity.
 - viii. Comments by the prosecutor may rise to the extent of prejudicing the defendant depending upon the following:
 1. Whether the remarks were isolated or wide spread throughout the trial or closing statement.
 2. Was objection made by defense counsel, failure to object waives all but plain error. See [State v Fears, \(1999\), 86 Ohio St.3d 329.](#)
 3. Whether the trial judge give a curative instruction.
 4. Rather than a close case, was the evidence of guilt overwhelming. See **State v Hart**, (1994), 95 Ohio App. 3d 665.
 - ix. The cumulative effect of various and improper statements can be considered and found to deny the defendant a fair trial. See **State v Willard**,(2001), 144 Ohio app.3d 767.
 - x. The prosecutor's statements must be examined in the context of the record as a whole and any harmless-error must be disregarded. See [State v Bey, \(1999\), 85 Ohio St. 3d 487.](#)
 - xi. In determining whether improper conduct affected the defendant's substantive rights, the reviewing court may employ the test for harmless-error in Criminal Rule 52 (A). See **Bey, Id.**

- xii. A conviction will be reversed only if it is clear beyond a reasonable doubt, that absent the prosecutor's comments, the jury would not have found the defendant guilty. See [State v Benge, \(1996\), 75 Ohio St. 3d 136.](#)
- 6. A jury is presumed to follow the court's instructions including curative instructions. See [State v Loza, \(1994\), 71 Ohio St. 3d 61.](#)
- 7. Mistrial and Double Jeopardy
 - a. Generally, the double jeopardy clause does not bar a retrial of the matter following a mistrial unless:
 - i. The mistrial was the result of prosecutorial misconduct designed and intended to provoke a mistrial.
 - ii. The trial judge abused his discretion in declaring a mistrial. See **State v Glover** (1998), 35 Ohio St. 3d 18.
 - iii. A retrial following a hung jury does not violate the double jeopardy clause. See **Richardson v. United States** (1984), 468 U.S. 317.
 - b. The standard for abuse of discretion by the trial judge when the trial judge *sua sponte* declares a mistrial without the defendant's consent so that a retrial is prohibited unless:
 - i. There is a "manifest necessity" or a "high degree of necessity" for ordering a mistrial, or
 - ii. The ends of public justice would otherwise be defeated. **Arizona v Washington** (1978), 434 U.S. 497.
 - iii. The Ohio Supreme Court has stated that there is no standard test for determining abuse of discretion by a judge in declaring a mistrial. The test is generally seen as test balancing the defendant's right to have the charges decided by a jury against the public's interest in convicting the guilty. See **State v Glover** (1988), 35 Ohio St. 3d 18.
- 8. Juror Misconduct
 - a. Trial Courts have been granted broad discretion in dealing with juror misconduct including improper outside juror communications as juror misconduct creates a presumption of prejudice. See **State v Phillips** (1995), 74 Ohio St. 3d 72.
 - b. Juror conduct many times involves improper outside juror communication including:
 - i. Juror utilizing outside sources for information. For example, looking up the definition of aider and abettor in Black's Law Dictionary. See **State v Hood** (1999), 132 Ohio App. 3d, 334.
 - ii. A court officer communicating to the jury on substantive issues. See **State v Adams** (1943) 141 Ohio State 423; **State v Lane** (1988), 48 Ohio App. 3d, 172.
 - iii. A judge's *ex-parte* communication with the jury without full knowledge of the parties the Judge discussing substantive matters. See **State v Hill** (1985), 73 Ohio St. 3d, 433.
 - c. Generally, all jury misconduct is presumed to be prejudicial but the state has the opportunity and the burden to demonstrate that the misconduct by the juror was not prejudicial under the circumstances.
 - d. A voir dire should be directed at the juror in question and then the entire jury panel to determine whether or not the juror in question received inappropriate outside information and whether or not the jury has been tainted. See **State v King** (1983), 10 Ohio App. 3d 161.

NOTES

APPENDIX 6:

OHIO TRIAL COURT

JURY USE AND

MANAGEMENT

STANDARDS



Ohio R. Prac. Law. Jud. app B

Appendix B - Jury Management Standards

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STANDARD 1 - OPPORTUNITY FOR SERVICE

A. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

B. Jury service is an obligation of all qualified citizens. **Commentary** Standard 1 is essentially identical to the ABA Standard.

It is the obligation of every court to reasonably accommodate the special needs of physically handicapped jurors. While physically handicapped jurors may pose special issues for courts and their personnel, these issues are manageable.

Support agencies and advancing technologies exist to aid courts in accommodating the special needs of hearing impaired and visually impaired jurors, for example.

The obligation of jury service falls on all citizens; it is vitally important that the legal system open its doors to each person who desires to serve on a jury.

Reference is made to the ADA. **Ohio Statutes**

O. R.C. 2313.47 Race or color shall not disqualify a juror.

STANDARD 2 - JURY SOURCE LIST

A. The names of potential jurors should be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the court jurisdiction.

B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

Commentary

Standard 2 is identical to the ABA Standard.

There should be a periodic review of the representativeness and inclusiveness of the jury source list.

Ohio Statutes

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2311.42 Authorizes the drawing of a jury from an adjoining county if a party to the case is the board of county commissioners. O.R.C. 2313.06 Provisions relative to the summoning of jurors using lists of voters and licensed drivers.

O. R.C. 2313.07 Construction of a jury wheel and the use of data processing equipment in drawing jurors.

O. R.C. 2313.08 Contains provisions relative to the annual jury list.

O. R.C. 2313.09 Supplemental jury lists.

O. R.C. 2313.15 Report of names of jurors excused.

O. R.C. 2313.20 Notice of drawing.

O. R.C. 2313.21 Conduct of drawing.

O. R.C. 2313.26 Order for additional number of jurors.

STANDARD 3 - RANDOM SELECTION PROCEDURES

A. Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods should be documented.

B. Random selection procedures should be employed in:

1. Selecting persons to be summoned for jury service;
2. Assigning prospective jurors to panels; and
3. Calling prospective jurors for voir dire.

C. Departures from the principle of random selection are appropriate:

1. To exclude persons ineligible for service in accordance with Standard 4;
2. To excuse or defer prospective jurors in accordance with Standard 6;
3. To remove prospective jurors for cause or if challenged peremptorily in accordance with Standards 8 and 9; and
4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

Commentary

Standard 3 is essentially identical to the ABA Standard.

Ohio Statutes

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2101.30 Drawing of a jury in probate cases.

O. R.C. 2313.07 Construction of a jury wheel and the use of data processing equipment in drawing jurors.

O. R.C. 2313.08 Contains provisions relative to the annual jury list.

O. R.C. 2313.09 Supplemental jury lists.

O. R.C. 2313.15 Report of names of jurors excused.

O. R.C. 2313.21 Conduct of drawing.

STANDARD 4 - ELIGIBILITY FOR JURY SERVICE

All persons should be eligible for jury service except those who:

- A. Are less than eighteen years of age;
- B. Are not citizens of the United States;
- C. Are not residents of the jurisdiction in which they have been summoned to serve;
- D. Are not able to communicate in the English language; or
- E. Have been convicted of a felony and have not had their civil rights restored.

Commentary.

Standard 4 is identical to the ABA Standard.

Legislative changes recommended in order for Standard 4 to be consistent with Standard 6.

Ohio Statutes

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2961.01 Precludes convicted felons from serving as jurors.

STANDARD 5 - TERM OF AND AVAILABILITY FOR JURY SERVICE

A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

B. A term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is longer, is acceptable.

C. Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

Commentary.

Standard 5 is essentially identical to the ABA Standard.

Courts should reduce, to the extent possible, the number of days a person serves and the period of availability.

STANDARD 6 - EXEMPTION, EXCUSE, AND DEFERRAL

A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.

B. Eligible persons who are summoned may be excused from jury service only if:

1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or

2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a judge or a specifically authorized court official.

C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.

D. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

Commentary

Standard 6 has been changed from the ABA Standard to be consistent with the O.R.C. Deferrals are encouraged rather than the granting of excuses.

With a shorter term of service (see Standard 5), reasons for being excused should be reduced. The Jury Management Project Team recommends that all statutory exceptions be eliminated.

Ohio Statutes

O. R.C. 737.26 Exempts fireman from jury duty.

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2313.12 Jury exemptions; proof of exemptions.

O. R.C. 2313.13 Postponement of jury service; temporary excuse or discharge.

O. R.C. 2313.14 Failure to attend after postponed service.

O. R.C. 2313.15 Report of names of jurors excused.

O. R.C. 2313.16 Reasons for which jurors may be excused.

O. R.C. 2313.27 Evasion of jury service.

O. R.C. 2313.36 Exemptions from jury service in court of record.

O. R.C. 5919.20 Exempts certain officers and personnel of the Ohio National Guard from jury service.

O. R.C. 5920.10 Exempts members of the Ohio Military Reserve from jury duty.

O. R.C. 5921.09 Exempts members of the Ohio Naval Militia from jury service.

STANDARD 7 - VOIR DIRE

A. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.

C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

Commentary

Standard 7 is essentially identical to the ABA Standard.

The questionnaire shall be handled in a manner to ensure privacy.

When prospective jurors are initially sworn, the oath should also indicate that the answers to the jury questionnaire are true.

Ohio Statutes

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

Court Rules

Civ. R. 47 Jurors.

Crim. R. 24 Trial jurors.

STANDARD 8 - REMOVAL FROM THE JURY PANEL FOR CAUSE

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

Commentary

Standard 8 is essentially identical to the ABA Standard.

Jurors should be reminded that jury service is an obligation of each qualified citizen (see Standard 1).

Ohio Statutes

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2313.42 Challenge for cause of persons called as jurors.

O. R.C. 2313.43 Challenge of petit jurors.

O. R.C. 2945.25 Causes for challenging jurors.

O. R.C. 2945.26 Challenge of juror for cause.

Court Rules

Civ. R. 47 Jurors.

Crim. R. 24 Trial jurors.

STANDARD 9 - PEREMPTORY CHALLENGES

A. Rules determining procedure for exercising peremptory challenges should be uniform throughout the state.

B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.

D. In criminal cases, the number of peremptory challenges should not exceed:

1. Six for each side when a death sentence may be imposed upon conviction;
2. Four for each side when a sentence of imprisonment (state institution) may be imposed upon conviction; or
3. Three for each side in all other prosecutions. One additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.

E. In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

Commentary

Standard 9 has been changed from the ABA Standard to be consistent with the O.R.C. and Ohio Rules of Court.

Ohio Statutes

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2938.06 Number of jurors and challenges.

O. R.C. 2945.21 Peremptory challenges.

O. R.C. 2945.23 Use of peremptory challenges.

Court Rules

Civ. R. 47 Jurors.

Crim. R. 24 Trial jurors.

STANDARD 10 - ADMINISTRATION OF THE JURY SYSTEM

A. The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.

B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

C. Responsibility for administering the jury system should be vested in a single administrator acting under the supervision of the administrative judge of the court.

Commentary

Standard 10 is essentially identical to the ABA Standard. Standard 10 suggests that current legislation be repealed.

Ohio Constitution

Article IV, Section 5(B) Allows the Supreme Court to adopt Rules of Practice and

Procedure and permits courts to adopt rules concerning local practice that do not conflict with Supreme Court Rules.

Ohio Statutes

O. R.C. 1901.14 Authorizes the adoption of local rules regarding the summoning of jurors.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2313.01 Authorizes the appointment of jury commissioners.

O. R.C. 2313.02 Compensation and appointment of deputies and clerks in the office of jury commissioners. O.R.C. 2313.03 Oath of office for jury commissioners. O.R.C. 2313.04 Lists cases in which the deputy jury commissioner may act.

STANDARD 11 - NOTIFICATION AND SUMMONING PROCEDURES

A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:

1. Combined in a single document;

2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and

3. Delivered by ordinary mail.

B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.

C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

1. Determining whether a person meets the criteria for eligibility;

2. Providing basic background information ordinarily sought during voir dire examination; and

3. Efficiently managing the jury system.

D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

Commentary.

Standard 11 is essentially identical to the ABA Standard.

Ohio Statutes

O. R.C. 1905.28 Gives the mayor of a municipal corporation the authority to compel the attendance of jurors.

O. R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve. O.R.C. 2101.30 Drawing of a jury in probate cases.

O. R.C. 2313.10 Notice to jurors to appear and testify before jury commissioners.

O. R.C. 2313.11 Failure of summoned juror to attend or testify.

O. R.C. 2313.14 Failure to attend after postponed service.

O. R.C. 2313.25 Service and return of venire.

O. R.C. 2313.26 Order for additional number of jurors.

O. R.C. 2313.29 Failure of juror to attend.

O. R.C. 2313.30 Arrest for failure to attend.

STANDARD 12 - MONITORING THE JURY SYSTEM

Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

A. The representativeness and inclusiveness of the jury source list;

B. The effectiveness of qualification and summoning procedures;

- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors; and
- E. The cost-effectiveness of the jury management system.

Commentary.

Standard 12 is essentially identical to the ABA Standard, and the Jury Standard Project Team recognizes that the information gathered must be analyzed to ensure efficient jury management.

STANDARD 13 - JUROR USE

- A. Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- B. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.
 - 1. Courts using jury pools should ensure that each prospective juror who has reported to the court is assigned for voir dire; and
 - 2. Courts using panels should ensure that each prospective juror who has reported to the court is assigned for voir dire.
- C. Courts should coordinate jury management and calendar management to make effective use of jurors.

Commentary.

Standard 13 is essentially identical to the ABA Standard.

Ohio Statutes

- O. R.C. 2313.19 Number of jurors drawn.
- O. R.C. 2313.24 Number of jurors; exception for smaller counties.

STANDARD 14 - JURY FACILITIES

- A. Courts should provide an adequate and suitable environment for jurors.
- B. The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D. Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.

E. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

Commentary

Standard 14 is essentially identical to the ABA Standard.

Ohio Statutes

O. R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve. O.R.C. 2313.05 Office and supplies for the jury commissioners. O.R.C. 2315.03 Deliberations of jury.

O. R.C. 2945.33 Keeping and conduct of the jury after case is submitted to the jury.

Rules of Superintendence

Appendix D Court facility standards.

STANDARD 15 - JUROR COMPENSATION

A. Persons called for jury service should receive a reasonable fee for their service and expenses.

B. Such fees should be paid promptly.

C. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

Commentary

Standard 15 is essentially identical to the ABA Standard.

Ohio Statutes

O. R.C. 1901.25 Selection and impaneling of a jury.

O. R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O. R.C. 2101.16 Cross-references to other sections regarding jury fees. O.R.C. 2313.34 Discharge of juror; compensation.

STANDARD 16 - JUROR ORIENTATION AND INSTRUCTION

A. Orientation programs should be:

1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
2. Presented in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.

B. Courts should provide some form of orientation or instructions to persons called for jury service:

1. Upon initial contact prior to service;
2. Upon first appearance at the court; and
3. Upon reporting to a courtroom for voir dire.

C. The trial judge should:

1. Give preliminary instructions to all prospective jurors.
2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
5. Recognize utilization of written instructions is preferable.
6. Before dismissing a jury at the conclusion of a case:
 - a. Release the jurors from their duty of confidentiality;
 - b. Explain their rights regarding inquiries from counsel or the press;
 - c. Either advise them that they are discharged from service or specify where they must report; and
 - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

Commentary

Standard 16 is essentially identical to the ABA Standard with addition of C., 4. Reference may be made to Ohio Jury Instructions.

Ohio Statutes

- O. R.C. 2945.10 Order of trial proceedings, including the charge to the jury.
- O. R.C. 2945.11 Charge to the jury on questions of law and fact.
- O. R.C. 2945.34 Admonition to be administered to jurors if they are separate during trial.

Court Rules

Civ. R. 51 Instructions to the jury; objections.

Crim. R. 30 Instructions to the jury.

STANDARD 17 - JURY SIZE AND UNANIMITY OF VERDICT

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

Commentary.

Standard 17 has been changed from the ABA Standard to be consistent with the O.R.C. **Ohio Constitution**

Article I, Section 5 Trial by jury; reform in civil jury system

Ohio Statutes

O. R.C. 1901.24 Cross-references to civil and criminal rules relating to juries.

O. R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve. O.R.C. 2938.06 Number of jurors and challenges.

Court Rules

Civ. R. 38 Jury trial of right.

Civ. R. 48 Juries; majority verdict; stipulation of number of jurors.

Civ. R. Form 18 Judgment on jury verdicts.

Crim. R. 23 Trial by jury or by the court.

STANDARD 18 - JURY DELIBERATIONS

A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.

B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16C.

C. The deliberation room should conform to the recommendations set forth in Standard 14C.

D. The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.

E. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

F. Training should be provided to personnel who escort and assist jurors during deliberation.

Commentary.

Standard 16 is essentially identical to the ABA Standard.

Counsel and appropriate court personnel should remain readily available during jury deliberations.

Juries should be provided with a pleasant, comfortable, secure, and safe place in which to work. **Ohio Statutes**

O. R.C. 2315.03 Deliberations of jury.

O. R.C. 2315.04 Duty of officer in charge of jury.

O. R.C. 2945.32 Contains the oath to be administered to an officer if the jury is sequestered.

O.R.C. 2945.33 Keeping and conduct of the jury after case is submitted to the jury.

Court Rules

Civ. R. Form 18 Judgment on jury verdict. Crim. R. 30 Instructions to the jury.

STANDARD 19 - SEQUESTRATION OF JURORS

A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.

B. During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.

C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

D. Standard procedures should be promulgated to:

1. Achieve the purpose of sequestration; and
2. Minimize the inconvenience and discomfort of the sequestered jurors.

E. Training shall be provided to personnel who escort and assist jurors during sequestration.

Commentary

Standard 19 differs from the ABA Standard.

1. "Should" was changed to "shall" in C and E.
2. Jury escorts may be law enforcement personnel.

Standard 19 has been changed to be consistent with the O.R.C.

Ohio Statutes

O. R.C. 2315.04 Duty of officer in charge of jury.

O. R.C. 2945.31 Allows, but does not require, sequestering of jurors after a trial has commenced.

O. R.C. 2945.33 Requires sequestration of jurors in capital cases once a case is submitted to the jury.

Court Rules

Crim. R. 24 Trial jurors.

Ohio. R. Prac. Law. Jud. app B



APPENDIX 7:
OHIO JURY
INSTRUCTIONS,
VOLUME 1,
CHAPTER 101



1 OJI-CV 101.01, 1 CV Ohio Jury Instructions 101.01

Ohio Jury Instructions

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CHAPTER CV 101: LAW OF THE INSTRUCTIONS

INSTRUCTIONAL ADMINISTRATION OF JUSTICE

CV 101.01 Instructions defined [Rev. 12-1-07]

When jurors enter the courtroom they are not required to know the law. If they do, they are nevertheless required to follow the instructions of the court. By way of the instructions the trial judge informs the jurors why they are present, provides information essential to their selection and service, furnishes such legal guidance as necessary as the trial progresses, and, finally, directs them on the law that governs their deliberations.

Emphasis upon the final instruction is due not only to its significance as a summation of the issues and the law of the case, but also to the historical fact that the judicial role at trial was not clearly defined until the beginning of the nineteenth century.

 *Sparf v. United States* (1895), 156 U.S. 51. Judges who timidly invited jurors to be judges of the law as well as of the facts were in no position to conduct an orderly trial or to assert the supremacy of the law. *State v. Turner* (1831), Wright 20 *State v. Turner* (1831), Wright 20.

Instructions are as essential to an intelligent and orderly trial as they are to a fair and impartial verdict. Therefore, an instruction is generally defined as information transmitted by the court to the jury. The word instruction includes every direction given to the jury. Such information relates primarily to the law but also includes directions for the convenience of the jury, information about the physical facilities available, and many other necessary and practical items.

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INSTRUCTIONAL ADMINISTRATION OF JUSTICE

CV 101.03 Instruction at every step of the trial [Rev. 12-1-07]

Instructing the jury is a continuous responsibility that commences with the impaneling of the jury and ends when jurors are dismissed. Instructions should be viewed with this comprehensive approach at *every step* in the trial. The judge is the spokesman of the law. He/she explains the duties of the jurors, the application of the evidence, as well as many other matters, *all* in addition to the traditional final charge.

The better the jurors understand what is taking place as the trial unfolds, the fairer and more complete their verdict. This comprehensive view of the function of instructions throughout the conduct of the trial should never be neglected. An instruction is not confined strictly to the general charge, but necessarily includes any instructions given by the court for the convenience, assistance, or guidance of the jury.

When requested by a party, an instruction issued from the court becomes the law of the case. [Rosenberry v. Chumney \(1960\)](#), [171 Ohio St. 48, 51](#). The use of preliminary instructions before the evidence is introduced is but one example of the recognition of this responsibility to assist the jury and to remove the mystery surrounding the trial at a timely moment with appropriate information. By advice, explanations, and orders before, during, and after trial, the judge has complete control of the law at every step in the proceedings. This chapter divides the trial into its progressive components and discusses the law of instructions as it relates to each. McBride, *The Art of Instructing the Jury* (Supp. 1979), Section 3.01.

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CHAPTER CV 101: LAW OF THE INSTRUCTIONS

INSTRUCTIONAL ADMINISTRATION OF JUSTICE

CV 101.05 The role of the judge *[Rev. 12-1-07]*

As discussed in the preceding section, the judicial function encompasses all aspects of the trial at every step from beginning to end. The word “instruction” applies to every direction given by the court to counsel or to the jury, for either the administration of the proceedings or the announcement of law. The control of substantive and procedural law is the exclusive responsibility of the trial judge.

Because of its nature, the final instructions overshadow all others and are the major consideration, but this should not discourage directions and instructions of law throughout the trial.

Supervision and control over the proceedings is entrusted to the trial judge as an inherent duty. There is no limit to the number and variety of practical and legal questions that arise. A few may be resolved in chambers, but frequently they arise in the courtroom and must be resolved in the presence of the jury. In the latter situation the only vehicle for control is by way of an instruction. An instruction before or during trial carries with it the weight of the law and is the most effective tool, short of sanctions, in the arsenal of the court.

Every judge experiences the initial probing and testing by counsel to discover the extent to which the court will assert its proper role and exercise its power to establish and maintain control of the trial to ensure an orderly, fair, and impartial proceeding. Any weakness or indecision uncovered will be expanded and pressed for a partisan advantage. This is inevitable under the adversary system. In this situation, a judge who hesitates acts as a referee or umpire and fails to assert supervision and control over the proceedings. Such a judge may progressively experience more, rather than less, improprieties. To avoid this result, there is no limit to the reasonable degree of firmness that may be expressed by the court in directions and instructions to counsel or to the jury.

The role and authority of the officer presiding at the trial rests in the inherent power and discretion of the trial judge to fully and firmly carry out his/her responsibility to control the trial and the law. This exercise of power and discretion may not be reversed except for error of law or upon record of an abuse of discretion. McBride, *The Art of Instructing the Jury* (Supp. 1979), Sections 2.05, 2.06, 2.07, 2.11, 3A.09; [Civ.R. 51](#); [Crim.R. 30, 52](#).

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INSTRUCTIONAL ADMINISTRATION OF JUSTICE

CV 101.07 Time of delivery [Rev. 12-1-07]

Regardless of the time during trial, an instruction should be given promptly when the occasion for its use arises. It cannot be too strongly emphasized that the effectiveness of an instruction, particularly one related to the evidence, is enhanced by prompt delivery. If an instruction is delayed, improper acts or evidence may take root and merge into preliminary impressions and conclusions made by the jurors. The longer a necessary instruction is delayed, the more difficult it is for jurors to segregate the facts and avoid or limit the influence of improper evidence or conduct. If the impropriety has an overriding influence, mere delay in delivery may determine the existence of prejudicial effect.

The use of preliminary instructions--introducing to the jury the nature of the issues--has given rise to two problems that should be mentioned.

First, the most timely and proper instruction may later become inappropriate. This is possible with notice pleading under which the specific issues are developed by the testimony and may change substantially at trial. Ordinarily, a change in the course the evidence will take is uncovered in pretrial discovery; however, such information is not necessarily relayed to the trial judge; or counsel may be surprised by unexpected testimony that requires consideration of new issues. If an inaccurate preliminary instruction was delivered, it must be withdrawn and a correct instruction delivered in its place.

Second, while admittedly useful and helpful to the jury, many preliminary instructions, whether merely cautionary or directed to the issues, must not be omitted from the final instruction at the conclusion of the trial. The final charge must be full and complete, and contain all essentials of an appropriate charge, regardless of instructions that may have preceded it during trial. Corrections in preliminary instructions are appropriate before final arguments.

An example of the importance of timely delivery may be found in evidential instructions to disregard or limit the application of testimony. If delivered immediately, they need not be repeated; however, if omitted and included only in the final instruction, the timing is inappropriate to the impartial position of the court. Belated comment on the evidence may be misconstrued.

Final instructions advise the jury to consider all the evidence in determining the verdict. Without a timely and appropriate instruction to disregard or limit the application of testimony, the court may be telling the jury to consider the impropriety.

Timing of the delivery of an instruction to the occasion for its application is important for an effective message to the jury. McBride, *The Art of Instructing the Jury* (Supp. 1979), Sections 3A.06, 3.10, 3A.13, 14.03; [Civ.R. 51](#); [Crim.R. 30](#).

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CHAPTER CV 101: LAW OF THE INSTRUCTIONS

INSTRUCTIONAL ADMINISTRATION OF JUSTICE

CV 101.09 Effective delivery [Rev. 12-1-07]

The manner in which instructions are delivered is as important to jurors as the subject. On appeal, only the text appears in the record, but in the courtroom the effectiveness of the oral message may be lost by a dull, listless delivery that fails to convey the concern of the judge that his/her words be understood and followed. Proper delivery requires good diction, inflection, enunciation, and clear, meaningful expression paced to the comprehension of the jury. Given a careless performance, it is not unreasonable that the jury infer that the message was not important.

During trial, the circumstances must be considered and the degree of emphasis increased or decreased as the situation requires. Eloquence in the theatrical sense should be avoided. There is, however, never an excuse for a casual or ritualistic recitation of words if the judge expects counsel and the jury to obey his/her directions. The seriousness of the subject and concern of the court is properly reflected in the manner in which the words are delivered. Inflection, tone of voice, rhetorical pauses, and other speech techniques are appropriate to ensure the result intended and required by law.

The final instructions are the ultimate test of substantial justice and of the total efforts of the court, counsel, and the parties. Clarity, arrangement, and development of the text is the first step; however, no matter how well prepared, success or failure depends upon maintaining the interest and attention of the jurors. Much has been said and written, not all complimentary, about this phase of the performance of judicial responsibilities. For present purposes it is sufficient to suggest that help may be found, not only in the arts of speaking and acting, but also in physical aids that simplify the reading and delivery from the bench in the courtroom. Every suitable technique should be utilized to ensure a complete and effective delivery of the final charge, including a refreshing degree of brevity. McBride, *The Art of Instructing the Jury* (Supp. 1979), Section 5.09.

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