STANDARDS AND PRACTICES ESSENTIAL TO THE RESUMPTION OF JURY TRIALS IN OHIO

REPORT AND RECOMMENDATIONS

PREPARED FOR CHIEF JUSTICE MAUREEN O’CONNOR
SUPREME COURT OF OHIO

OHIO JURY TRIAL ADVISORY GROUP
MAY 12, 2020
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Additionally, Thank You to Those Who Provided Input by Way of Questionnaires, Surveys, Outreach, and Research to Their Respective Organizations.
Overview

Due to the COVID-19 pandemic, much of the world has been brought to a standstill. Every facet of personal life and commerce has been affected. Unprecedented during our lifetimes, trial court operations have been paused in the name of public safety. This includes jury trials in civil, criminal, and juvenile matters. While the duration and reach of the pandemic remains largely speculative, consensus within the Ohio legal community is that jury trials must proceed when (1) deemed essential; (2) they can be conducted in compliance with best medical practices; and (3) they are able to honor the fundamental rights of all parties to the judicial process. This advisory group, on behalf of Ohio’s legal community, asserts that cases must be evaluated on an individualized basis and that a ‘one size fits all’ approach is not appropriate.

This trial advisory group was authorized by Chief Justice Maureen O’Connor of the Ohio Supreme Court, on May 2, 2020. The group is comprised of stakeholders, other than judges, who are in any way involved in the jury trial process. This includes civil plaintiffs’ lawyers, civil defense lawyers, prosecutors, criminal defense lawyers, bailiffs, court reporters, sheriff’s deputies, juvenile practitioners, and clerks of court. In total, data responsive to this effort was obtained on behalf of approximately 50,000 professionals. It was important to the group that input come from jurisdictions throughout Ohio that are distinct, both in terms of geography and composition. We are confident that this goal was accomplished.

The trial advisory group commends the Ohio Judicial Conference for its effort toward keeping all stakeholders safe. On May 1, 2020, the Conference released a report entitled “Continuing Jury Operations” which carefully examined the jury process and made recommendations to trial courts. The goal of this advisory group is to compliment the effort by seeking input from the additional interest groups in order to consider the unique needs of all courtroom participants.

Process

After an initial assessment was made to determine what information was needed to formulate this advisory submission, parties throughout Ohio were asked to engage in a massive collaborative effort. There was an immediate acknowledgment of the importance of this effort. Accordingly, representatives for the numerous state organizations convened virtual conferences to outline their respective needs and goals. Thereafter, the groups were categorized into Representative Groups and Working Groups – the former served as the small group members speaking on behalf of the larger organizations while the latter communicated with their respective organizations to obtain data for inclusion into the instant submission. An electronic survey (distributed using the Survey Monkey platform) was designed and utilized by most
of the stakeholders, bar associations and working groups. Larger group data, including electronic survey results, was then conveyed to the representative group for assessment and discussion. Expectedly, while the groups did have unique needs and recommendations, there was much overlap. Many of these concerns were also shared by the Ohio Judicial Conference. As such, this report blends much of the content of the groups into common themes. That which had not been addressed is set forth herein in a separate section. Individualized or practice specific needs are also listed in separate sections.

The recommended ‘best legal practices’ were then shared with Andy Wilson, Esq., Senior Advisor for Criminal Justice Policy to Governor DeWine, and Dr. Mark Hurst, M.D., Medical Director of the Ohio Department of Health, to confirm whether the compilation conformed with the Ohio Department of Health directives and regulations approved by Governor Mike DeWine. Once vetted, the instant report was prepared, reviewed by all representatives, and finalized for presentation to Your Honor.

**Summary of Findings**

The stakeholders agreed on many, if not most, points. For instance, everyone concurred that individual safety during this difficult time is paramount. There was also universal recognition that the legal and constitutional rights of all parties must be adhered to, even under the current circumstances. As anticipated, however, with differing interests, constitutional protections, and viewpoints on the gravity of the pandemic, many of the groups expressed differing opinions as to the solutions. Moreover, as the advisory group consists of criminal and civil practitioners, their needs – as well as those of their clients – will logically differ.

Civil practitioners shared many similar concerns, including the need for social distancing, cleaning and sanitizing courtrooms, effects on jurors, use of PPE and utilization of alternative larger forums. Many of these same concerns were raised by the Ohio Judicial Conference in the issued “Continuing Jury Operations” report. With little exception, counsel for plaintiffs and defendants agreed on the inevitable needs that would be faced should jury trials recommence amidst the COVID-19 pandemic.

The criminal law practitioners, by and large, recognize the need to resume jury trials. The parties identified potential situations where a jury trial may have to advance regardless of the precautions that a court has in place to counter the potential spread of COVID-19. Examples include cases where speedy trial violations loom or where a defendant demands that his/her trial proceed. Beyond dual recognition of basic precautionary needs (e.g. PPE, sanitized courtrooms, and clear written or electronic public notices), defense counsel and prosecutors raised many different needs and perspectives warranted by their differing roles within the criminal justice system. Like the other stakeholders, the unique concerns and recommendations follow.

Ohio sheriff departments, bailiffs, and clerks of courts identified many legitimate areas of concern that need to be confronted prior to jury trials safely recommencing. In addition to their in-court roles, the sheriffs and their employees raise concerns related to safety both before and after the daily trial process. Specifically, many of their concerns and recommendations focused on the transportation of defendants or witnesses and keeping detention centers free from COVID-19. Bailiffs and clerks of courts are tasked with overseeing the administrative aspects of trial as well as assisting in making sure all aspects of daily trial function efficiently. It is this group of stakeholders that secure jurors for trial, usher them into the courtroom, initiate COVID-19 cautionary steps – such as temperature taking – and assist the jury as needed and as directed by the trial judge. Their separate needs, concerns, and recommendations highlight areas that must be settled before cases can safely resume to trial.
Court reporters have provided input that detail the safety concerns of the reporters and offer guidance on maintaining more accurate records of trial proceedings. While they too share many of the same concerns as the other stakeholders, they bring an interesting perspective to this collaborative effort as they typically observe all proceedings from a stationary position. This allows them to offer keen insight as to how all of the stakeholders, including judges, interact throughout trial.

The juvenile practitioners and administrators share in the primary concern of public health and safety. These practitioners recognize that the vast majority of juvenile court proceedings occur without juries. However, cases involving serious youthful offender specifications do require a jury. In such cases, the protections mandated or recommended in adult trials should apply equally to the juvenile trial.

Lastly, Dr. Hurst offers his invaluable expertise in seeking solutions to many of the shared concerns and recommendations. Recognizing that the stakeholders are limited in their ability to determine solutions, as this crisis relates to issues of medicine and epidemiology, his consult and ability to confer with other experts was vital to this advisory process.

The group work product and survey responses are included in the addendum and provide further insight into the feelings, thoughts and suggestions of practitioners, law enforcement and court personnel. See Group Work Product and Survey Responses, Pages 29 – 92. The extensive feedback that was received in a matter of mere days is evidence of the profound impact this health crisis has had on all individuals involved in Ohio’s justice system. This advisory effort is remarkable as it has brought together so many professionals from different aspects of the process to work together in maintaining the integrity and function of the trial process. This was a true statewide effort.

The following sections include concerns and recommendations unique to the stakeholders. To be clear, there was overall agreement that jury trials should recommence for essential matters when doing so is safe and maintains individual rights. The attached addendum includes submitted reports, group work product, survey responses, and a recent medical study pertaining to transmission of COVID-19 from asymptomatic sources. Addendum content should be reviewed for a more comprehensive understanding of the issues raised by professionals across Ohio.

**Civil Jury Trials**

After counsel for plaintiffs and defendants agreed on essential and recommended practices, both groups recognized that courts will possess different capabilities and that every case must be viewed on an individual basis. As the pandemic is a fluid situation, protocols must be revisited regularly. At all times, the trial courts must retain a public plan for adhering to directives and recommendations. The civil groups seek to begin trials again unless the parties agree that a continuance is warranted.

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1 Hao-Yuan Cheng, M.D., MSc; Shu-Wan Jian, DVM, MPH; Ding-Ping Liu, PhD, et al., Contact Tracing Assessment of COVID-19 Transmission Dynamics in Taiwan and Risk at Different Exposure Periods Before and After Symptom Onset, JAMA Intern. Med., May 1, 2020. (explaining the findings of a study of the first 100 confirmed cases of COVID-19 in Taiwan. The study concluded that COVID-19 was most contagious in the early stages of the disease, even before symptoms began to show. The high transmissibility of COVID-19 before and immediately after symptom onset suggests that finding and isolating symptomatic patients alone may not suffice to contain the epidemic, and more generalized measures may be required, such as social distancing.)
Should trial proceed, the Civil Lawyers deem the following essential:

- That there be uniform strategies in place at courthouse entrance checkpoints to avoid the use of communal trays;
- That all access points, including external door handles, be sanitized and/or left ajar when permissible throughout court hours;
- That temperature checks of all individuals entering the courthouses be taken, in addition to screening for symptoms of COVID-19 at any later point, as needed;
- That personal protective equipment (“PPE”) be worn by all judges, counsel, clients, public observers, witnesses, court personnel, and law enforcement at all times. This includes the requirement to use facial masks;
- That courts supply skin sanitizer, facial masks, and gloves to trial participants and public observers;
- That courtrooms and jury rooms be of sufficient size to allow for recommended social distancing practices;
- That the voir dire process allows for recommended social distancing practices;
- That sidebar conferences be conducted in an appropriate location to allow for recommended social distancing practices;
- That trial courts be prevented from removing trial counsel where requests for continuances are due to counsel’s concern for their own physical well-being during the COVID-19 pandemic.
  - Added consideration must be afforded to practitioners who are sixty-five (65) years of age or older and those in high-risk groups. This rule should be absolutely adhered to where counsel was engaged prior to Governor Mike DeWine’s declaration of a State of Emergency in Ohio on March 9, 2020;
- That courts permit all witness testimony to be conducted via videoconference where needed because expert witnesses may refuse to come to a courthouse and rules do not presently permit their video attendance;
- That exhibits for witnesses be used and exhibited electronically. Hard copies should only be used where needed. If hard copies are needed, protocol must be in place to sanitize the copies and exchange process; and,
- That continuances be freely granted where the parties are in agreement. A single form should be created and used statewide whereby parties can indicate agreement for a continuance. This approach will deter unnecessary delay of cases while also allowing parties to agree that a trial can be continued without prejudice to any party interest.

Should trial proceed, the Civil Lawyers deem the following as recommended:

- That temperature detection kiosks be utilized;
- That designated areas for public observers which adhere to constitutional guarantees be used;
- That juror questionnaires be utilized prior to a court appearance date;
- That each party be permitted to submit questions for inclusion in the juror questionnaires, if agreed upon, or as decided, by the trial court;

2 Id.
3 Id.
4 Id.
That extra jurors be called for the voir dire process;
That alternative locations be considered for trial and allowed when feasible. Civil trials do not typically require the same court personnel and security needs as a criminal trial. Examples may include county buildings, libraries, churches, movie theatres, vacant retail space and/or malls;
That there is the utilization at trial of a current sitting judge by agreement of the parties and with a judge that the parties agree to;
That additional funding be allotted for visiting judges to preside over bench and jury trials;
That communication between counsel and clients is critical and must be afforded despite social distancing requirements. This envisions breakout rooms or areas for each party to confer as needed; and,
That electronic means for communication between counsel and the court is needed. Parties should have the ability to raise concerns on the record prior to any trial.

Criminal Jury Trials

The Criminal Defense Lawyers, while desirous of restarting jury trials, raise a number of conditions that must first be met before resumption should occur. The basis for said concern is the deprivation of Fundamental Fairness and Due Process should certain conditions not be met.

Due to the heightened fear and danger of viral transmission, the Criminal Defense Lawyers deem the following essential:

- That until the risk of spreading COVID-19 has been mitigated, only essential trials proceed. Essential trials may include those where an incarcerated defendant requests to advance to trial, where speedy trial rights are implicated, and/or where parties agree to move forward due to sensitive issues in the case;
- That continuances be liberally granted where there are issues that would prevent the fair administration of justice;
- Older and/or high-risk lawyers should not be forced to proceed to trial prior to widespread testing or immunization;
- That incarcerated defendants be afforded access to their counsel and to a sanitized conference room in the courthouse for confidential trial preparation in accordance with a set protocol. It must be recognized that access requirements differ between cases depending on case complexity, amount of evidence, duration, and many other unique factors;
- That to adequately prepare for trial, a thorough investigation be conducted by the defense. Due to the current pandemic, it is exceptionally difficult, if not impossible in certain circumstances, to interview witnesses and perform other critical investigative steps. In matters where defense investigation cannot be completed due to the pandemic and/or health concerns, the trial should be continued, or pre-trial depositions should be permitted;
- That trials be continued where service of subpoenas cannot be perfected on a witness, or if a witness is unable/unwilling to appear due to health concerns.
- That trial courts be prevented from removing trial counsel where requests for continuances are due to counsel’s concern for their own physical well-being during the COVID-19 pandemic. Added consideration must be afforded to practitioners sixty-five (65) years of age or older and those in high-risk groups. This rule should be absolutely adhered to where counsel was engaged or assigned prior to Governor Mike DeWine’s declaration of a State of Emergency in Ohio on March 9, 2020;
• That counsel, co-counsel, and clients be able to effectively communicate in real-time in a confidential manner during trial. Current social distancing practices and facial masks prevent this. The defense groups refer to Ohio Rule of Professional Conduct 1.4 – Communication;
• That alternatives to the wearing of facial masks be employed before a trial should commence. Wearing a mask hinders courtroom communication, impairs the voir dire process and impedes the ability to gauge witness credibility via nonverbal communication. To require the removal of masks increases the danger of transmitting COVID-19 and potentially subjects individuals to greater harm. Alternatives should be considered such as transparent masks or face shields. See Images of ClearMask™ and Key Surgical® Face Shield, Pages 26 – 27;
• That video testimony violates the Confrontation Clause of both the Federal and Ohio Constitutions and should be reserved for limited situations deemed necessary or agreed upon by both parties;
• That courts listen to defense counsel’s concerns about being unable to render effective assistance of counsel in a particular trial due to the current pandemic. In such circumstances, accommodations and/or continuances should be liberally granted;
• That jury questionnaires to assist in effective voir dire, and, to allow jurors to share health concerns, be utilized in advance of trial. Said questionnaires should be distributed and collected prior to the date of trial in order to afford the parties adequate time for review. As it relates to COVID-19 and other medical concerns, a statewide standardized questionnaire should be assembled that is based upon the latest Ohio Department of Health and/or Centers for Disease Control and Prevention data and findings;
• That larger jury pools be summoned and those jurors with legitimate health concerns be excused for cause;
• That courts ensure that the exclusion of certain jurors (older and/or high-risk) does not result in a non-representative or biased jury;
• That great care be taken by courts to advise jurors of all their duties to properly assess evidence and deliberate under these different and difficult circumstances. Otherwise, jurors may seek to leave the courthouse as soon as possible;
• That space and opportunity be provided to any juror who requests to discuss any matter in private while still observing social distancing protocols;
• That the defendant’s right to have family members, friends, and other supporters not be eliminated. This holds true for alleged victims, members of the press, and concerned citizens as well. Some limitations may be reasonable but public access must be maintained; and,
• That counsel have access to clients detained in local jail for trial preparation purposes. An inability to prepare with detained clients may result in a need for a continuance. This may prove difficult where the client, despite lack of effective trial preparation, will not waive his or her speedy trial rights.

Should trial proceed, the Criminal Defense Lawyers deem the following as **recommended**:

• That courts distinguish which cases must proceed from those that can be continued. Trials should not proceed if the primary consideration is reducing docket size;
• That courts consider the lowering of bonds or granting of personal bonds in cases so that detained defendants can adequately work with their counsel to prepare for trial. Detained individuals face increased difficulties related to trial preparation;
• That, if incarcerated, a defendant’s clothing be delivered in a sealed bag to the jail at least forty-eight (48) hours prior to trial – unless otherwise directed by a court or sheriff’s department. The defendant’s clothing should be cleaned and sanitized after each day of trial or replaced by other clean clothing;
• That trials be moved to larger venues to allow for proper social distancing where feasible.\(^6\) Attention must be given to proper ventilation, cleaning, and sanitizing;
• That requested breaks be granted to allow counsel and client, or the State and its agents, to speak privately, as needed;
• That courts be prepared to feed and accommodate jurors as courthouse cafeterias and local restaurants may be unable to accommodate social distancing protocols;
• That, due to small and/or limited restroom facilities, breaks should be extended, and sanitizing should be frequent;
• That, in order to limit animosity toward a defendant for having to appear in court, wear PPE, and face increased risk of contracting COVID-19, courts should address this subject in introduction, voir dire, and closing instructions; and,
• That protocols be in place prior to trial related to the use of interpreters while being socially distant and that address how interpretation is to be conducted with a facial mask. This may be solved by clear face masks, face shield or Plexiglass partitioning. See Images of ClearMask™ and Key Surgical® Face Shield, Pages 26 – 27.

**Ohio Prosecuting Attorneys Association**

The Ohio Prosecuting Attorneys Association is ready to resume trials with appropriate safety precautions in place. This group echoes the sentiment that each case, and each courthouse, be assessed on an individualized basis. Their concerns look to the health and safety of all parties, including jurors, and focus on resuming trials with proper social distancing and PPE.

Should trial proceed, the Ohio Prosecuting Attorneys Association deems the following essential:

- That jury trial accommodations, modifications, and protocols will vary from county to county. Due to different capabilities, it is important to acknowledge that a ‘one size fits all’ approach to countering COVID-19 and recommencing jury trials is not feasible;
- That, believing that COVID-19 has peaked in Ohio, trials should resume barring standard considerations for a continuance;
- That, for purposes of voir dire, additional jurors be summoned, and remote juror questionnaires be utilized for initial health screenings.
- That voir dire should also be conducted with smaller panels that allow for observance of social distancing protocols.
- That times for jurors summoned to court should be staggered to prevent increased entrance security screening needs and to minimize juror wait time inside the courthouse;
- That face shields, as addressed by Dr. Hurst and the Ohio Department of Health, be used by witnesses rather than masks to allow for observation of non-verbal communication. While masks are preferred for protection over a face shield, circumstances may warrant the use of a shield; See Image of Key Surgical® Face Shield, Page 27;

\(^6\) Id.
• That additional, separate room(s) be available to the media and public with proceedings being publicly broadcasted;
• That witness stands and microphones be sanitized between each use;
• That courtrooms be cleaned and sanitized following trial each day; and,
• That jury deliberations be conducted in the courtroom or other larger spaces to maintain social distancing protocols.

Should trial proceed, the Ohio Prosecuting Attorneys Association deem the following as recommended:

• That, for purposes of jury selection and composition, existing statutory schemes be followed to treat COVID-19 as a medical excuse. Deferments for medical conditions are routinely sought with affidavits and sworn testimony;
• That face mask removal is only appropriate where proper social distancing can be employed;
• That additional, separate room(s) be available for sidebars and communication between counsel, clients and representatives. Rooms should be cleaned and sanitized after each use as needed;
• That videoconferencing be used when feasible;
• That exhibits be published electronically. Juries may need to be supplied with separate and complete copies of all exhibits where electronic systems are unavailable. All hard copy or tangible evidence should be cleaned and sanitized if touched by any individual; and,
• That Plexiglass partitioned courtrooms may be an adequate solution to countering the transmission of COVID-19. See Photographs of Franklin County Court of Common Pleas, Page 28.

Clerk of Courts, Ohio Municipal Bailiffs’ Association & Buckeye Sheriffs’ Association

The Clerk of Courts, Ohio Municipal Bailiffs’ Association, and the Buckeye Sheriffs’ Association also have numerous interests and concerns about resuming trials. These concerns focus on the health and safety of courthouse personnel, security, inmates, lawyers, judges and the general public.

The Clerk of Courts, Ohio Municipal Bailiffs’ Association, and Buckeye Sheriffs’ Association deem the following essential:

• That all safety protocols be clear, concise, openly posted, and provided to jurors with their summons;
• That face masks be required to be worn by all persons entering the courthouse;
• That PPE be supplied to inmates, court personnel, and court security. This includes masks, gloves, spit guards, hand sanitizer, and disinfectant;
• That court security and employees be trained in identifying signs and symptoms of COVID-19 exposure;
• That all hardware, including handcuffs, phones, and radios be routinely sanitized;
• That all entrances into the courthouse be well marked with restrictions and proper distance spacing on stairs, hallways, and public areas;
• That juror start and/or report times be staggered to allow for slowed flow of courthouse entrants;
• That prior to inmate transport, an inmate’s temperature be taken and they wear PPE at all times;
• That only one inmate be moved at a time and security maintain hands on control of any moving inmate;
• That inmates be socially distanced both while waiting and while inside the courtroom; and,
• That Ohio prisons provide inmate exposure risks at the time of transport so that sheriffs can provide accurate risk information to the court and relevant parties.

Should trial proceed, the Clerk of Courts, Ohio Municipal Bailiffs’ Association, and Buckeye Sheriffs’ Association deem the following as recommended:

• That any limits on the number of people permitted in the courtroom be clear, concise, and openly posted on the courthouse exterior and interior areas;
• That courthouse security (bailiffs and deputies) be empowered to enforce social distancing and be permitted to remove persons showing signs of COVID-19;
• That temporary orders be used to authorize courthouse security to enforce policies necessary to uphold all public safety measures;
• That PPE supplies be kept on a limited basis to prevent denial of admission to someone in need of court services;
• That the media may need to be provided alternative viewing options depending on infrastructure restrictions and social distancing protocols;
• That police officers, and other witnesses, be on call or scheduled for their exact court appearance time to reduce exposure and unnecessary waiting; and,
• That courthouse security and personnel be advised of:
  o Available training in COVID-19 detection;
  o The optimal PPE for use in a maximum capacity courtroom;
  o The optimal number of people in a particular courtroom; and,
  o The optimal PPE for use in inmate transport.

Ohio Court Reporters Association

The Ohio Court Reporters Association also has expressed concern about procedures once trials resume. These concerns stem from the practical limitations of masks, social distancing, and the handling of physical exhibits.

The Ohio Court Reporters Association deems the following essential:

• That, due to difficulty hearing speakers with masks, people be able to speak and testify free from obstruction. (i.e. without mask, use of transparent facial mask, use of face shield, Plexiglass partitioning, etc.); See Images of ClearMask™ and Key Surgical® Face Shield, and, Photographs of Franklin County Court of Common Pleas, Pages 26 – 28.
• That courts develop uniform protocols for the handling and conveyance of exhibits to court reporters;
• That original exhibits be pre-marked, sanitized, and provided to the court reporter when needed;
• That exhibit copies not be passed between individuals;
• That parties provide individual copies of each exhibit to each juror, if they can be sanitized, or utilize electronic publishing in court;
• That directives be uniformly issued requiring that all individuals remain socially distanced from court reporters, not come into contact with court reporter equipment, and not convey any exhibits, documents, or other evidence directly to court reporters; and,
• That court reporters, and all other courtroom stakeholders, be supplied with adequate PPE and sanitizer, recognizing that frequent cleaning will be necessary throughout trial.

Should trial proceed, the Ohio Court Reporters Association deems the following as **recommended**:

• That courts use court reporters in electronic recording courtrooms;
• That courts utilize Plexiglass shields on the witness stand, court reporter station, judge’s bench, jury box, podium, bailiff’s station, security area, and counsel tables; See Photographs of Franklin County Court of Common Pleas, Page 28;
• That courts utilize seating areas in the rear of courtrooms for the jury;
• That courts utilize sound amplification and document viewing screens;
• That, since court reporters can use headsets for sound amplification, lawyers and other speakers be provided microphones for clarity;
• That movements of lawyers and other individuals in the courtroom be restricted; and,
• That, when possible, witnesses appear and testify via virtual conferencing – with the recognition that this may be better suited for civil matters, instead of criminal matters.

**Juvenile Court Proceedings**

While the vast majority of juvenile court proceedings occur without juries, cases involving serious youthful offender specifications would require a jury. In such cases, the protections mandated or recommended in adult trials should apply equally to the juvenile trial. The juvenile practitioners and administrators share in the primary concern of public safety as they encourage county and state entities to provide basic protections including PPE to all parties (including parents), daily individual temperature monitoring and protocol that dictates that PPE be worn at all times throughout the jury process.

Should trial proceed, Juvenile Court Representatives deem the following **essential**:

• That transport staff and youth wear proper PPE at all times and maintain proper social distancing as directed by the Ohio Department of Health and Centers for Disease Control and Prevention;
• That plain clothes for the youth at trial be cleaned and delivered in a sealed bag to the jail at least forty-eight (48) hours prior to trial – unless otherwise directed by a court or sheriff’s department. The youth’s clothing should be cleaned and sanitized after each day of trial or replaced by other clean clothing;
• That counsel tables be separated, and chair placement be configured to maintain proper social distancing as directed by the Ohio Department of Health and Centers for Disease Control and Prevention;
• That podiums, witness boxes and other shared areas be cleaned and sanitized after each use;
• That accommodations be made to allow for attorney and client communication. The state and its agents must also be permitted unobstructed communication during trial;
• That sidebars be held outside the hearing of the jury in a space that allows for the maintenance of proper social distancing guidelines as directed by the Ohio Department of Health and Centers for Disease Control and Prevention;
• That courthouses be clearly marked in all areas open to the public with social distancing markers. This includes security areas, elevator lobbies, and common areas; and,
• That youth should not be transported to court in groups from detention centers as proper social distancing would be difficult.
Should trial proceed, Juvenile Court Representatives deem the following as **recommended**:

- That courtrooms currently equipped with fixed audio and video systems be modified and/or reconfigured to allow for recordation of courtrooms which have been reorganized in compliance with current best legal and medical practices. All systems should be tested in advance of trial;
- That court reporters be utilized in all courtrooms where fixed audio and video systems cannot be modified and/or reconfigured to allow for recordation of reorganized courtrooms;
- That breaks must be granted to allow for attorney and client private communication as needed;
- That all exhibits be placed in plastic sleeves to allow sanitizing of the bag without contacting the exhibit;
- That the handling of physical evidence be minimized or avoided where possible. Exhibits, including physical evidence, should be displayed electronically when feasible;
- That exhibits be marked by counsel without transference to the court reporter or any other party. Evidence handling protocol should be uniform, precise and made known to all parties prior to trial;
- That jurors be provided instruction related to handling of evidence and be provided PPE as needed for evidence examination. Documents, and other evidence where possible, should be provided to jurors in properly sanitized plastic sleeves or containers;
- That any courtroom used for a jury trial be maintained and checked for proper ventilation system functioning;
- That the use of stairwells be encouraged. This contemplates social distancing and proper sanitization protocols are in place;
- That courts utilize single case assignment times. Due to the COVID-19 pandemic, this will help to reduce the number of individuals waiting to enter courtrooms. Multiple cases called at the same time will result in more densely populated public areas; and,
- That courts reduce the number of courtroom participants and observers by utilizing live feed monitors stationed in alternative rooms where social distancing can be maintained as directed by the Ohio Department of Health and Centers for Disease Control and Prevention.

**Recommendations of Dr. Mark Hurst, M.D., Ohio Department of Health**

The advisory group was fortunate to have Dr. Mark Hurst, M.D., participate in this process. His expertise proved invaluable. Dr. Hurst provided insight to ensure that all legal recommendations remain in conformity with ‘best medical practices.’

Dr. Hurst’s **declarations and recommendations** include:

- That the current risk of spreading COVID-19 cannot be eliminated. The threat can be reduced dependent on the precautionary steps taken by the courts and the adherence to safety protocols by all parties, including members of the public;
- That without a mask (in the event that masks are not mandated), people must distance themselves from others by no less than six (6) feet;
- That physical distancing beyond six (6) feet further decreases the chances of transmitting COVID-19 between individuals;
- That, while not certain, it is hopeful that widespread antibody testing for COVID-19 may be seen in or around August of 2020;
• That facial masks, particularly those worn by detainees and law enforcement be replaced routinely. This is especially important when transferring inmates;
• That facial masks with N95 designations are reserved for medical and first responders. For purposes of trial process, N95 or similar grade facial masks may not be necessary. This contemplates that all other safety protocols are followed;
• That the proposed use of Plexiglass partitioning in the courtroom would be a sound solution to the concerns of conducting trial during this pandemic. It is noted that such steps must contemplate all Americans with Disabilities Act (“ADA”) mandates. For instance, jury boxes must be constructed with partitions that allow a juror in a wheelchair to safely enter and exit their protected space. Additionally, Plexiglass areas must be cleaned and sanitized after use by each witness and regularly throughout trial; See Photographs of Franklin County Court of Common Pleas, Page 28;
• That the use of video conferencing for witness testimony may help to reduce the risk of spreading COVID-19;
• That there should be universal use of facial masks by all individuals entering the courthouse and courtroom for trial. The use of good patency Plexiglass partitioning and/or virtual witness presentation may lessen the need for strict in-court facial mask mandates; See Photographs of Franklin County Court of Common Pleas, Page 28;
• That witness stands or boxes must be properly cleaned and sanitized after use by every witness. The cleaning agents must be an EPA approved disinfectant with activity against COVID-19;
• That the use of a hard microphone versus a soft or porous cloth covered microphone is preferred as it can be more easily cleaned and sanitized. This will help to reduce the risk of spreading COVID-19;
• That, where face shields (in lieu of facial masks) are utilized, said shields must cover the sides and the bottom of the face. Facial masks do provide greater protection against COVID-19; See Image of Key Surgical® Face Shield, Page 27.
• That in courthouses that have multiple floors and utilize elevators, an effort be made to conduct trials on lower floors so as to eliminate the need for elevator use except when needed (i.e. ADA considerations and individuals in wheelchairs). When an elevator must be used, all individuals that enter it should utilize facial masks and immediately clean their hands and use sanitizer upon exiting. Use of the elevator must be limited to two (2) individuals at a time. Each elevator car in use should be cleaned and sanitized regularly; and,
• That wearing facial masks may not be appropriate for all individuals. Examples include, but are not limited to, those with asthma, claustrophobia, and victims of sexual trauma.

Again, the Ohio jury trial advisory group thanks Dr. Hurst for his time and expertise. In addition to the above suggestions, he provided regular feedback to group questions and suggested practices.

Conclusion

As all citizens face the hardships and uncertainty of COVID-19, so too does Ohio’s legal system. Based upon the information and data known at this time, the contributors to this report have submitted recommendations believed to comport with best legal and medical practices. The stakeholders recognize the need for continued operations within the judicial system. One of the most vital individual and societal rights is that of the jury trial. As expressed herein, there is consensus among the stakeholders that resumption of trial is necessary, even amidst the COVID-19 pandemic, subject to certain conditions being met. Again, jury trials must proceed when (1) deemed essential; (2) they can be conducted in compliance with the best legal and medical practices; and (3) they are able to honor the fundamental rights of all parties to the judicial process.

This advisory group will continue to analyze best practices as courts begin to commence jury trials. Upon request by Chief Justice Maureen O’Connor of the Ohio Supreme Court, additional findings and recommendations will be provided as a supplement to this report. It has been an honor and privilege to collaborate with our colleagues from across Ohio. Together we have focused this concerted effort on protecting the well-being of individuals served by the Ohio jury system. Additionally, this effort is aimed at upholding the functionality and integrity of Ohio’s great legal system.
Contact Tracing Assessment of COVID-19 Transmission Dynamics in Taiwan and Risk at Different Exposure Periods Before and After Symptom Onset

Hao-Yuan Cheng, MD, MSc; Shu-Wan Jian, DVM, MPH; Ding-Ping Liu, PhD; Ta-Chou Ng, BSc; Wan-Ting Huang, MD; Hsien-Ho Lin, MD, ScD; for the Taiwan COVID-19 Outbreak Investigation Team

IMPORTANCE The dynamics of coronavirus disease 2019 (COVID-19) transmissibility are yet to be fully understood. Better understanding of the transmission dynamics is important for the development and evaluation of effective control policies.

OBJECTIVE To delineate the transmission dynamics of COVID-19 and evaluate the transmission risk at different exposure window periods before and after symptom onset.

DESIGN, SETTING, AND PARTICIPANTS This prospective case-ascertained study in Taiwan included laboratory-confirmed cases of COVID-19 and their contacts. The study period was from January 15 to March 18, 2020. All close contacts were quarantined at home for 14 days after their last exposure to the index case. During the quarantine period, any relevant symptoms (fever, cough, or other respiratory symptoms) of contacts triggered a COVID-19 test. The final follow-up date was April 2, 2020.

MAIN OUTCOMES AND MEASURES Secondary clinical attack rate (considering symptomatic cases only) for different exposure time windows of the index cases and for different exposure settings (such as household, family, and health care).

RESULTS We enrolled 100 confirmed patients, with a median age of 44 years (range, 11-88 years), including 56 men and 44 women. Among their 2761 close contacts, there were 22 paired index-secondary cases. The overall secondary clinical attack rate was 0.7% (95% CI, 0.4%-1.0%). The attack rate was higher among the 1818 contacts whose exposure to index cases started within 5 days of symptom onset (1.0% [95% CI, 0.6%-1.6%]) compared with those who were exposed later (0 cases from 852 contacts; 95% CI, 0%-0.4%). The 299 contacts with exclusive presymptomatic exposures were also at risk (attack rate, 0.7% [95% CI, 0.2%-2.4%]). The attack rate was higher among household (4.6% [95% CI, 2.3%-9.3%]) and nonhousehold (5.3% [95% CI, 2.1%-12.8%]) family contacts than that in health care or other settings. The attack rates were higher among those aged 40 to 59 years (1.1% [95% CI, 0.6%-2.1%]) and those aged 60 years and older (0.9% [95% CI, 0.3%-2.6%]).

CONCLUSIONS AND RELEVANCE In this study, high transmissibility of COVID-19 before and immediately after symptom onset suggests that finding and isolating symptomatic patients alone may not suffice to contain the epidemic, and more generalized measures may be required, such as social distancing.

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Group Information: A complete list of the members of the Taiwan COVID-19 Outbreak Investigation Team appears at the end of this article.

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The coronavirus disease 2019 (COVID-19) outbreak that originated in Wuhan, China, spread to more than 100 countries within 2 months of when the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) was identified in January 2020. Following the Wuhan lockdown and other extreme social-distancing measures conducted by the Chinese government, several countries with widespread outbreaks implemented similar measures, including shutting down entire cities or communities, banning international or domestic travel, conducting border control with symptom screening, and implementing isolation and quarantine.

The unknown epidemiologic characteristics and transmission dynamics of a novel pathogen, such as SARS-CoV-2, complicate the development and evaluation of effective control policies. The serial interval of COVID-19, defined as the interval between the infection time of the index case and that of the secondary case, was found to be short (4-5 days) and was similar to the estimated incubation period. The short serial interval of COVID-19 and results from viral shedding studies suggested that most transmission occurred near or even before the time of symptom onset. On the other hand, prolonged viral shedding raised concerns about prolonged infectiousness of patients and the need for extended isolation. A few preliminary contact-tracing studies showed that the highest-risk exposure setting of COVID-19 transmission was the household. Nevertheless, it is not known when and how long a patient with COVID-19 should be isolated or whether close contacts should be quarantined. Additional information is needed about the transmission risk at different time points before and after symptom onset and with different types of exposures, such as through the household or a healthcare facility.

In Taiwan, the first COVID-19 case was confirmed on January 21, 2020. With proactive containment efforts and comprehensive contact tracing, the number of COVID-19 cases remained low, as compared with other countries that had widespread outbreaks. Using the contact tracing data in Taiwan, we aimed to delineate the transmission dynamics of COVID-19, evaluate the infection risk at different exposure windows, and estimate the infectious period.

**Methods**

**Study Population**

On January 15, 2020, in response to the outbreak in Wuhan, the Taiwan Centers for Disease Control (Taiwan CDC) made COVID-19 a notifiable disease. We conducted a prospective case-ascertained study that enrolled all the initial 100 confirmed cases in Taiwan between January 15 and March 18, 2020, and their close contacts. All contacts were followed up until 14 days after the last exposure to the index case. The last follow-up date was April 2, 2020.

The study followed the Strengthening the Reporting of Observational Studies in Epidemiology (STROBE) reporting guideline. Information was collected according to the pronouncement of the Central Epidemic Command Center and in accordance with Article 17 of the Communicable Disease Control Act. As part of the public health response functions of the Central Epidemic Command Center for surveillance purposes, institutional review board approval of this study and informed consent were waived. Prior to analysis, the data were deidentified.

**Ascertainment of Cases**

A confirmed case met the criteria of notification for COVID-19 in Taiwan and tested positive by real-time reverse transcriptase-polymerase chain reaction (RT-PCR) test. Detailed information, including demographic and clinical data, was reported to the National Notifiable Disease Surveillance System. The investigation team determined the clinical severity of the confirmed patients following the World Health Organization (WHO) interim guidance.

**Contact Tracing for COVID-19**

When a patient was laboratory-confirmed to have SARS-CoV-2 infection, a thorough epidemiological investigation, including contact tracing, was implemented by the outbreak investigation team of the Taiwan CDC and local health authorities. The period of investigation started at the date at symptom onset (and could be extended to up to 4 days before symptom onset when epidemiologically indicated) and ended at the date at COVID-19 confirmation. For asymptomatic confirmed cases, the period of investigation was based on the date at confirmation (instead of date at onset) and was determined according to epidemiological investigation. The definition of a close contact was a person who did not wear appropriate personal protection equipment (PPE) while having face-to-face contact with a confirmed case for more than 15 minutes during the investigation period. A contact was listed as a household contact if he or she lived in the same household with the index case. Those listed as family contacts were family members not living in the same household.

For health care settings, medical staff, hospital workers, and other patients in the same setting were included; close contact was defined by contacting an index case within 2 m without appropriate PPE and without a minimal requirement of exposure time. Whether the PPE was regarded as appropriate depended on the exposure setting and the procedures performed. For example, for physicians who performed aerosol-generating procedures, such as intubation, an

**Key Points**

**Question** What is the transmissibility of coronavirus disease 2019 (COVID-19) to close contacts?

**Findings** In this case-ascertained study of 100 cases of confirmed COVID-19 and 2761 close contacts, the overall secondary clinical attack rate was 0.7%. The attack rate was higher among contacts whose exposure to the index case started within 5 days of symptom onset than those who were exposed later.

**Meaning** High transmissibility of COVID-19 before and immediately after symptom onset suggests that finding and isolating symptomatic patients alone may not suffice to interrupt transmission, and that more generalized measures might be required, such as social distancing.
N95 respirator was required. For such procedures, a surgical mask would not be appropriate PPE. Accordingly, the medical staff would be listed as a close contact.

All close contacts were quarantined at home for 14 days after their last exposure to the index case. During the quarantine period, any relevant symptoms (fever, cough, or other respiratory symptoms) of close contacts would trigger RT-PCR testing for COVID-19. For high-risk populations, including household and hospital contacts, RT-PCR was performed regardless of symptoms. Essentially, these high-risk contacts were tested once when they were listed as a close contact. If the initial COVID-19 test result was negative, further testing would only be performed if a close contact developed symptoms during quarantine. The Taiwan CDC used an electronic tracing system (Infectious Disease Contact Tracing Platform and Management System) to follow and record the daily health status of those quarantined contacts.18 The information collected included age, sex, the index case, date at exposure, and the exposure setting.

### Data Processing and Analysis

Paired data of index case and close contacts were extracted from the contact tracing database and outbreak investigation reports. For a family cluster, the index case was determined based on the temporality of symptom onset and review of the epidemiological link. A secondary case was excluded from the paired data if the beginning of exposure was after symptom onset of the secondary case (only applied when the secondary case was symptomatic). For health care contacts, the date at exposure would be the date at admission of the case if the exact date at exposure was not recorded.

Incubation period and serial interval were estimated using the contact tracing data in Taiwan and publicly available datasets globally (eMethods in the Supplement). We used the Bayesian hierarchical model to increase the stability in small-sample estimation. The exposure window period was defined as the period between the first and last day of reported exposure to the index case based on contact investigation. Following the WHO, we defined the secondary clinical attack rate as the ratio of symptomatic confirmed cases among the close contacts.19 We analyzed the dynamic change of secondary clinical attack rate in relation to symptom onset of the index case (days <0, 0-3, 4-5, 6-7, 8-9, or >9).

The percentage of missing information was small (7.0% for age, 6.1% for sex, and 3.3% for time from onset to exposure; Table 1). In the univariable analysis of secondary clinical attack rate by different exposure characteristics (eg, age), close contacts with missing information in that particular exposure attribute were excluded. All statistical tests were 2-sided with an α level of .05. All confidence intervals (CIs) were 95%. R software (R Foundation for Statistical Computing) and RStan (Stan Development Team) were used for data management and analysis.

### Results

As of March 18, 2020, there were 100 patients with laboratory-confirmed COVID-19 in Taiwan, including 10 clusters of patients and 9 asymptomatic patients. The median age of the 100 patients was 44 years old (range, 11-88 years); 56 were men and 44 were women. Of the 2761 close contacts that were identi-

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### Table 1. Characteristics of the 2761 Close Contacts by Different Exposure Settings

<table>
<thead>
<tr>
<th>Exposure, No. (%)</th>
<th>Household (n = 151)</th>
<th>Family (n = 76)</th>
<th>Health care (n = 698)</th>
<th>Others (n = 1836)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age, median (range), y</td>
<td>33 (1-96)</td>
<td>45 (0-88)</td>
<td>39 (0-92)</td>
<td>35 (0-89)</td>
</tr>
<tr>
<td>Age group, y</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-19</td>
<td>24 (16)</td>
<td>14 (18)</td>
<td>29 (4)</td>
<td>214 (12)</td>
</tr>
<tr>
<td>20-39</td>
<td>55 (36)</td>
<td>16 (21)</td>
<td>281 (40)</td>
<td>809 (44)</td>
</tr>
<tr>
<td>40-59</td>
<td>38 (25)</td>
<td>24 (32)</td>
<td>175 (25)</td>
<td>557 (30)</td>
</tr>
<tr>
<td>≥60</td>
<td>26 (17)</td>
<td>11 (14)</td>
<td>119 (17)</td>
<td>175 (10)</td>
</tr>
<tr>
<td>Unknown</td>
<td>8 (5)</td>
<td>11 (14)</td>
<td>94 (13)</td>
<td>81 (4)</td>
</tr>
<tr>
<td>Sex</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>70 (46)</td>
<td>41 (54)</td>
<td>454 (65)</td>
<td>872 (47)</td>
</tr>
<tr>
<td>Male</td>
<td>81 (54)</td>
<td>30 (39)</td>
<td>228 (33)</td>
<td>816 (44)</td>
</tr>
<tr>
<td>Unknown</td>
<td>0</td>
<td>5 (7)</td>
<td>16 (2)</td>
<td>148 (8)</td>
</tr>
<tr>
<td>Time from onset to exposure, median (range), a</td>
<td>−4 (−4 to 9)</td>
<td>6 (−4 to 26)</td>
<td>1 (−4 to 23)</td>
<td>2 (−4 to 26)</td>
</tr>
<tr>
<td>Time from onset to exposure, b</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;0</td>
<td>100 (66)</td>
<td>10 (13)</td>
<td>236 (34)</td>
<td>389 (21)</td>
</tr>
<tr>
<td>0-3</td>
<td>39 (26)</td>
<td>15 (20)</td>
<td>150 (21)</td>
<td>663 (36)</td>
</tr>
<tr>
<td>4-5</td>
<td>6 (4)</td>
<td>6 (8)</td>
<td>38 (5)</td>
<td>166 (9)</td>
</tr>
<tr>
<td>6-7</td>
<td>4 (3)</td>
<td>10 (13)</td>
<td>17 (2)</td>
<td>88 (5)</td>
</tr>
<tr>
<td>8-9</td>
<td>2 (1)</td>
<td>3 (4)</td>
<td>110 (16)</td>
<td>334 (18)</td>
</tr>
<tr>
<td>&gt;9</td>
<td>0</td>
<td>24 (32)</td>
<td>146 (21)</td>
<td>114 (6)</td>
</tr>
<tr>
<td>Unknown</td>
<td>0</td>
<td>8 (11)</td>
<td>1 (0.1)</td>
<td>82 (5)</td>
</tr>
</tbody>
</table>

*a Others include friends, airline crew members and passengers, and other casual contacts.

*b Defined as the elapsed time between the date at symptom onset of the index case and the first date at exposure. For example, people from the group “<0 days” had their first contact with the index case before the case had any symptoms.
The exposure time was defined as the period from the first day of exposure to the index case to the last day of exposure. Time zero indicates the day of symptom onset of the index case.

Among the 2761 close contacts, 22 secondary cases of COVID-19 infection (including 4 asymptomatic infections) were detected, with an infection risk of 0.8% (95% CI, 0.5%-1.2%). The secondary clinical attack rate was 18 of 2761, or 0.7% (95% CI, 0.4%-1.0%). Figure 1 shows the exposure window of all contacts. All of the 22 secondary cases had their first exposure before the sixth day of the index case’s symptom onset. By comparison, only 68% of noncase contacts had their first exposure before day 6 (Table 1). The secondary clinical attack rate was higher among those whose initial exposure to the index case was within 5 days of symptom onset than those who were exposed after day 6 (zero transmission of 852 contacts [95% CI, 0%-0.4%]) (Table 2 and Figure 2A). The 735 contacts whose initial exposure occurred before symptom onset of the index case were also at risk, with a secondary clinical attack rate of 1.0% (95% CI, 0.5%-2.0%). A subgroup of 299 contacts with exclusive presymptomatic exposures were also at risk (secondary clinical attack rate, 0.7% [95% CI, 0.2%-2.4%]).

The secondary clinical attack rate was 4.6% (95% CI, 2.3%-9.3%) among 151 household contacts and 5.3% (95% CI, 2.1%-12.8%) in 76 nonhousehold family contacts (Table 2). The high attack rate from early exposure remained when the analysis was restricted to household and nonhousehold family contacts (Table 3 and Figure 2B). The attack rates were higher among those aged 40 to 59 years (1.1% [95% CI, 0.6%-2.1%]) and those aged 60 years and older (0.9% [95% CI, 0.3%-2.6%]). The 786 close contacts of the 6 confirmed cases presenting with severe disease were at a higher risk compared with the 1097 close contacts of the 56 cases presenting with mild disease (risk ratio, 3.76 [95% CI, 1.10-12.76] and 3.99 [95% CI, 1.00-15.84] for severe pneumonia and acute respiratory distress syndrome/sepsis, respectively). Among the 91 close contacts of the 9 asymptomatic cases, no secondary transmission was observed. The secondary attack rate among contacts of cases with infection acquired in Taiwan was higher than that among contacts of cases with infection acquired outside of Taiwan (Table 2).

Discussion

Our analysis of close contacts to confirmed COVID-19 cases revealed a relatively short infectious period of COVID-19 and a higher transmission risk around the time of symptom onset of the index case, followed by a lower transmission risk at the later stage of disease. The observed decreasing transmission risk over time for COVID-19 was in striking contrast to the transmission pattern of severe acute respiratory syndrome (SARS), in which the transmission risk remained low until after day 5 of symptom onset in the index cases.20 Our study and the study by Nishiura et al21 revealed a short serial interval of COVID-19, with a median of 4 to 5 days. In contrast, the mean serial interval of SARS was estimated to be 8.4 days in Singapore.20 The present contact tracing analysis suggested that the shorter serial interval of COVID-19 was due to the combination of early-stage transmission and a short period of infectiousness.

The observed pattern of the secondary clinical attack rate over time was also consistent with the quantitative data of the SARS-CoV-2 viral shedding in upper respiratory specimens, which has been found in China to be a high viral load around the time of symptom onset, followed by a gradual decrease in viral shedding to a low level after 10 days.5 The viral load was similar among asymptomatic, minimally symptomatic, and symptomatic patients. Another virological study in patients with COVID-19 in Germany also found no viable isolates of the virus after the first week of symptoms.21 Our findings agree with the virological data on high transmissibility of COVID-19 in the first week after the onset of symptoms and decreased risk afterwards.21 We also documented and quantified the...
transmission potential of COVID-19 in a subgroup of contacts whose exposure occurred exclusively during the presymptomatic period of the index case. Our analysis revealed a similar clinical attack rate between the contacts who only had pre-symptomatic exposure and those who had postsymptomatic exposure.

To summarize the evidence, the decreasing risk for secondary infection over time in our study, the observed short serial interval, and the trend of decreasing viral shedding and viability after symptom onset strongly suggested high transmissibility of the disease near or even before the day of symptom onset. Because the onset of overt clinical symptoms, such as fever, dyspnea, and signs of pneumonia, usually occurred 5 to 7 days after initial symptom onset, the infection might well have been transmitted at or before the time of detection.²⁻²³ This characteristic makes containment efforts challenging. In a modeling study, Hellewell et al²⁴ found that the possibility of controlling COVID-19 through isolation and contact tracing decreased with increasing proportion of transmission that occurred before symptom onset. The findings of this modeling study, when viewed in the context of our findings, might help to explain the difficult situation in such areas and countries as China, South Korea, Iran, and Italy. Aggressive social distancing and proactive contact tracing might be necessary to block the transmission chain of COVID-19 and to keep presumptive patients away from susceptible populations with a high risk for severe disease.

The observed short duration of infectiousness with lower risk of transmission 1 week after symptom onset has important implications for redirecting the efforts to control COVID-19. Given the nonspecific and mostly mild symptoms of COVID-19 at presentation, patients are often identified and hospitalized at a later stage of disease when the transmissibility of infection has started to decrease. In this case, hospitalization would not be helpful for isolation and reducing transmission, and should be only for patients whose clinical course is

### Table 2. Secondary Clinical Attack Rate for COVID-19 Among the 2761 Close Contacts by Different Exposure Settings, Times, and Characteristics

<table>
<thead>
<tr>
<th>Exposure setting</th>
<th>No. of secondary cases (asymptomatic case)</th>
<th>No. of contacts</th>
<th>Secondary clinical attack rate, % (95% CI)</th>
<th>Risk ratio (95% CI)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Household</td>
<td>10 (3)</td>
<td>151</td>
<td>4.6 (2.3-9.3)</td>
<td>1 [Reference]</td>
</tr>
<tr>
<td>Nonhousehold family</td>
<td>5 (1)</td>
<td>76</td>
<td>5.3 (2.1-12.8)</td>
<td>1.14 (0.34-3.76)</td>
</tr>
<tr>
<td>Health care</td>
<td>6 (0)</td>
<td>698</td>
<td>0.9 (0.4-1.9)</td>
<td>0.19 (0.06-0.54)</td>
</tr>
<tr>
<td>Othersa</td>
<td>1 (0)</td>
<td>1836</td>
<td>0.1 (0-0.3)</td>
<td>0.01 (0-0.09)</td>
</tr>
<tr>
<td>Time from onset to exposure, da</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;0</td>
<td>10 (3)</td>
<td>735</td>
<td>1.0 (0.5-2.0)</td>
<td>1 [Reference]</td>
</tr>
<tr>
<td>0-3</td>
<td>9 (1)</td>
<td>867</td>
<td>0.9 (0.5-1.8)</td>
<td>0.97 (0.35-2.66)</td>
</tr>
<tr>
<td>4-5</td>
<td>3 (0)</td>
<td>216</td>
<td>1.4 (0.5-4.0)</td>
<td>1.46 (0.38-5.59)</td>
</tr>
<tr>
<td>6-7</td>
<td>0</td>
<td>119</td>
<td>0 (0-3.1)</td>
<td>0</td>
</tr>
<tr>
<td>8-9</td>
<td>0</td>
<td>449</td>
<td>0 (0-0.9)</td>
<td>0</td>
</tr>
<tr>
<td>&gt;9</td>
<td>0</td>
<td>284</td>
<td>0 (0-1.3)</td>
<td>0</td>
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<tr>
<td>Exclusively presymptomatic exposurec</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td>20 (4)</td>
<td>2371</td>
<td>0.7 (0.4-1.1)</td>
<td>1.00 (0.23-4.29)</td>
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<tr>
<td>Yes</td>
<td>2 (0)</td>
<td>299</td>
<td>0.7 (0.2-2.4)</td>
<td>0.99 (0.23-4.29)</td>
</tr>
<tr>
<td>Age of close contacts, y</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-19</td>
<td>1 (1)</td>
<td>281</td>
<td>0 (0-1.4)</td>
<td>0</td>
</tr>
<tr>
<td>20-39</td>
<td>8 (2)</td>
<td>1161</td>
<td>0.5 (0.2-1.1)</td>
<td>1 [Reference]</td>
</tr>
<tr>
<td>40-59</td>
<td>10 (1)</td>
<td>794</td>
<td>1.1 (0.6-2.1)</td>
<td>2.19 (0.78-6.14)</td>
</tr>
<tr>
<td>≥60</td>
<td>3 (0)</td>
<td>331</td>
<td>0.9 (0-3.2)</td>
<td>1.75 (0.44-6.97)</td>
</tr>
<tr>
<td>Source of index case</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local</td>
<td>18 (3)</td>
<td>967</td>
<td>1.6 (1.0-2.5)</td>
<td>1 [Reference]</td>
</tr>
<tr>
<td>Imported</td>
<td>4 (1)</td>
<td>1794</td>
<td>0.2 (0-1.5)</td>
<td>0.11 (0.03-0.37)</td>
</tr>
<tr>
<td>Clinical severity of index case</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asymptomatic</td>
<td>0</td>
<td>91</td>
<td>0 (0-4.1)</td>
<td>0</td>
</tr>
<tr>
<td>Mild illness</td>
<td>4 (0)</td>
<td>1097</td>
<td>0.4 (0.1-0.9)</td>
<td>1 [Reference]</td>
</tr>
<tr>
<td>Pneumonia</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mild</td>
<td>5 (2)</td>
<td>761</td>
<td>0.4 (0-1.2)</td>
<td>1.08 (0.24-4.82)</td>
</tr>
<tr>
<td>Severe</td>
<td>7 (0)</td>
<td>511</td>
<td>1.4 (0.7-2.8)</td>
<td>3.76 (1.10-12.76)</td>
</tr>
<tr>
<td>ARDS/sepsis</td>
<td>6 (2)</td>
<td>275</td>
<td>1.5 (0.6-3.7)</td>
<td>3.99 (1.00-15.84)</td>
</tr>
</tbody>
</table>

Abbreviations: ARDS, acute respiratory distress syndrome; COVID-19, coronavirus disease 2019.

a Others include friends, airline crew members and passengers, and other casual contacts.

b Defined as the elapsed time between the date at symptom onset of the index case and the first date at exposure. For example, people from the group “<0 days” had their first contact with the index case before the case had any symptoms.

c All the reported exposures occurred during the presymptomatic period of the index case.
sufficiently severe. When the number of confirmed cases rapidly increases, home care for patients with mild illness may be preferred.25 In Taiwan (where patients with COVID-19 have been routinely hospitalized), the most prolonged duration of hospital isolation for the 100 confirmed cases was more than 2 months. If every patient with mild illness is to be isolated in the hospital or other isolation facilities for such a prolonged period during a large epidemic, the health care system would soon be overwhelmed, and the case-fatality rate may increase, as observed in Wuhan.26,27 Similarly, better understanding of the potential duration of transmission could help direct containment strategies. For example, contact tracing could focus on the contacts near or even before symptom onset of the index cases when the number of index cases or contacts is too large for all contacts to be traced, given the available resources.

Several patients in our study were initially considered to have pneumonia of unknown etiology and had multiple contacts in the health care setting before being diagnosed. However, the number of health care contacts that led to nosocomial transmission was low. Besides the basic PPE used by medical staffs, this finding might be due to the late admissions of these patients and their lower risk of transmitting COVID-19 by the time of hospitalization. This pattern is compatible with the observations in China and Hong Kong. In China, the number of nosocomial infections might be lower than reported because some health care workers acquired infections in their households rather than in the health care facility.9 In Hong Kong, most hospitalization was also delayed to at least 5 days after disease onset.28 In closed settings such as a hospital or a cruise ship,29,30 fomite transmission might play an important role, amplifying the risk of transmission and making the temporality of transmission less identifiable.30-32 Better understanding of the dynamic change of transmissibility of COVID-19 over time and how health care workers are most likely to be infected could allow for better targeting of control measures, including the use of appropriate PPE.

In the contact tracing cohort, we observed a relatively low transmission rate of COVID-19. During the study period (January to early March 2020), the major containment measures in

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**Table 3. Risk for Symptomatic COVID-19 Infection Among the 2761 Close Contacts, Simultaneously Stratified by Exposure Setting and Time From Symptom Onset of the Index Case to First Day of Exposure**

<table>
<thead>
<tr>
<th>First day of exposure, d</th>
<th>Household</th>
<th>Nonhousehold family</th>
<th>Health care</th>
<th>Others*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Case/contact, No.</td>
<td>Case/contact, Attack rate, % (95% CI)*</td>
<td>Case/contact, No.</td>
<td>Case/contact, Attack rate, % (95% CI)*</td>
</tr>
<tr>
<td>&lt;0</td>
<td>4/100</td>
<td>4.0 (1.6-9.8)</td>
<td>1/10</td>
<td>10.0 (1.8-40.4)</td>
</tr>
<tr>
<td>0-3</td>
<td>2/39</td>
<td>5.1 (1.4-16.9)</td>
<td>3/15</td>
<td>20.0 (7.0-45.2)</td>
</tr>
<tr>
<td>4-5</td>
<td>1/6</td>
<td>16.7 (3.0-56.4)</td>
<td>0/6</td>
<td>0 (0-39.0)</td>
</tr>
<tr>
<td>6-7</td>
<td>0/4</td>
<td>0 (0-49.0)</td>
<td>0/10</td>
<td>0 (0-27.8)</td>
</tr>
<tr>
<td>8-9</td>
<td>0/2</td>
<td>0 (0-65.7)</td>
<td>0/3</td>
<td>0 (0-56.1)</td>
</tr>
<tr>
<td>10</td>
<td>0/0</td>
<td>UC</td>
<td>0/24</td>
<td>0 (0-13.8)</td>
</tr>
</tbody>
</table>

Abbreviations: COVID-19, coronavirus disease 2019; UC, uncalculable.

* Others include friends, airline crew members and passengers, and other casual contacts.

**Secondary clinical attack rate.**
Taiwan were travel alerts with restriction to affected countries (principally China), home quarantine for travelers entering Taiwan, and comprehensive contact tracing for confirmed cases.\textsuperscript{33} In response to a possible shortage of face masks, the government proactively initiated a name-based rationing system for mask purchase and boosted the production of face masks to ensure the availability for both N95 respirators and face masks to both health care professionals and the general public. A general recommendation on social distancing from the government was not in place, but spontaneous behavioral changes that reduced community mobility were observed.\textsuperscript{13}

**Limitations**

Our study has limitations. First, we did not completely examine contacts before the symptom onset of the index cases. Therefore, we might have underestimated the importance of early transmission. Thus, the actual contribution of early transmission to new infections could be greater than our estimates suggests. Our findings agree with the recommendation from the WHO to use 4 days before symptom onset as the starting date for contact tracing.\textsuperscript{19} This modification may help to further understand the pattern of early transmission in COVID-19. Second, we could not completely separate out the effect of close household contact and early contact given the strong correlation of the 2. The increased transmissibility in the early stage of COVID-19 may be partially attributed to the effect of household and nonhousehold family contacts rather than increased infectiousness at the early stage. When we stratified by type of exposure, however, the pattern of early transmission remained.

**Conclusions**

In summary, the findings of this study suggest that most transmission of COVID-19 occurred at the very early stage of the disease or even before the onset of symptoms, and the secondary clinical attack rate among contacts decreased over time as symptoms developed and progressed. The pattern of high transmissibility near and before symptom onset and the likely short infectious period of the virus could inform control strategies for COVID-19, as well as additional studies to fully elucidate the transmission dynamics of the virus.
Photographs of Franklin County Court of Common Pleas
To: Ian Friedman, President of the CMBA

From: Christopher Wagner, Chief Bailiff, Hamilton County Clerk of Courts & President of the Cincinnati Bar Association

Date: May 7, 2020

Re: Chief Justice O’Connor’s Task Force on Jury Trials post Covid-19

Attached are the thoughts I collected from speaking with various stakeholders such as the members of the Buckeye Sheriff’s Association and the Ohio Municipal Bailiffs’ Association regarding thoughts about best practices in resuming jury trial (both criminal and civil) under our new health concerns. Surveys based upon the Metro Bar Association were issued by the Cincinnati Bar Association, the Buckeye Sheriffs Association, the Municipal Bailiffs Association, and the Clerk of Courts Association.

Our principle concern rests with the protection of court employees, deputies and bailiffs and the prevention of infection spreading in any jail facility by contact to and from inmates leaving the jail facility.

The slow-moving nature of this pandemic has resulted in a toll placed on all person in community including the parties, employees, and shareholders involved in court proceedings. Deference should be given to all person in dealing with the strains and stresses of this time.

- Court Orders:
  - Orders should be clear and concise to specify social distance expectations in courthouses.
  - Masks should be required on all persons entering the courthouse.
  - Noninvasive temperature checks should be required of all persons entering the courthouse.
  - Sanitizer should be freely available.
  - If there is a limit to the number of people permitted in the courthouse it should be clearly stated and publicly displayed.
  - Courthouse Security (and both Bailiffs and Deputies) should be empowered to enforce social distancing and other orders including the removal of persons showing signs Covid-19.
  - The order should also contain language empowering courthouse security to enforce temporary polices and procedures necessary to protect the health of the
public, court employees, and others, in the interest of public safety for anyone entering the courthouse.

- The courts should consider increasing the costs of jury trials to make up of the increased expenditures of resources to conduct a trial and the possible interference it may have with other court operations due to social distancing and infrastructure restrictions. Costs should assessed if a jury is summoned in these circumstances.

- **PPE:**
  - PPE should be supplied to inmates, court personnel, and court security. A supply needs to be acquired of masks, gloves, spit guards, hand sanitizer, and disinfectant.
  - Court security should be trained on identifying the signs and symptoms of Covid-19 exposure.
  - Handcuffs, phones, and radios should be routinely cleaned with disinfectant.
  - All parties should share responsibility of cleaning the courtroom areas to reduce the risk of infection. No one should wait for court cleaning crews in the evening but it should be a shared responsibility.

- **Entrance in the Courthouse:**
  - The entrance must be well marked with restrictions and six feet spacing on stairs, in hallways, and in public areas are clear.
  - Temporary barriers should be erected to assist with social distancing.
  - Start times must be altered to allow for the slower admission of persons into the courthouse
  - Noninvasive temperature checks should be required and administered.
  - Persons should be required to wear masks.
  - PPE should be provided on a limited basis to prevent denial of admission for someone in need of court services.
  - The aggregate use of the courthouse needs to examined in relation to conducting a jury trial. Others, including the press and public, have other business on the courthouse which with limited accessibility may interfere with conducting a jury trial, such as visits to the clerk’s office, other court rooms, or other activities located in the building

- **Inmate Transport:**
  - Before transport to a courtroom the inmate should have a noninvasive temperature, check and outfitted with required PPE.
  - Court security must always maintain hands on control of any moving inmate.
  - Only one inmate should be moved at a time.
  - Inmates should be social distanced while waiting and in the courtroom.

- **Courtroom Security:**
  - Personnel in the courtroom should be limited to as few as possible.
  - PPE should be required for admittance into the courtrooms.
  - Media may have to be permitted remote viewing options to reduce number of persons in the courtroom. The rights of the public, press, victims, and parties to view trials in progress will conflict with one another due to infrastructure restrictions and social distancing.
Police officers and other witnesses should be on call or scheduled for their appearance to reduce exposure and unnecessary waiting.

The jury should only be brought to the courtroom for trials to further reduce risks. Waiting pools of jurors should be discouraged.

- Communication:
  - It is the responsibility of all parties and shareholders to inquire about and report about the health status of anyone participating in a trial: witnesses, clients, colleagues, employees, etc.
  - Information should be freely and quickly shared.
  - Jail exposures or other concerns should be promptly reported to the court for a discussion on future proceedings.
  - Ohio prisons must report to sheriff personnel about the risk of exposure of any inmate transported from a state prison facility to a county jail facility. An order to transport should contain this requirement.

- Questions:
  - Can training be provided to courthouse security to identify the symptoms of Covid-19.
  - What is the best PPE to use in a trial with a room at maximum capacity.
  - What is the optimal number of people in a courtroom.
  - What is the optimal PPE used to transport inmate to and from the county jails.
  - How many people can ride in a public elevator.
  - What information can be provided to the county sheriffs about the infection rate in state prisons so that the sheriffs can properly inform the court and party about risks in the transportation of prisoners from state facilities.

- Legal Issues:
  - In additional to any Federal constitutional issues the Ohio Constitution is very clear that trials by juries are in violate and trials are to be public. Ohio Constitution I sections 5 and 10.
Jury Trial Concerns During COVID-19
Ohio Sheriff’s Offices

QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Not having them

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Yes

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Social distancing issues

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Sheriff's Office - Court Security Deputy Sheriffs

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

None, we have throughout this time conducted screenings of those entering the court, including temperature taking with a no-touch thermometer. We have worked very closely with our Judges.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

We do not have concerns. The concerns may come from a potential juror. If the question of masks comes up, that is a court decision. Our Deputy Sheriff’s are not wearing masks.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

I feel 100% in favor of each office holder/Judge making decisions for their respective offices/courts. When it comes to the Sheriff’s Office, we have had safety precautions in place throughout. These have not included mandatory masks.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

We would be bringing defendants to the court if they were in custody and would have a large influx of visitors into the courthouse. Our security Deputies could be exposed.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Yes, taking a prisoner out of a non infected area into an unknown

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

They need to be slow like the state is opening

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

Not at this time
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

If defendant is in custody then we will have uniform deputies present. Otherwise Judge's security handles.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No, other than distancing.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Limit the number of people present. (spectators)
Maybe set up live broadcast outside of courtroom.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

The Justice system MUST get back into the game. Everyone is going to be overwhelmed when 'it breaks loose'. Quit letting inmates out of prison, they are at least in a controlled environment.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

safety of the jury and public

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

we will take steps to keep 6 ft separation with all persons in the courtroom and if jurors do not have masks we will provide them. all persons in the court room will be required to wear masks

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

all persons will wear masks, we will space out jurors to allow for 6 ft spacing. Exhibits will not be passed around the jury they will each receive a photo and item will be displayed in court but not handled. Hand sanitizer will be available for the jurors to use

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

juror selection will take more time, but concerns of safety can be mitigated.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Our primary concerns relate to the proximity of the in-custody defendants to our deputies. These include transportation to/from the courthouse and close contact during the trial. We also have concerns when taking persons into custody and searching them prior to transport to the jail.

With proper planning and precautions, we can make it work.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

None other than those listed above.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

We already require our inmates to wear masks when out of their housing areas in the jail. Our deputies also must wear masks when interacting with the public or interacting with persons in confined areas.

Daily temperatures would also be taken of any inmates during their trial. I believe the 6' spacing between the deputy and prisoner/defendant in the courtroom could be maintained in most circumstances.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

I am concerned for the attorneys and other parties to the trial and would suggest social distancing be put into place - if possible, along with the wearing of masks.

These are all short-term suggestions during the COVID-19 crisis.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?
Security

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?
No, as long as distancing takes place

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?
None at this time

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?
Not at this time
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Court room security, and testifying

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Yes, exposure to staff

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Limited access to the courtroom

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

no
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Court security, Witness/ Arresting Officer Testimony

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Maintaining social distancing and wearing necessary PPE

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Security. Making sure that folks do not bring weapons in and that we are made aware of those who have possibly expressed threats towards court members or witnesses, etc. If spacing were mandatory because of COVID 19, it could actually make security a little easier.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Mostly at Security screenings. To properly screen, Deputies need to be close to wand individuals and since COVID can apparently live on objects, searching purses could transfer COVID from one bag to another. Changing gloves between each search is impractical

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Separate vulnerable individuals and screen them separately and make sure you can take extra precautions with their belongings if you know they are vulnerable.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

The Sheriff’s Office primary focus is transporting a suspect to court and keeping everyone as safe as possible.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

I cannot think of any. Our transport deputy and inmate are usually away from the public and could maintain social distancing. We have masks available to be worn. I would also want to discuss limiting the number of visitors in the courtroom during the trial.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

I have no major concerns. Just maintaining social distancing and the permission to wear masks. I would also make sure the courtrooms are being sanitized.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

Not at this time.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Provide security or present evidence and testify

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

what rules are in place, masks by individuals during trial, including jury, social distancing in jury box, spectators in court room.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Trial court will make decisions we will enforce

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

no
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Keeping people safe

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

We are screening people prior to entry and asking questions.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

Yes, Ohio prisons need to start accepting sentenced inmates.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Bailiff duties if inmate is defendant is incarcerated

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

None as long as PPE is available

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Assuring that PPE is available

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

None at this time
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Court house security
Bailiff duties if inmate is defendant is incarcerated

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

yes, possible expose to the virus

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

possible use of zoom meeting/hearings

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

no
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?
Court Security & Potential Jury Views

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

How to implement social distancing of jury members

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

at this time can only think of requiring them to wear masks and possibly additional seating for the jury.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

Not at this time.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Inmate responsibility-Security in the Courtroom
Holding cell in the courtroom. Preserve safety on inmates, witness’, court staff etc.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No, with proper social distancing, temperatures, masks etc., being taken and worn. Screening questions are asked at security entrance of Courthouse by Court Security Deputies.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

We have concerns but believe precautions can be put in place before the Jury Trials proceeds.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No, not at this time.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Courtroom security, Jail Housing and transport of defendants

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Exposure of inmates to the general public outside of the jailhouse setting. Inmates will be exposed at the courthouse to their attorneys and pending the placement of seating the general public. All courtroom personnel and jury members may also be exposed.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Closed public seating or limited seating. Utilize technology to allow the inmate and their attorney to participate from a remote location to lessen exposure of the inmate and general public. Spread the jury seating wider since they are in an enclosed area for such a longer length of time. Screening for all persons entering the courtroom. Masks would be mandatory.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Proper social distancing. Jury, victims family, accused family.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Making moves to go to video whenever legally possible. Many issues with social distancing

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Move to allow jury’s to social distance to 4 members in jury box and rest off jury in gallery. Victim’s family and defendants family to be able to view by video separate from the court room and eachother

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

Attempt to purchase as much video equipment as you can through grants.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Provide Security for the Court and transport defendants to and from Court during a trial.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Jury Pool would be a concern, we would want to monitor each respective person called for jury and make sure we continue the same protocol we have in place for anyone entering the Court at this time.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

I know our Court is looking at other options at this time. My recommendation would be to push the trial dates out, that way we can see how the virus will be at a later time, that way we don't overreact at this time.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

I believe we need to be concerned and do everything we can to provide that the Court and its Officers are safe and not exposed to the virus and end up with an entire Court closed.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Transportation of persons in custody, and maintaining order in the courtroom if the Judge requests our presence. We otherwise do not bailiff the court.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Social distancing is going to be nearly impossible. The wearing of facial coverings are a concern.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

We could provide a face covering for members of the jury. Require observers to wear a face covering. However, I do not like the idea of attorney's, Prosecutor's, or anyone seated at their tables to be wearing face coverings. I think members of the jury need to see facial expressions and non-verbal reactions for truthfulness. As far as social distancing the jury, I have no ideas given the setup of our courtroom. The Judge could set rules for observers by limiting the number of them to require distancing.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

The number of COVID-19 cases initially projected have not happened. It's time for Government to realize it didn't happen, which is fine, because no one knew what we were dealing with, so lets move on! Get government offices back to work and courts opened up. I believe all of our court cases are pushed out to June because of this.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Maintain a safe and secure courtroom.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No. Very few trials take place annually.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

N/A

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Inmate control and the safety of the deputy. As we do not provide sole court room security

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

The only concern we would have would be the safety of the inmates and deputies as it pertains to them being able to social distance

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Having the courtroom and procedure setup so this can be done.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

no
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Provide
Court Security

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Maintaining safe social distancing

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Try to waive as many jury trials as possible. Otherwise find an alternative setting for jury trials that permit social distancing

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Security for the Court, Inmates, and anyone in the courtroom.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Just the social distancing aspect, otherwise will follow the courts procedures and directions.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Space concerns of keeping the social distancing for jurors, defendants, family members, depends on the size of the courtroom.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

Video conferencing has worked well for arraignments, bond hearings, pretrials, but can't do this for jury trials.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Handling Security at Entry point in Courthouse Complex. Movement of inmates through-out the complex as well as control of Inmates during the trial. (Our Court also has Constables in Courtrooms)

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No. We have discussed and eliminated those concerns for our complex.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?
Respondent skipped this question

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

We did discuss and are considering moving a trial to a larger site, that is not currently being used, i.e. University Buildings or something similar that would help alleviate social distancing concerns and jurors fears.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Our office provides security for the trials and the courthouse as a whole as well as the county office building. The deputies oversee screening entering the building by the public and staff.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No. We have been in constant communication with them during this and they have been willing to work together and maintain a clean and safe courthouse. I do think it will be hectic getting back started because of time conditions but that has been handled by the judges from the beginning.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Communicate the schedule as soon as they have it so it can be relayed to all so everyone is on the same page to make it more effective.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

None
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Courthouse Security and Bailiff for the Jury

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Seating of the Jury when picked.
Closeness of the Jury after it's picked in the Jury Box
Where to seat the Jury Poll during selection of the Jurors

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Bring 10 in from the Jury Poll at time and separate them throughout the Courthouse

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

We don't have enough space to separate the Jury Poll in an efficient manner. Let alone manpower to keep the witnesses and Jurors separate.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Inmate transportation of prisoners from the jails. Care, custody and control while in Court Services holding. Courtroom security during proceedings.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

None. We have ample staff and holding areas to accommodate back to a full docket and beyond.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

n/a

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No. Our Common Pleas court system is of the size that any recommendation would not apply to smaller operations.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?
Safety and security of all persons entering the courthouse and court room.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?
Sanitation, and the health of the potential jurors

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?
Extra cleaning and sanitation

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?
No
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Security of the building and security of defendant if in custody.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

None as long as social distancing is considered.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Attempt to implement social distancing practices.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Security of the courthouse and security of the defendant if he/she is in custody.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

None as long as social distancing is considered.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

The implementation of social distancing practices.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

No
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Court Security and majority are our cases being presented.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Anyone participating in the trial could be a carrier of COVID-19 and could affect one of our staff which in-turn could lead back and contaminate our jail population.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

That all participate are questioned and cleared and anyone within the 6’ social distance must wear a mask and eye protection.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

That we take extra time in the medical screening of everyone prior to any proceedings.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Guarding inmates, keeping safe courtroom by my deputies.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Not as long as masks are required (which our Common Pleas Judges have ordered.)

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

None

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

Not at this time
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Provide Court security, custody of persons involved in trial

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Would be concerned over close confines of both prospective jurors during jury selection, same after jury is seated jury room and jury boxes does not provide need distancing at this time. Concerns also about multiple witnesses and/or observers and providing distancing and appropriate/needed cleanliness/sanitizing. We are completing COVID-19 questionnaire and temperature checks on all persons entering the court(s), this would also back-up entry. clearing persons for entry with extra persons arriving for trial. Feel extra needed periodic cleaning would be needed throughout the day to include all areas persons are in and sanitizers would be needed to be easily accessible throughout all areas.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Limiting number of persons permitted in the building/courtroom during trials. Set up extra stations of hand sanitizers for any and all persons entering, require all visitors in the courtroom wear face coverings/masks. Move Jurors from present Jury room to a large area in the building to accommodate distancing. Jury boxes need expanded for distancing also.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

n/a
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Security if defendant is an inmate.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Social distancing

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Use of video for defendant so they do not bring into the jail population the virus and reduced seating for public. PPE for jurors.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

The criminal justice system needs to safely return to providing services to our citizens.
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

We have not had any jury trials during the COVID-19 Pandemic as they have either been continued or have plead out.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

No, however those procedures, if any, would be dealt with by the court.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

We will continued to adhere to the recommendations given by the State of Ohio.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

N/A
QUESTION 1
Please identify the primary focus of your Office with Common Pleas Jury Trials?

Court room security when defendant, witness, victim, etc. is an inmate.

QUESTION 2
Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist?

Transporting inmates back from prisons and other facilities that have COVID-19 cases in inmate population and/or staff. Having to hold those inmates in my jail for any amount of time during the trial. I currently do not have any COVID-19 cases in my jail. Possible exposure of my staff and inmate population puts their safety at risk. My jail is not big enough to have isolation dorms, quarantine dorms, etc.

Social distancing requirements being met in the court room, witness room, jury room, public area outside the court room, jury box, defense table, prosecutor table etc.

My deputies should not be required to handle health checks of jurors, court employees, public, attorneys etc. Their responsibility is the security of the inmate.

Social distancing requirement of 6’ creates more room for an inmate to create an in issue during court before the deputy can get to them.

Mask requirements to be in the court room. This hampers the ability of jurors to read facial expressions on defendants, witnesses, etc. during the trial.

QUESTION 3
What ideas or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of Jury Trials?

Use of video technology for as much as possible regarding testimony, jury selection etc.

QUESTION 4
Do you have any additional thoughts, concerns, or recommendations you would like to share?

N/A
• **Civil Plaintiff**
  
  • Security checkpoints for attorneys and client  
    o Strategy to avoid communal trays  
    o Temperature taken  
    o Temperature detection kiosk – entry denied  
  
  • Public attendance  
    o Designated areas for public with approach for adherence to constitutional guarantees
  
  • Jurors will not want to show up  
    o Potentially call more jurors
  
  • Increase use of juror questionnaires  
    o Court standard  
    o Each party able to submit questions either agreed to or decided by the court  
    o Responses provided to counsel 24 hours prior to the start of trial
  
  • PPE for jurors, counsel and court personnel  
    o Required use of masks – N95?  
    o Courts having supply of sanitizer, masks and gloves for people
  
  • Alternative locations that civil trials take place  
    o Civil trials do not have the same court personnel and security needs  
    o County buildings, libraries, churches, movie theaters, vacant retail space/mall
  
  • Ability to try a current sitting judge by agreement of the parties and with a judge that the parties agree to
  
  • Additional funding for visiting judges. Could hear bench or jury trials
  
  • Jury room is appropriate size for social distancing
  
  • Expert witnesses  
    o May refuse to come to courthouse and rules do not permit video attendance  
    o Permit all witness testimony via video conference if needed
  
  • Exhibits for witnesses  
    o Electronic version of exhibits and hard copy only used when necessary
  
  • Communication between counsel and clients despite social distancing  
    o Breakout room/area for each party to talk
  
  • Voir dire  
    o Sufficient space for proper distancing
  
  • Side bar conducted in appropriate location for social distancing. Electronic means of communication between counsel and court
  
  • Continuances freely granted when parties are in agreement  
    o Rules of superintendence for time to trial on civil matters addressed. Form created and used uniformly statewide whereby parties can indicate agreement
  
  • Needs to be a county-by-county approach  
    o County needs to have a written plan for adhering to directives and recommendations with parties having the ability to raise concerns on the record prior to any trial
  
  • Revisiting the approach on a set interval as the situation is fluid
Jury Trial During a Pandemic

Defense Counsel

1. PPE
   a. Court must provide PPE to jurors and participants.
   b. Courts must take temperature of all participants each day and exclude those as recommended by ODH and the CD.
   c. PPE should be mandatory to protect all participants and the public health of all they encounter.
   d. If clear face shields or masks are unavailable, the removal of PPE will be necessary (what precautions should be implemented if ordered to do so – ODH question?)
      i. For voir dire of jurors
      ii. For counsel to present the case
      iii. For credibility determinations of witnesses/as part of the confrontation clause
      iv. For identification

2. Clothing for Client
   a. Clothing should be cleaned and delivered in a sealed bag to the Jail at least 48 hours prior to commencement of trial – unless otherwise directed or indicated by individual Sheriff departments.

3. Jury:
   a. Courts must summons much larger numbers of venire persons to allow for a smaller percentage of responses and higher number of peremptory excusals.
   b. Courts should have large waiting areas or summons the venire in smaller groups scheduled for morning and afternoon to allow social distancing – see facilities below.
   c. Members of high-risk groups should be excused.
   d. Voir dire must be completed in small groups or individually to allow a 6 feet diameter of social distancing around each venire person.
   e. Courts should use longer written jury questionnaires with specific questions about COVID-19 to allow easier and more efficient voir dire of groups or individuals.
   f. Sanitizing procedures must be used in the courtroom between each group of the venire.
g. Courts that have capacity need to use the audience area as the jury box to maintain social distancing.

h. Deliberations will need to take place in the courtroom as jury rooms will not allow sufficient space to socially distance.

i. Special jury instructions regarding the pandemic should be given to the jury – to not hold it against either party for having to serve, to not rush through deliberations to get to a verdict due to health fears, to actively inform the court if the PPE or other physical arrangements cause any difficulty hearing or seeing the evidence.

4. Venue/Facilities
   a. A large number of courtrooms in Ohio are too small to safely conduct a jury trial. A minimum of 20 people are required for a jury trial, all socially distance.
   b. Public trials are constitutionally guaranteed. Many courtrooms, once accommodating the 20 necessary participants, will not have space for the public to observe and will not have electronic capability to broadcast the trial to other rooms/facilities.
   c. Courts with multiple courtrooms should designate larger courtrooms as trial courtrooms and share the use and scheduling across the court.
   d. For courts that do not have large courtrooms, alternate facilities should be used – school auditoriums, gymnasiums, or theaters.
   e. If no facilities exist or are unavailable in a county, a change of venue will become necessary.

5. Electronic Courtrooms/Court Reporter
   a. Many electronic courtrooms have audio and video systems that are fixed and cannot be easily modified to allow a recording of the record if the courtroom is reorganized to accomplish social distancing and should be tested in advance.
   b. Court reporters should be hired in reorganized electronic courtrooms that have issues to assure an accurate and complete record is made.

6. Counsel tables will need to be separated and participants will need to sit at the ends of the table to socially distance.

7. Podium: Sanitizing wipes will need to be available at the shared podium for regular cleaning by each party.

8. Consulting with Client during trial:
   a. Counsel has a duty to be able communicate with the client during trial.
      i. Ohio Rules of Prof. Cond: Rule 1.4 - Communication
b. Counsel and client, to socially distance, must sit at a distance and cannot talk without being overheard. The same is true for the prosecution and state’s representative.

c. To consult, counsel will need to be allowed to take breaks to speak privately with the client, as needed.

9. Evidence/Exhibits
   a. Sanitizing – All exhibits should be placed in plastic sleeves or plastic zip lock type bags. This will allow sanitizing of the bag without touching the exhibit.
   b. Handling of evidence – the handling of physical evidence should be minimized and avoided whenever possible with exhibits being displayed electronically.
   c. Exhibits should be marked by counsel at the direction of the court reporter to avoid handing of exhibits back and forth.
   d. Jurors should be given special instructions on the handling of exhibits and they should delivered to the jury only after all sleeves and bags have been sanitized.

10. Sidebars, as traditionally held, are not conductible with social distancing. The participants will need to remove themselves from the courtroom, away from the jury to hold sidebars that cannot be overheard.

11. Feeding of the Jury: As restaurants reopen, seating will be limited causing difficulties for jurors to obtain meals. Courts should be prepared to provide food for jurors.

12. Many courthouses have very small and/or a limited number of restroom facilities. Breaks will need to be much longer and bathroom sanitizing procedures need to be implemented by each court.

Conclusion:

To conduct a jury trial expectations must be drastically changed. Courts will need to obtain substantial PPE to provide to prospective jurors. The use of PPE should be mandatory and special precautions taken for when PPE is removed for necessary courtroom procedures – voir dire, witness credibility, identification. Courts will need to reorganize the physical layout of courtrooms to allow social distancing or find new, larger facilities such as gymnasiums, auditoriums, or theaters. Court reporters will be required in many courts that have electronic recording that cannot be realigned with the physical restructuring. Finally, time expectations for trials will need to change. Voir dire will take longer individually or in small groups. When the state needs to consult with its representative or defense counsel need to consult with his or her client, a break will now become the norm to allow private consultation. Sidebars will also be much more time intensive to conduct. Trials will simply take much longer in this era.
Juvenile Court Considerations During a Pandemic

Note: The vast majority of juvenile-court proceedings occur without jurors. However, for youth who are charged as serious youthful offenders, the protections enacted for jurors in those proceedings should mirror those of adult trials.

PPE:
- Courts (county or state facility) must provide PPE to all parties and participants, including the youth, parents (who are also parties), witnesses, and court personnel.
- Courts must take temperatures of all participants each day and exclude those as recommended by ODH and the CDC.
- PPE should be mandatory to protect all participants and the public health of all they encounter.

Transport for Youth in Detention:
- To the extent possible, youth should not be transported to court in groups from detention holding rooms.
- Transport staff and youth must have PPE during transport and maintain social distancing as directed by the ODH and the CDC.
- If the youth will be wearing plain clothes during court proceedings, those clothes should be cleaned and delivered in a sealed bag to the Jail at least 48 hours prior to commencement of trial – unless otherwise directed or indicated by individual Sheriff departments.

Courtrooms
- Many electronic courtrooms have audio and video systems that are fixed and cannot be easily modified to allow a recording of the record if the courtroom is reorganized to accomplish social distancing and should be tested in advance.
- Court reporters should be hired in reorganized electronic courtrooms that have issues to assure an accurate and complete record is made.
- Counsel tables will need to be separated and participants will need to sit at the ends of the table to socially distance.
- Sanitizing wipes will need to be available at the shared podium for regular cleaning by each party.
- Counsel and client, to socially distance, must sit at a distance and cannot talk without being overheard. The same is true for the prosecution and state’s representative.
- To consult, counsel will need to be allowed to take breaks to speak privately with the client, as needed.
- Sidebars, as traditionally held, are not conductible with social distancing. The participants will need to remove themselves from the courtroom, away from the jury to hold sidebars that cannot be overheard.
- Waiting rooms must have their capacity limited so that proper social distancing can be effectively accomplished.
- Sanitizing – All exhibits should be placed in plastic sleeves or plastic zip lock type bags. This will allow sanitizing of the bag without touching the exhibit.
- Handling of evidence – the handling of physical evidence should be minimized and avoided whenever possible with exhibits being displayed electronically.
- Exhibits should be marked by counsel at the direction of the court reporter to avoid handing of exhibits back and forth.
- Jurors should be given special instructions on the handling of exhibits and they should delivered to the jury only after all sleeves and bags have been sanitized.

Public waiting areas and ingress/egress
- Social distancing markers/space should be designated for all areas of courthouse where the public congregates such as metal detector lines, elevator lobbies, common areas outside courtrooms where witnesses and families gather.
- Stairwells should be made available to the public and encouraged as access to and from lobby; and cleaning regiments employed, as well as increased ventilation.

Docket
- Courts should implement single case assignment times. (Rather than setting a number of cases at 9 and 1:30, they should set one or two cases in timed intervals, 9:30, 10, etc., and guidelines for waiting. For example, cases set on the hour will begin within 15 minutes or will be continued, absent speedy trial issues.)
- Courts should equip the larger waiting areas with live feed monitors of the proceedings to reduce the number of people in the courtroom. Or, provide zoom (or other technology links) so people can view without physically being present in the smaller spaces.
The Ohio Association of Criminal Defense Lawyers

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OACDL Position on Resumption of Jury Trials in Midst of Pandemic

On behalf of the OACDL, we write to offer our concerns and suggestions regarding the resumption of jury trials in the midst of the COVID-19 Pandemic.

We wish to thank the Ohio Supreme Court, the Bar Associations, the Ohio Prosecuting Attorney’s Association, the Ohio Public Defender, and all other stakeholders for allowing us the opportunity to compile and share our concerns and recommendations. Although we are not categorically opposed to the resumption of jury trials, the fundamental fairness of the trial must be the overriding concern. We therefore share the following principles, concerns, and solutions to provide guidance on the resumption of jury trials in Ohio.

1. Widespread Trials Cannot Resume until Sufficient Testing Capability is Available

The OACDL firmly believes that widespread jury trials cannot resume until there is sufficient testing capability to test all persons physically present in the courtroom, including jurors, witnesses, counsel, judges, and all court personnel. Such testing must be readily available, capable of quick results, and reasonably accurate. Thankfully, medical professionals from the ODH predict that such testing will become widely available in a matter of months, perhaps as soon as August 2020.

Any trial that is conducted prior to such testing being available, or vaccines or other treatment eradicating fears of the virus, will necessarily be heavily affected by the fears of coronavirus. In other words, any trial conducted in the midst of this pandemic will create a risk to all participants – the question then becomes how to minimize and weigh that risk against the importance of the trial.

Therefore, the OACDL strongly recommends that, until testing or other medical advancements mitigate the risk of COVID-19, only critically important, essential trials go forward. Courts and parties are encouraged to strictly scrutinize the actual necessity and urgency of each case going forward, on a case by case basis. The following factors would weigh in favor of urgency:

A. If the defendant is incarcerated and requests to go forward;
B. If speedy trial rights are implicated;
C. If the parties jointly request the trial go forward due to sensitive witness issues or other time-sensitive issues
If the above factors are not present, prudence, fundamental fairness, and safety counsel in favor of continuing the trial until widespread testing or other medical advancements are in place.

2. **A Criminal Defendant’s Rights to a Fair Trial are Paramount**

When considering holding a criminal trial, the fundamental fairness of the trial is the overarching, critical factor that must take precedence over all other considerations. Remember, in a criminal trial the most fundamental rights are implicated – the right of a person to liberty, unless the government is able to prove, beyond a reasonable doubt, that a crime was committed. Because a person’s liberty is at stake, the Constitution provides rigorous protections of a fair trial before that liberty can be stripped. Those fundamental protections cannot be limited

With all respect to judicial economy and the convenience of witnesses, etc., those concerns must take a backseat to the rights of the criminally accused, as those concerns are not subject to a loss of liberty like the criminally accused. **Therefore, given the serious concerns with having a fair trial in light of the pandemic, the OACDL recommends that continuances of trial be liberally and freely granted when defense counsel articulates that there are genuine issues that would impair the ability to effectively conduct a fair trial.** These issues are addressed in detail below.

3. **Certain Circumstances will Necessitate the Continuance of Trials**

Our membership has communicated several strong concerns that will need to be addressed before any trial can resume. While counsel will make every effort to address the concerns below, if circumstances cannot align to adequately address and overcome these concerns, fundamental fairness will require the case to be continued.

   A. **Older or At-Risk Lawyers**
   First, we have a strong concern for our members and friends who are older or otherwise at a high-risk for contacting COVID-19. It would be fundamentally wrong to force counsel who are older or at-risk to go to trial, prior to widespread testing or immunization. For those members, we request that courts afford them the same respect and flexibility that they would elderly or at-risk jurors and continue those cases until widespread testing becomes available.

   B. **Pre-Trial Preparation**
   In order for a trial to proceed, counsel must be able to adequately prepare for trial. This involves the ability to confidentally meet, face-to-face, with our clients, review discovery, and discuss trial preparation. That critical process cannot be done under the lockdown-type restrictions that are occurring in jail at this time. First, most jails either have confirmed cases or are at a high risk of infection. It is simply not safe or practicable for counsel to effectively prepare for trial under such circumstances.

   **It is recommended that, if any trial is scheduled to go forward with an incarcerated defendant, the court and/or jail, in consultation with counsel, devise a plan to transport the defendant to a sanitized conference room at the court for confidential trial preparation.**

   In addition, counsel must have an ability to prepare witnesses for trial, including interviewing all potential witnesses. If counsel is limited or hindered in communication with witnesses pre-trial, necessary accommodations must be made to communicate with the witnesses or the case must be continued.

   **We would strongly recommend that use of depositions pre-trial would be an effective and safe way to interview and prepare witnesses prior to trial.** That would also help the effectiveness and efficiency of trial and potentially reduce the need for trials or the disputed issues at trial.
C. **Witness Availability**

Next, counsel must be able to serve subpoenas and summon the necessary parties to court. If there are any issues serving subpoenas or with witness attendance, again the trial needs to be continued to ensure all critical parties are present in court for trial.

Finally, expert witnesses must be available to testify for a trial to go forward. Especially with out-of-state experts who need to fly for trial, the Court must work with counsel to ensure the availability of the experts.

4. **Procedures that Fundamentally Impair a Fair Trial**

As discussed above, the fundamental rights of the criminally accused to a fair trial are paramount. In that vein, there are some portions of the trial which simply cannot be altered, even in light of the pandemic. These concerns are listed below:

1. **Adequate In-Trial Communication with Defendant**

Trial Counsel and the Defendant must be able to have confidential, real-time discussion in order to professionally and effectively represent the client. (Ohio Rules of Prof. Cond: Rule 1.4 – Communication.) This cannot be done with enforced physical distancing or with the wearing of a mask. In addition, electronic communication would not serve as an adequate substitute.

If counsel and the defendant cannot find a way to effectively communicate in real-time in a confidential manner, then the case must be continued.

2. **Wearing of Masks**

OACDL membership has spoken with a loud and uniform voice – the wearing of a mask in the courtroom threatens the fundamental integrity of the proceeding.

First, with regard to witnesses – a witness clearly cannot testify with a mask on. As courts have uniformly held, the demeanor and complexion of a witness is a critical component and would be obscured by the wearing of a mask.

Second, with regard to jurors – the ability to properly voir dire and interact with jurors is irreparably harmed by the wearing of a mask. Just like with witnesses, a juror’s demeanor, facial expressions, and non-verbal communication is critical information to both picking a jury and communicating effectively with the jury once empaneled. Juror’s demeanor and non-verbal responses are crucially important to voir dire and the use of preemptory challenges, which implicate Due Process concerns. Jurors simply cannot effectively do their job of weighing evidence with masks on, any more than they could do their job wearing paper bags over their heads.

Next, with regard to the attorneys – wearing a mask while conducting a trial is infeasible, distracting, and impairs the constitutional effectiveness of counsel. As discussed above, if the attorney is wearing a mask, it is impossible to have a confidential whispered conversation with your client. It is also bulky and cumbersome, and many attorneys reported that having such a distraction on during trial would seriously impair their ability to effectively conduct trial.

In addition, court reporters and others have indicated that masks muffle sounds and make it very difficult to hear. Counsel would already have to have their mask off any time they were speaking; at that point, there is no added benefit to wearing a mask only a portion of the time, when it would affect and interfere with the ability to effectively try the case.

Finally, there are significant issues with requiring the defendant to wear a mask. A mask transforms the defendant from an individual to a faceless person hiding behind a face covering. The defendant’s expressions and humanity
should not be shielded from the jury behind a mask. It would threaten defendant’s ability to communicate with counsel and dehumanizes the process. Jurors should see the face of the man or woman they are charged with judging.

3. **Video Testimony**
We strongly and passionately oppose any change to allow video testimony in a criminal case. The Confrontation Clause of both the Federal and Ohio constitutions require face to face confrontation. In addition, the demeanor of the witness cannot be completely and fully observed via video technology. As the Supreme Court has said:

   The Sixth Amendment's guarantee of face-to-face encounter between witness and accused serves ends related both to appearances and to reality. This opinion is embellished with references to and quotations from antiquity in part to convey that there is something deep in human nature that regards face-to-face confrontation between accused and accuser as ‘essential to a fair trial in a criminal prosecution.’ *Coy v. Iowa*, 487 U.S. 1012, 1017 (1988).

4. **Effective Assistance of Counsel**
Finally, and not least, the mental health and constitutional effectiveness of defense counsel must be taken into account by the Court before proceeding to trial. This pandemic has been extremely stressful and nerve-wracking for members of the defense community, and its effect on defense counsel cannot be overstated. Private defense counsel typically own or work for a small business with no guaranteed income (unlike prosecutors, whose salary is guaranteed by the State). This pandemic has wiped out many small businesses, and many of our members have encountered severe economic impact to their livelihood due to the pandemic. Our members must juggle basic necessities such as finding sufficient income to pay their staffs and make ends meet. On top of that, there are also the very basic fears of infection and making life work in these difficult times. In light of the concerns of our members, we ask that all judges be very mindful of counsel, and allow counsel to openly and honestly share concerns about proceeding to trial, including counsel’s concerns about upholding their constitutional duty to effectively represent their client. If counsel is legitimately unable to effectively conduct trial, we ask that court’s respect that fact and continue the case as reasonable.

5. **Minimum Standards and Recommendations for Resumption of Safe Trials**

In light of the above concerns and issues, we recommend the following procedures be implemented to minimize the risk inherent in any trial.

- Strongly recommend the use of jury questionnaires to both assist counsel in effective voir dire and also to allow jurors to communicate specific health- and case- related issues in advance of being summoned to court. Trial judges should be strongly encouraged to accept and distribute specific questionnaires as requested by counsel. Such questionnaires should be extensive and could greatly assist counsel and the Court with reviewing the potential jurors pre-trial, potentially agreeing to excuse several jurors before summoned to court to alleviate congestion, protect the jurors, and reduce the need for lengthy voir dire.

- Because social distancing will be paramount and masks fundamentally threaten the ability to conduct a fair trial, courts should consider moving trials to larger venues, such as gymnasiums, convention centers, and other large places with sufficient space. Priority should be given to facilities that have advanced ventilation systems which help filter and clean the air, in lieu of courthouses with poor ventilation and tight spaces.

- Seating a fair and impartial jury will be the major challenge in resuming trials.
o A larger venire than typical should be summoned so that there are sufficient potential jurors.
o Fearful and anxious jurors will not be able to effectively focus on evidence and fairly participate in trial; such jurors should be excusable for cause.
o Great care must be taken to ensure that excusing certain jurors for cause does not result in a non-representative or biased jury. For example, excluding older or at-risk potential jurors could have the effect of excluding racial minorities at a disproportionate rate, or skewing the panel younger and less representative. It also could have the effect of excusing those persons legitimately fearful of the virus, leaving a politically biased remainder who disbelieve in the virus or are all of a particular political or ideological persuasion.
o Juror deliberation is extremely concerning, as jurors will have to deliberate while maintaining separation. In addition, we have serious concerns about the psychology of deliberations during a pandemic – that jurors will be desperate to leave as quickly as possible and will not properly due their diligence in weighing the evidence and listening to all opinions. Great care must be taken by all parties, including the Court, to make sure the jurors understand their duty to properly deliberate and consider all aspects of the case, evidence, and the other’s opinions before rushing to a verdict.
o The Court must be prepared to conduct an individual voir dire of a juror member who requests to discuss anything in private. There must be a space to conduct such questioning while still respecting social distancing.

- Public Access to the Courtroom must be maintained. Complete closure of the courtroom would not be acceptable, although it is understood that some limitations can be reasonable under the circumstances. The Defendant must have the right to admit a certain number of family members or friends to witness the trial in person. Further, there are other parties (alleged victim, members of the press, and concerned citizens) that also have a critical role to play in publicly observing the trial. If the trial cannot be moved to a larger venue to accommodate all who wish to watch, then prioritize members of the defendants family and others with a direct connection to the case, and create an overflow room where others can safely watch the trial while observing proper distancing.

To conclude, there are significant obstacles towards conducting jury trials in the midst of a pandemic. We therefore urge trial courts to confer with the parties to develop a safe course of action on a case-by-case basis. Many trials can be safely continued until after the pandemic subsides or testing becomes widespread; some cannot. For those trials that must go forward, we urge courts to use their best ability to modify practices to safely allow a trial to commence. However, we call on all judges to include all counsel in those discussions, to openly discuss and share ideas among counsel, to allow counsel to freely share their concerns and fears, and to not push forward with trial at all costs, in a manner that would jeopardize the fundamental fairness of the trial. Together, we can all make this work and come out safer and stronger.
Ohio Trial Advisory Committee
Official Court Reporters

CONCERNS:

- Difficulty hearing due to people wearing masks.
  - Courtrooms with electronic recording not having a clear and accurate record.
- Sidebars where attorneys and judges are close to the court reporter.
- Jury rooms and jury boxes too small for social distancing during jury selection and deliberations.
- Use of gallery in back of courtroom for jurors. Jurors not able to hear and see in the back of the courtroom.
- Exhibits and other documents being handled by multiple people.
- Maintaining a distance from witnesses and having the ability to hear them clearly.
- Number of people in the courtroom during the trial process.
- Make sure cleaning procedures are followed.

SUGGESTIONS:

- Have people remove masks while speaking/testifying.
- Court reporters will ask for the speaker to repeat if he or she is unable to hear clearly.
- Remind all participants when speaking to speak clearly and slow down, especially when wearing a mask.
- Use court reporters in electronic recording courtrooms.
- Place Plexiglass shields on witness stand, court reporter station, judge’s bench, jury box, podium, plaintiff and defense tables.
- Use a separate room for sidebars where social distancing can be accomplished while jury remains in the courtroom. In larger courtrooms, designate space for sidebars where social distancing can be accomplished.
- Use the gallery in back of courtroom for the jury, but provide sound amplification and document viewing screens.
- Use courtroom as the jury room for deliberations.
- Exhibits. Provide original exhibits pre-marked to the court reporter. Give a copy of the exhibits to all who need them.
- Court reporters can use a headset for sound amplification. Have a designated microphone for each attorney speaking for sound amplification. Restrict moving around the courtroom. Attorneys remain at podium or table when speaking.
- Limit the number of people in the courtroom during the jury selection process.
- Have witnesses testify via video when possible.
Concern with video - the right of Defendants to be present in the courtroom so that the demeanor of counsel, bailiff, judge, deputy, court reporter, witness, or members of the public attending.

Electronic sidebars and client communication through text messaging.

Electronic copies made prior to trial so everyone had a copy who may need to look at it or there is no passing of documents.

Clients are incarcerated in facilities with outbreaks awaiting pretrial. Do we know masks protect us all from COVID19 upon re-entry?

Counsel need to have the right technology and create the conditions to allow for private communication with inmates.

Clients are incarcerated in facilities with outbreaks awaiting pretrial. Do we know masks protect us all from COVID19 upon re-entry?

How to privately speak with my client (incarcerated inmate). Jails need to find a way to allow defense attorneys to talk to inmates privately. It's combination of having the right technology and creating the conditions to allow for private communication with inmates.

In person conduct of trials important

Jurors will be reluctant to serve due to fear of infection and recent defendant.

Do you have any additional thoughts or concerns or recommendations you would like to share?

I think all court directly or indirectly related to Constitutional rights is "essential”. I am concerned for those employees/attorneys more so than normal. I am also very concerned about the lack of information available to the public about the precautions taken by courts.

I am concerned about being in close proximity with numerous people given that our courtrooms are fairly small and the way they are set up does not allow for room to conference with clients and/or opposing counsel without being on top of each other. It least for the warmer months on days that are not extremely hot keep jurors outside before being called (may require a tent they can get under if it rains. Possibly have jurors report in via phone and stay in car and have the jury commissioner phone the individual to come get under if it rains."

I wonder about the implications of those who have been locked up and then they want to get jurors out and they want jurors to keep those lines of communication open and further and further. I think we are going to lose a facial expressions, if everyone was talking to each other. It's difficult to write an effective Waiver of right to face-to-face confrontation at trial, but needs to be done. Some added protocols for judge to recognize counsel, e.g. raising hand on screen to ask to speak, when objection.

Have jurors view trial remotely with Zoom. jury box and interested parties that want to observe can watch on Zoom.

Instruct jury with every trial stating jurors may not consider the fact the defendant is wearing a mask in their deliberations. Because I am over 65 years of age, and I feel as though many many jurors will seek to get out of Serving, whether legitimate or not, and therefore deny my clients the right to a fair and impartial cross-section of their community.

This is a difficult issue. I would want the contact with those jurors to get their insight and their experience. It is difficult to write an effective Waiver of right to face-to-face confrontation at trial, but needs to be done. Some added protocols for judge to recognize counsel, e.g. raising hand on screen to ask to speak, when objection.

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Those who are incarcerated in high exposure environments, judges must release clients who are unable to post a monetary bond. If a person has been charged with a violent offense, much greater use must be given to the use of electronic monitoring as a condition of bond, in lieu of a monetary bond.

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I worry that people won't show up for jury duty. With the size of our courtrooms, we can't really social distancing. As attorneys, I can't do social distancing from my client, I need to be able to speak to him/her during the trial. All of this might feel like people who have been locked up and then they want to get jurors out and they want jurors to keep those lines of communication open and further and further. I think we are going to lose a facial expressions, if everyone was talking to each other. It's difficult to write an effective Waiver of right to face-to-face confrontation at trial, but needs to be done. Some added protocols for judge to recognize counsel, e.g. raising hand on screen to ask to speak, when objection.

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The inability to meet with clients confidentially prior to trial nucleated:

- Provide masks and hand sanitizer to all entering rooms. Take temperature of all in room. Expand jury waiting. No spectators—people provide stream of trial. Undercut clothing. All clothing we provide should be bagged and protected properly. See above regarding physical modifications. Judges are politicians who are more worried about their Supreme Court reporting stats than the safety of the lawyers and jurors. Bring in experts to provide safety solutions.
- More OR bonds, face to face client communication with masks for attorney and inmate—jail to provide masks for inmates, bigger rooms/auditoriums that can accommodate all stakeholders and that utilize ample audiovisual aids may be the best way to decrease the number of people.
- Make sure to serve juror due to lack of infection, is that just cause? Mandate mask wearing by individuals not testifying. Provide special accommodations so lawyers can meet with clients in large rooms.
- Jurors perceived safety is my biggest concern. Jurors should not rush a verdict be preoccupied with concerns for their own safety, or concerns about bringing the illnesses home to their families.
- The first case of a juror being diagnosed with COVID-19 after serving on a jury will deal a blow to the system that will take years to recover. The physical effects of the COVID-19 Public Health Emergency will only be felt by a few people who become infected. However, the psychological and human factors aspects of this Emergency have an impact on all of us. Criminal/judicial personnel are on the front lines and will be subject to "incessant rounds" and long-term exposure to anxiety. This cannot be ignored.
- Jury trials should be conducted in larger separate rooms for social distancing. Jury selection should send out information that with the notice to serve that provides what the safety guidelines are. Specific appointment times and not mass call of the docket would be helpful.
- Jurors' safety is paramount. Jurors should only be summoned for a trial. It is the responsibility of all parties to inquire about the health and possible exposure of their clients, witnesses, and colleagues. Jurors should have at least 3-4 alternates.
- Nothing replaces the need for individual face-to-face jury deliberation. Option 3: wait to hold trials until a vaccination is out and accessible. Resume trials thereafter. Release non-violent offenders.
- It’s going to be hard to reconcile the criminal defendants constitutional rights with legitimate juror concerns for their personal safety. Jury trials in Franklin County could be given definitive scheduling dates, not just tentative dates so that jurors are summoned for specific trials. It is the responsibility of the general public, courtrooms on the same large room to stagger their criminal dockets on different weekdays so that these two courthouses can be used in one capacity. One judge needs to separate people. I oppose the idea to have jury box and provide masks for all. No spectators.

Pros: 1. Hold jury trials in the court of common pleas—the rooms are larger and can accommodate some social distancing; they also have microphones and better sound. Use protective masks and gloves. 2. It is needed, one jury trial per week per courtroom. Deliberation would be held in the courtroom with the court personnel leaving and going into a jury room, offices etc. 3. Jurors have access to the court trial. Potential problem with those not technologically advanced; others having care sensitive information, and actual accommodations. 4. Wait until a vaccination is out and accessible. Resume trials thereafter. Release non-violent.
Preparation with client does not allow for social distancing - with high risk clients

Preparation Delay until it's safe

Postpone all jury trials.

Postpone delays if the defendant is not incarcerated.

Safety and due process for the parties.

Postpone jury trials.

Postpone Supervision of all non-essential jury trials until August.

Social distancing makes it harder to hear and understand

Postpone jury trials on all bar the most serious felony cases

Postpone trials until all jurors are healthy.

Witnesses reluctant to appear and/or not show up because of concern for their own safety.

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Postpone jury trials

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Postpone jury trials

Reduce number of seated jurors

Witnesses reluctant to appear and/or not show up because of concern for their own safety.

Restart them with social distancing.

Postpone jury trials

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Postpone jury trials
Do you have any additional thoughts, concerns or recommendations you would like to share?

Expand the jury box. This will vary courtroom to courtroom.

Districts getting bumped unbelievably in a favor of criminal trials.

Do not resume jury trials yet, even if the parties resort to bench trials. Continue to preach patience and grace as surely no one really knows how to combat this virus and what steps can be taken to adequately protect in jury trials.

The set up of the courthouse was designed over 100 years ago and, although it is quite and historic, it really does not fit the dictates of the modern world, especially with this crisis. Also, courts could schedule hearings on the half hour instead of a cattle call with everyone there at once. This would minimize waiting, improve the experience for most clients and lessen the concerns for infections, etc.

Concerns that jurors may not be open in voir dire regarding impact

The design of courtroom does not allow for social distancing among all parties including jurors, parties, counsel, bailiff, judge, deputy, court reporter, witness, or members of the public attending.

A major concern I have is that we need to be practical about reopening the courts, as well as the rest of the business. The world thing that can happen is that we reopen too soon without well developed plans. This, in turn, can lead to more exposure and more cases. This will lead to more economic impact, which we all need to know. But we also need to ensure that the public has a high level of justice and we all do our part to prevent a larger problem that plagues to more chronic. A major concern of mine for the only information.

How to conduct voir dire. greater use of technology that permits deponents and witnesses to speak without masks remotely.

There is no reason 10 jury trials in Franklin County CP and 10 in domestic cases to electronic trials using Skype authorized software. There is no reason 10 jury trials in Franklin County CP and 10 in domestic cases to electronic trials using Skype authorized software.

A temporary pause seems prudent, don’t rush back.

I wish I did! I have an 8th District oral argument coming up, which will be conducted by Zoom. Is there a way to use

As someone who is immunocompromised, I was very concerned about going back into a courthouse any time soon. The courts need to be practical about reopening the courts, as well as the rest of the business. The world thing that can happen is that we reopen too soon without well developed plans. This, in turn, can lead to more exposure and more cases. This will lead to more economic impact, which we all need to know. But we also need to ensure that the public has a high level of justice and we all do our part to prevent a larger problem that plagues to more chronic. A major concern of mine for the only information.

I went to the Franklin County Municipal courthouse on May 4, 2020 and I was the only one wearing a mask. Security told me

I am concerned about requiring a jury to deliberate in a closed room without accurate, daily testing. I am concerned about being seated during trials and not other lawyers and the judge without accurate, daily testing. I am concerned that jury couldn’t adequately evaluate the credibility of a witness who is wearing a mask. It is also advisable to precautionary the jurors, and I was very concerned about going back into a courtroom any time soon. The courts need to be practical about reopening the courts, as well as the rest of the business. The world thing that can happen is that we reopen too soon without well developed plans. This, in turn, can lead to more exposure and more cases. This will lead to more economic impact, which we all need to know. But we also need to ensure that the public has a high level of justice and we all do our part to prevent a larger problem that plagues to more chronic. A major concern of mine for the only information.

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I encourage the courts to continue this practice for as many cases as they can and where feasible.

Most physicians are working from home now—excluding court

Continue to use technology to continue jury trials online. Be prepared to have a trial that is relatively short, and allow the jurors to use

If the courts house will be a breeding ground for covid it’s safety measures are not taken now. This is the fact the bailiff had just a staff. That’s not nearly sufficient all court personnel don’t have masks.

I want to the Franklin County Municipal courthouse on May 4, 2020 and I was the only one wearing a mask. Security told me

There is no reason to resume jury trials for criminal cases through the system. Arrive at plea deals that reflect the possibility of trial delays, lost or ill jurors, judges, lawyers, attorney's, etc. (they will understand, of course).

The experience for most clients and lessen the concerns for infections, etc.

When the client and witnesses does not abide by social distancing recommendations

The courts are Constitutional right and a need to be practical about reopening the courts, as well as the rest of the business. The world thing that can happen is that we reopen too soon without well developed plans. This, in turn, can lead to more exposure and more cases. This will lead to more economic impact, which we all need to know. But we also need to ensure that the public has a high level of justice and we all do our part to prevent a larger problem that plagues to more chronic. A major concern of mine for the only information.
I am concerned about the availability of jurors if we cannot ensure their safety. If we cannot get enough jurors the judicial and litigants will suffer disproportionately, potential cases will take precedence over civil cases particularly in metro areas.

Important to continue this process without undue delays.

I am concerned about the liability to remain socially distant in the Cayuga County courthouse, for all involved, but especially jurors. I do support side-rooming litigants and witnesses in cases where no face to face contact take precedence over civil cases depending on metro areas.

I am concerned that judges may require jury trials remotely by video which will be a significant, undue and unjust prejudice to jurors, prospective jurors, clients, counsel, witnesses, and court personnel without adequate testing for the virus and without ensuring all during the pandemic of the trial's risk and outcome in made in a transparent and widely as possible the general public.

I think we should be cautious in the future and not to rush many cases to the sidelines. We should be concerned about the fact that we may have to pause jury trials until we are sure that we have enough jurors and also that we have enough jurors who are willing to participate.

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More alternate jurors

Provide PPE and sanitizer to jurors

Postpone until there is a cure for this disease.

Out of town witnesses

Option to revert to bench trials if all of the parties agree.

Sanitize exhibits

Witness reluctant to appear

Test everyone

Postpone until this fall.

Voir dire does not abide by social distancing recommendations

Use of remote jurors are used, the entire process will become disruptive to the point where the trial is impacted.

Sufficient time to conduct discovery that may have been delayed during the COVID outbreak including depositions.

Preparation meetings with clients and witnesses

Preparation and discovery

Option to revert to bench trials if all of the parties agree.

Preparation and discovery has been on hold for weeks

Patience. Especially in larger cases that require depth discovery. Smaller cases like certain MVAs could likely proceed before larger cases where discovery has been delayed.

Picking a jury, jurors not wanting to be jurors and rushing to decisions

Obviously, we cannot wait until there is a vaccine to start jury trials, and so the public must feel confident that the court houses are safe places — from a making and social distancing point of view.

[40x169]2

Out of town witnesses

[40x418]2

Witness reluctant to appear

Test everyone

Postpone until this fall.

Number of people in the courtroom - travel of jurors from urban to suburban to rural areas

No trials until fall at the earliest

More remote

People will be generally more concerned about their health and the health of the people they live with that people will be hesitant on walking to serve as jurors under the current circumstances.

Personally, I'm in the gray box. The judges, especially during voir dire, will be crowded. Handling exhibits will be difficult
due to social distancing. For attorneys, and witnesses, and client representatives, travel and lodging/dining is difficult. Getting jurors to trial via deposition might be more difficult.

Put jurors on the clock.

No solution for contact at counsel tables. Questionnaires and temperatures taken daily of all persons, including the judges, going into the courtroom.

[55x180]Voir dire does not abide by social distancing recommendations

[55x186]use of remote jurors are used, the entire process will become disruptive to the point where the trial is impacted.

[55x203]Some jurors will be afraid to speak out publicly about their concerns of contracting the virus and may rush to judgment.

[55x238]Argument from the podium. Space jurors out so no one is sitting immediately next to another. Require all visitors to wear
masks and be afebrile.

[55x26]Resume the jury trials. Jury trials are a Constitutional right and a check on abuses of power by judges and other public officials. No! I also have concerns about limited jury pools--we cannot get a representative/fair sample of the population by only selecting jurors from one area.

[55x26]Postponed until adequate testing, tracking, and a vaccine.

[55x293]No solution for contact at counsel tables. Questionnaires and temperatures taken daily of all persons, including judges, going into the courtroom.

[55x321]and jury deliberations (and social distancing)

[55x332]and jury deliberations (and social distancing)

[55x349]Preparation meetings with clients and witnesses

[55x361]Preparation and discovery has been on hold for weeks

[55x362]Patience. Especially in larger cases that require depth discovery. Smaller cases like certain MVAs could likely proceed before larger cases where discovery has been delayed.

[55x378]Picking a jury, jurors not wanting to be jurors and rushing to decisions

[55x383]Distancing.

[55x514]Move trials to larger venue Voir dire may create a different set of challenges to keep the distance in the modified courtrooms set up for trials. Maybe
we could select from the roster of jurors who were selected for other trials in the area.

[55x531]Postponed until adequate testing, tracking, and a vaccine.

[55x553]The rights of all parties must be respected. However, as long as there are 2 to 3 thousand people dying from this virus across the country every day, we must avoid to ignore the science and the very real possibility that things will worsen if we don’t remain cautious.

3 Motto - Guiltarranty requirements after exposure may well result in an entire empaneled jury to be ordered into isolation and waive a trial. Due to the jury today this could end up wiping out an entire jury pool.

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The recent talk of a new courthouse may undoubtedly make the public skeptical as to whether the Justice Center can be sanitized and made safe. Also, the amount of public access to that building for criminal justice matters presents a real problem if social distancing is to remain the norm for the foreseeable future. It will be hard being transparent in court functions given this reality.

There will need to be multiple protocols in place for starting with screening for temperature, access to floors, etc. Trials may have to be moved to a larger venue.

2. Use gallery for jury
4. Use larger rooms or areas to allow for social distancing, convention centers, conference centers
5. Use larger space for jury box and jury deliberations
3. Use transparent masks to face can be seen

4. Video usage for jury trials
5. Video usage for jury trials - video stream to jury in separate room

 whitespace for virtual testimony
5. Virtual voir dire

6. Waive trial / favor bench trial

Social distancing jury box
Social distancing of jurors during trial in jury box and deliberation room, and during voir dire which requires large groups
Do you have any additional thoughts, concerns or recommendations you would like to share?

Depositions in close/confined spaces.

No jury pools, highly managed selection process.

Perhaps could reduce the number of jurors in civil cases from 8 people to 6 people (then, could seat them every other seat).

Temperature check and medical screening.

Of course, one cannot assume that the public can attend court proceedings even if it means bumping newer cases. I would also recommend a vigorous visiting/retired judge program so that all of these older cases can get tried faster.

Exposure to more than 10 persons in the court.

Masks are not practical.

Jury venires will be self-limiting and lack diversity (i.e., people not wanting to serve as jurors for safety reasons, lack of childcare, travel restrictions, etc.).

What ideas and/or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of jury trials?

Ohio Regional Bars - Civil (Commercial) Practitioner Responses

1. General health and safety concerns about meeting with clients.

Do not require masks, but keep people 6 ft apart.

2. Jury voir dire would need to be less effective and are not compatible with witness examination.

More alternate jurors for those who do not want to participate.

3. Design of courtroom does not allow for social distancing among all parties including judges, parties, counsel, bailiff, judge, deputy, court reporter, witnesses, or members of the public attending.

Simplify the voir dire process. Make jury voir dire less intrusive, perhaps jury voir dire in the gallery. Then, give them plenty of room to deliberate.

4. Higher priority for criminal cases if getting jurors willing to serve is a problem, which could mean civil jury trials are postponed for 6 to 12 months.

Can't join me in crowded jury box, perhaps socially distant in the gallery. Then, give them plenty of room to deliberate.

5. How to handle the following safety, jury selection, deliberation, jury deliberation.

Jury trials in open arenas.


Masks make jurors uncomfortable. Postpone resumption of trials until the viral situation becomes more clear - will a second wave occur with loosening of the stay home order.

7. Deliberation - jury stays in courtroom and all else exit.

I am concerned that many defendants will take advantage of the reluctance of courts to hold jury trials to not cooperate with the operation.

8. Exposure to more than 10 persons in the court.

If possible, keep them out of a crowded jury box, perhaps socially distant in the gallery. Then, give them plenty of room to deliberate.

9. How to handle the following safety, jury selection, deliberation, jury deliberation.

No, as long as jurors are willing to deliberate as long as necessary 4 Postpone until a vaccine is in place. Medical experts from a local Board of Health should visit all courtrooms in order to assess possible risks and to recommend

10. Design of courtroom does not allow for social distancing among all parties including judges, parties, counsel, bailiff, judge, deputy, court reporter, witnesses, or members of the public attending.

More alternate jurors for those who do not want to participate.

11. General health and safety concerns resulting from exposure to all parties in the court.

Judges stay in the courtroom, and they make all decisions. If there is a need to recuse, the judge can recuse at the last minute.


I am concerned that many defendants will take advantage of the reluctance of courts to hold jury trials to not cooperate with the operation.

13. Deliberation - jury stays in courtroom and all else exit.

If possible, keep them out of a crowded jury box, perhaps socially distant in the gallery. Then, give them plenty of room to deliberate.


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18. How to handle the following safety, jury selection, deliberation, jury deliberation.

I am concerned that many defendants will take advantage of the reluctance of courts to hold jury trials to not cooperate with the operation.

19. General health and safety concerns about meeting with clients.

I am very concerned about returning to the courthouse petri dish. I would probably retire as counsel if things do not change - understand that some courts in Texas have conducted adsiduate trials.

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Preparation for a jury trial or any evidentiary hearing requires significant advance preparation. Even if trials and other in-person court appearances resume in the coming weeks and months, attorneys will need to spend many hours working closely with clients and witnesses to prepare. I am concerned about how to do this while maintaining social distancing. I am also concerned about courts holding hearings by phone or video when the presences of highly experienced-interviewer or require extensive witness testimonies. I shall be hard to make a precise judgment without being in the witness box.

Social distancing at a separate location.

I am very concerned that this will make judges more reluctant to hold jury trials in civil cases. The numbers are already way down and plaintiffs are suffering.

Reduce number of trials to absolute minimum.

Social distancing for voir dire.

For civil cases, the Cincinnati Bar is launching its own ADR service (Cincinnati Bar Alternative Dispute Resolution Service). For certain civil cases, especially commercial and employment cases, mediation and arbitration are viable alternatives, and judges should give consideration to using civil litigators to create their disputes with ADR providers. For the reasons suggested above, I doubt that civil jury will be possible through the end of 2020.

Screening and procedure for in-person activities

Some precautions should go with the jury duty notice that address these concerns. We should also do whatever we could to eliminate keeping juries in the jury waiting room.

Spread of virus is high traffic areas of court, paper, surfaces.

Voir dire of jurors:

Social distancing in courtrooms and just boxes.

Witness appearances restricted due to travel restrictions or fear related to COVID-19. May only want to appear via video.

Strict social distancing and move trials to other areas like ballrooms, assembly halls, etc.

Strict social distancing by re-configuring the lay out of the courtroom.

Temperature checks.

Strict social distancing. Juries will need to be provided more space to deliberate and more room to view the trial.

Strict social distancing, Jury trials until the COVID-19 new cases decline in Cuyahoga County.

Stay home if sick.

Variety of interpretation of supreme court tolling orders, general orders and individual case order making completion of adequate discovery a difficult task.

Virtual summary jury trials for civil cases

Travel for counsel restricted.

The bar and the bench need to weigh in and push for national testing, national emergency production of supplies and pharmaceuticals.

Require courts to allow adequate time for complete discovery and preparation without forcing witnesses and litigation to expose themselves to

Some social distancing is being able to clearly hear others and being clearly heard.

Voir dire and empaneling is cumbersome and should entail plaintiffs and defendants being able to see jurors.

Universal requirement for masks to everyone.

Witness behavior (i.e. posture, tone, eye contact, etc.)

Video use for jury is not effective. Jury would be disengaged from the events in the courtroom and important subtleties of

Video streaming of testimony to jury; moving jurors further apart and out of the jury box maintain social distancing

Video for jury selection be done by a zoom type meeting? that way citizens are not forced to congregate a the courthouse

Video for juries that are not effective. Any would be damaged from the events in the courtroom and important subtleties of

Video and live trial combination

Voir dire remotely or offsite to minimize the number of people summoned to court

Video conferencing can be effective to multiple witnesses, witnesses may be able to appear in court.

Voir dire will be more intrusive than normal on basic health issues and being able to sit for periods of time.

Voir dire of jurors:

Witness appearances restricted due to travel restrictions or fear related to COVID-19. May only want to appear via video.

Strict social distancing, voir dire only at the

Witness appearances restricted due to travel restrictions or fear related to COVID-19. May only want to appear via video.

Strict social distancing, jurors may have to sit on both sides of the bench using chairs and the ballroom area and they may also have to use the elevator area.

Temperature checks.

There will be a need for more alternate jurors in longer trials.

Use a separate vacant county building or limit the 3rd floor of the old Courthouse for ADR classes.

Video conferencing.

Use of gallery for jury.

There will be a need for more alternate jurors.

Use of gallery for jury.

Trials for counsel restricted.

The bar and the bench need to weigh in and push for national testing, national emergency production of supplies and pharmaceuticals.

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Travel for counsel restricted.

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Require courts to allow adequate time for complete discovery and preparation without forcing witnesses and litigation to expose themselves to

Travel for counsel restricted.

The bar and the bench need to weigh in and push for national testing, national emergency production of supplies and pharmaceuticals.

Need to relook at voir dire process and make it more efficient, constrain voir dire to material issues.

Add some questions to the voir dire questionnaires to try to identify high-risk individuals based upon age or health status.

General orders and individual case order making completion of adequate discovery a difficult task.

Virtual summary jury trials for civil cases

Travel for counsel restricted.

The bar and the bench need to weigh in and push for national testing, national emergency production of supplies and pharmaceuticals.

Require courts to allow adequate time for complete discovery and preparation without forcing witnesses and litigation to expose themselves to

Travel for counsel restricted.

The bar and the bench need to weigh in and push for national testing, national emergency production of supplies and pharmaceuticals.
OPAA – Jury Trial Advisory Group Recommendations

The Ohio Prosecuting Attorneys Association adopts the “Continuing Jury Operations” plan published by the Ohio Judicial Conference with the following changes and with particular importance for the following areas.

Recommended Changes

The OJC document recommends continuing longer jury trials until after the peak of the outbreak subsides (Recommendation #1). While the recommendation does say that this should be done “to the extent possible,” we believe that we are past the current peak in Ohio and that trials should resume barring standard considerations for a continuation.

The OJC document recommends deferring jury duty as much as possible (Recommendation #24) allowing jurors in high-risk categories to defer (Recommendation #25), and allowing jurors up to two deferrals in a year (Recommendation #26). The OJC recognizes the potential for constitutional issues because of this due to possible changes to the composition of the jury. Deferring jurors is not supported by current jury selection rules or law. Limiting deferrals exacerbates the problem. Instead, OPAA recommends using the existing statutory scheme and treating COVID-19 as a medical excuse, which is done routinely now with affidavits and sworn testimony.

Recommendations of Particular Importance to Prosecutors

General Issues

- Screening jurors, trial participants, and others before entry into courthouse (i.e. health questionnaire, temperature check)
- Hand sanitizer readily available
- Provide PPE
- Provide space for social distancing in the courthouse
- Consider offsite location if necessary
- Must be a county-by-county approach – one size does not fit all

Jury Selection and Voir Dire

- Increase the number of jurors summoned
- Remote questionnaires and screening
- Voir dire in smaller panels
• Face shields rather than masks
• Masks removed if appropriate spacing can be provided
• Use of space other than jury box and avoidance of jury assembly room

Trial

• Appropriate space at and between counsel tables
• Space in separate room should be set aside for sidebars and defense communication with client
• Video appearances when possible
• Masks removed when speaking
• Separate room for press and public with proceedings broadcast
• Electronic exhibits when possible. Copies for each jury when possible/necessary.
• Witness should be provided face shields if possible or remove mask when on stand
• Witness stand sanitized between witnesses
• Courtroom sanitized at end of each day

Deliberations

• Keep jurors in courtroom or some other large space if jury room does not allow for social distancing