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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We Extend Special Thanks to ***Chief Justice Maureen O'Connor****, Supreme Court of Ohio;* ***Justice Judith French****, Supreme Court of Ohio;* ***Attorney Andy Wilson****, Senior Advisor for Criminal Justice Policy, Office of Ohio Governor Mike DeWine;* ***Attorney Gerald Todaro****, Arnold, Todaro, Welch & Foliano; and,* ***Attorney Mark DeVan****, Berkman, Gordon, Murray & DeVan.*

Additionally, Thank You to Those Who Provided Input by Way of Questionnaires, Surveys, Outreach, and Research to Their Respective Organizations.

"Trial by jury is a privilege of the highest and most beneficial nature and our most important guardian of both public and private liberty."

Justice William Blackstone, Supreme Court of the United States, 1765

"In all controversies concerning property, and in all suits between two or more persons … the parties have a right to a trial by jury; and this method of procedure shall be held sacred…"

United States President John Adams, 1780

"The right to trial by jury is one of the most fundamentally democratic institutions in the history of the human race. Throughout history, the right to trial by jury has been considered the crown jewel of our liberty."

Justice Andrew Douglas, Supreme Court of Ohio, 1996

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.[1] 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;[2]
- That the voir dire process allows for recommended social distancing practices;[3]
- That sidebar conferences be conducted in an appropriate location to allow for recommended social distancing practices;[4]
- 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.[5] 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;

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[2] *Id*.
[3] *Id*.
[4] *Id*.
[5] *People Who Are At Higher Risk*, CENTERS FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html
(Last visited May 11, 2020) (stating that those at high-risk for severe illness from COVID-19 are people 65 years and older).

- 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:
    - Available training in COVID-19 detection;
    - The optimal PPE for use in a maximum capacity courtroom;
    - The optimal number of people in a particular courtroom; and,
    - 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.[7] 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.

[7] Dep't of Justice, *2010 ADA Standards for Accessible Design*, ADA.GOV (Sept. 15, 2010), http://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm.

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.

JAMA Internal Medicine | Original Investigation

Contact Tracing Assessment of COVID-19 Transmission Dynamics in Taiwan and Risk at Different Exposure Periods Before and After Symptom Onset

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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.

Editor's Note
Author Audio Interview
Supplemental content

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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.[1,2] 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.[3] 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.[4] 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.[4-6] 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.[7-9] 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 health care facility.

In Taiwan, the first COVID-19 case was confirmed on January 21, 2020.[10] 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.[11,12] 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.

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.

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.[13] 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.[14] 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.[15] Detailed information, including demographic and clinical data, was reported to the National Notifiable Disease Surveillance System.[16] The investigation team determined the clinical severity of the confirmed patients following the World Health Organization (WHO) interim guidance.[17]

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

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

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

[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.

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 data sets 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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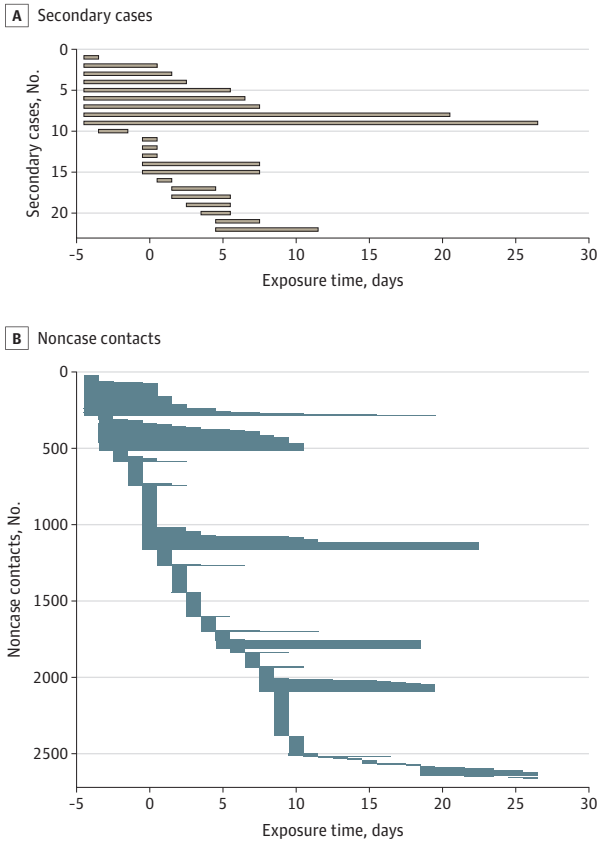
Figure 1. Exposure Window Period Among Secondary Cases and Noncase Contacts



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.

fied, 5.5% were household contacts, 2.8% were nonhousehold family contacts, and 25.3% were health care contacts (Table 1). Through contact tracing, 23 secondary cases were found. One of the 23 cases was excluded from subsequent transmission-pair analysis because the documented day at exposure occurred after symptom onset of the secondary case. None of the 9 asymptomatic case patients transmitted a secondary case. Using the data on the 22 paired cases, we estimated that the median incubation period was 4.1 days (95% credible interval [CrI], 0.4-15.8), and the median serial interval was 4.1 days (95% CrI, 0.1-27.8) (eTables 1-5 and eFigures 1-5 in the Supplement).

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 2**A). 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 al[4] 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

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

	No. of secondary cases (asymptomatic case)	No. of contacts	Secondary clinical attack rate, % (95% CI)	Risk ratio (95% CI)
Exposure setting				
Household	10 (3)	151	4.6 (2.3-9.3)	1 [Reference]
Nonhousehold family	5 (1)	76	5.3 (2.1-12.8)	1.14 (0.34-3.76)
Health care	6 (0)	698	0.9 (0.4-1.9)	0.19 (0.06-0.54)
Others[a]	1 (0)	1836	0.1 (0-0.3)	0.01 (0-0.09)
Time from onset to exposure, d[b]				
<0	10 (3)	735	1.0 (0.5-2.0)	1 [Reference]
0-3	9 (1)	867	0.9 (0.5-1.8)	0.97 (0.35-2.66)
4-5	3 (0)	216	1.4 (0.5-4.0)	1.46 (0.38-5.59)
6-7	0	119	0 (0-3.1)	0
8-9	0	449	0 (0-0.9)	0
>9	0	284	0 (0-1.3)	0
Exclusively presymptomatic exposure[c]				
No	20 (4)	2371	0.7 (0.4-1.1)	1 [Reference]
Yes	2 (0)	299	0.7 (0.2-2.4)	0.99 (0.23-4.29)
Age of close contacts, y				
0-19	1 (1)	281	0 (0-1.4)	0
20-39	8 (2)	1161	0.5 (0.2- 1.1)	1 [Reference]
40-59	10 (1)	794	1.1 (0.6-2.1)	2.19 (0.78-6.14)
≥60	3 (0)	331	0.9 (0.3-2.6)	1.75 (0.44-6.97)
Source of index case				
Local	18 (3)	967	1.6 (1.0-2.5)	1 [Reference]
Imported	4 (1)	1794	0.2 (0.1-0.5)	0.11 (0.03-0.37)
Clinical severity of index case				
Asymptomatic	0	91	0 (0-4.1)	0
Mild illness	4 (0)	1097	0.4 (0.1-0.9)	1 [Reference]
Pneumonia				
Mild	5 (2)	761	0.4 (0.1-1.2)	1.08 (0.24-4.82)
Severe	7 (0)	511	1.4 (0.7-2.8)	3.76 (1.10-12.76)
ARDS/sepsis	6 (2)	275	1.5 (0.6-3.7)	3.99 (1.00-15.84)

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.

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 presymptomatic 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.[22,23] This characteristic makes containment efforts challenging. In a modeling study, Hellewell et al[24] 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

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Figure 2. Number of Contacts, Secondary Cases, and Secondary Clinical Attack Rate by the Time of First Exposure

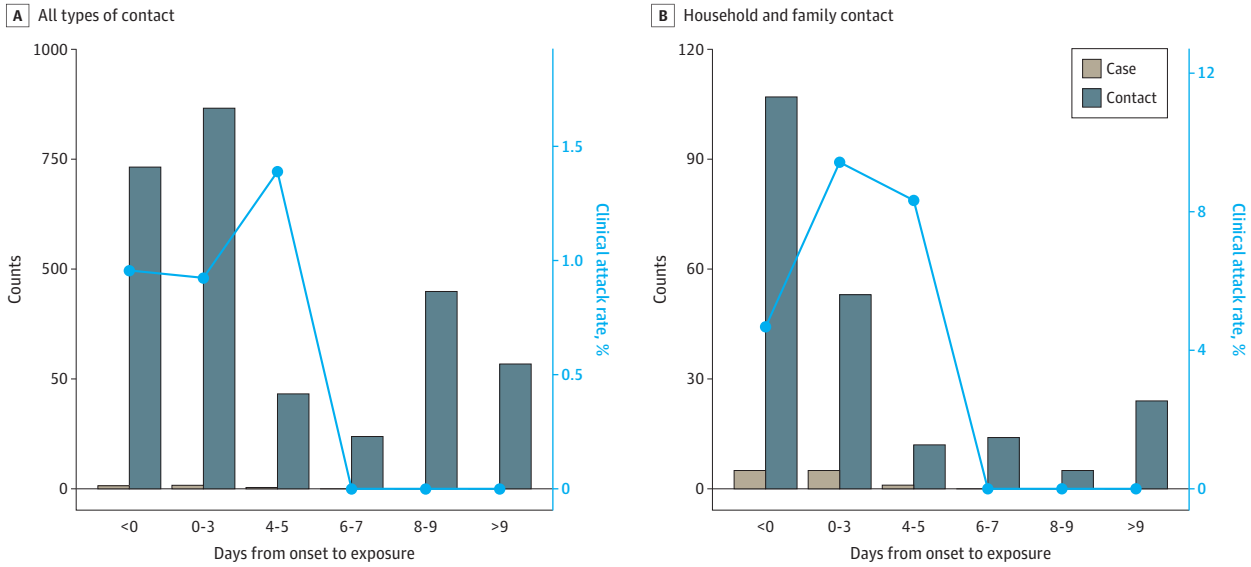

Table 3. Risk for Symptomatic COVID-19 Infection Among the 2761 Close Contacts, Simultaneously Stratified by Exposure Setting and Time From Symptom Onset of the Index Case to First Day of Exposure

	Household		Nonhousehold family		Health care		Others[a]	
First day of exposure, d	Case/contact, No.	Attack rate, % (95% CI)[b]	Case/contact, No.	Attack rate, % (95% CI)[b]	Case/contact, No.	Attack rate, % (95% CI)[b]	Case/contact, No.	Attack rate, % (95% CI)[b]
<0	4/100	4.0 (1.6-9.8)	1/10	10.0 (1.8-40.4)	2/236	0.8 (0.2-3.0)	0/389	0 (0-1.0)
0-3	2/39	5.1 (1.4-16.9)	3/15	20.0 (7.0-45.2)	3/150	2.0 (0.7-5.7)	0/663	0 (0-0.6)
4-5	1/6	16.7 (3.0-56.4)	0/6	0 (0-39.0)	1/38	2.6 (0.5-13.5)	1/166	0.6 (0.1-3.3)
6-7	0/4	0 (0-49.0)	0/10	0 (0-27.8)	0/17	0 (0-18.4)	0/88	0 (0-4.2)
8-9	0/2	0 (0-65.7)	0/3	0 (0-56.1)	0/110	0 (0-3.3)	0/334	0 (0-1.1)
>9	0/0	UC	0/24	0 (0-13.8)	0/146	0 (0-2.6)	0/114	0 (0-3.3)

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

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

[b] Secondary clinical attack rate.

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 faciltiy.[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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Taiwan were travel alerts with restriction to affected countries (principally China), home quarantine for travelers entering Taiwan, and comprehensive contact tracing for confirmed cases.[11] 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.[33]

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.[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.

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Acquisition, analysis, or interpretation of data: All authors.
Drafting of the manuscript: Cheng, Jian, Ng, Lin.
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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 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 <u>inviolate</u> and trials are to be <u>public</u>. 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 interacing 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.

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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 there 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 soical 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
    - Strategy to avoid communal trays
    - Temperature taken
    - Temperature detection kiosk – entry denied https://www.lamasatech.com/products/interactive-kiosks/body-temperature-kiosk/
- Public attendance
    - Designated areas for public with approach for adherence to constitutional guarantees
- Jurors will not want to show up
    - Potentially call more jurors
- Increase use of juror questionnaires
    - Court standard
    - Each party able to submit questions either agreed to or decided by the court
    - Responses provided to counsel 24 hours prior to the start of trial
- PPE for jurors, counsel and court personnel
    - Required use of masks – N94?
    - Courts having supply of sanitizer, masks and gloves for people
- Alternative locations that civil trials take place
    - Civil trials do not have the same court personnel and security needs
    - County buildings, libraries, churches, movie theaters, vacant retail space/mall
- Ability to try to 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
    - May refuse to come to courthouse and rules do not permit video attendance
    - Permit all witness testimony via video conference if needed
- Exhibits for witnesses
    - Electronic version of exhibits and hard copy only used when necessary
- Communication between counsel and clients despite social distancing
    - Breakout room/area for each party to talk
- Voir dire
    - 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
    - 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
    - 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 confidentially 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.

- A larger venire than typical should be summoned so that there are sufficient potential jurors.
- 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.
- 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.
- 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.
- 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.

Ohio Regional Bars - Criminal Law Practitioner Responses

Times concern was mentioned	Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist? (Please identify any specific concerns)	Times recommendation was mentioned	What ideas and/or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of jury trials?	Do you have any additional thoughts, concerns or recommendations you would like to share?
	"False starts" because of an issue with a juror, witness or participant.	2	Allow potential jurors to be struck for cause if they exhibit any concern or reservation about the virus or being in a group of people.	Prioritization of criminal trials, specifically for locked up defendants.
22	Anxiety/distraction of jurors (fear of infection) cause poor judgement or rush to judgement.		Continue all jury trials until July 6, 2020	As a defense attorney, I certainly have concerns for my clients' constitutional right to a speedy and fair trial. At the same time, when you weigh the right to a speedy trial against the right to stay alive, we can look to the Michigan Court of Claims ruling last week in discussing the Michigan's Stay at Home order: "They â€" our fellow residents â€" have an interest to remain unharmed by a highly communicable and deadly virus, and since the state entered the Union . . . it has had the broad power to act for the public health of the entire state when faced with a public crisis." Similarly, we should not be rushing back to jury trials just because they are on hold; it is irresponsible and the outcome could prove fatal. The courts, their staff, the attorneys, parties, witnesses, court reporters, deputies, and jurors all have an interest to remain unharmed and conducting in-person jury trials would not be appropriate at this time. That being said, virtual jury trials present too many potential variables to present harm and prejudice to the parties that did not exist prior to the pandemic, there would be an explosion of appellate issues and a pocket of inconsistent rulings for this period of time that all could have been avoided by NOT conducted a jury trial virtually/remotely.
	Cannot afford client a fair trial with witnesses wearing any type of mask.		Continue all jury trials.	Avoid jury trials until pandemic subsides
	Clients are encarcerated in facilities with outbreaks awaiting pretrial. Do we know masks protect us all from a defendant with COVID19?		Dress clients appropriately and ensure they are seen as people while in mask	Concern: the jury pool...usually large groups of people in a small area waiting for long periods of time to be chosen to sit on a jury. Perhaps they could be screened remotely to avoid the "sitting" all day in groups and in the courtroom
2	Clients will stay locked up longer while waiting for trial if they can't post bond. Delayed trials while our clients are locked up, unable to post bond?		Electronic sidebars and client communication through text messaging	Constitutional aspects must be strictly adhered to and managed in relationship to the crisis. The concern of open forum, and in person examination of witnesses and presentation to jury can not be compromised for a fair trial. More cleaning will be required in each courthouse and courtroom.
3	Concern with video - the right of Defendants to be present in the court room so that the demeanor of the defendant can be seen and evaluated by the Court and counsel, Even a virtual/remote jury trial would have its limitations that undoubtedly would result in undue prejudice against the defendant in criminal actions and the plaintiff in civil ones.		Encourage mediation	Depending upon the number of potential jurors, voir dire can be in multiple sessions.
	Consultation between counsel and client will be challenging during the trial, due to the need for physical distancing		Evidence copies made prior to trial so everyone had a copy who may need to look at it so there is no passing of documents.	Every effort needs to be made to ensure rights are not compromised but the public also needs to have faith in us.
5	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.		For side bars, it's a hassle, but counsel, reporter and judge go into chambers for all "outside the hearing of the jury" proceedings. For jurors, distancing will have to be done on a "courtroom by courtroom" basis due to unique nature and size of each court room. Trials could be held in non-traditional, non-courtroom settings, to provide enough space for jurors to all have seats and appropriate audio and sight lines to witnesses. Hotel banquet rooms maybe? Consider providing headsets for jurors to hear live testimony, since they'll be spread out such a wide area... Jury deliberation is the hard part, that's gonna be tough to solve...	Exceptions may, repeat may, be necessary for defendants held in lieu of bond for long periods. But baring that or other TRULY extraordinary circumstances, jury trials should be postponed for another month or two.
18	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.		Hazard communication and informed consent by jurors.	For criminal matters, if time can not be met, then greater bond expansion conditions of release must be utilized rather than holding named defendants in detention awaiting trial.
	Fair treatment of defendants who are wearing a mask.		Health assessments of each individual on the jury pool. Need to specifically ask potential jurors how they personally feel sitting on a jury.	For the time being, I feel that unless you are a party to a case (defendant, victim, or witness), you should not be allowed in the building. No friends, children, parents, etc. should accompany anyone in the building to help limit contact and also keep as much space available as possible.
	From a pretrial and due process standpoint, I'm concerned about timeliness and extra pressure on all players. Many personnel in courts & law enforcement and other support services are working less than full time and there are furloughs that also adversely affect the system. From the standpoint of procedure during an actual trial, I believe every effort needs to be made to ensure the rights of the accused are not compromised. We must go above & beyond in our efforts to ensure that efforts to reduce fear and ensure the health & safety of the public participants does not dehumanize the defendant in any way. But, as a profession, we need to expand our PR to ensure the public understands their responsibility to participate in the justice system now more than ever. I actually had a friend in the healthcare industry make a comment to me placing blame for the early spread of COVID-19 upon lawyers. Itâ€™s one anecdote but the perception is out there and it could cause a backlash against our clients so it must be addressed. We need to go above & beyond in getting the news out that we are doing everything possible to protect each other and the public. So, courtrooms may need to be retrofitted to install plexiglass sneeze guards around juror seats and counsel tables and anything else we can possibly think of due to the fact that lawyers both locally and in NYC were among some of the early public deaths due to the virus.		Health questionnaires, check for fever, social distancing, masks	freely continue trials especially criminal if the defense request it and the defendant waives speedy trial.. if there is a concern about the availability of a witness depose the witness to rectify the matter
9	General health and safety concerns resulting from exposure to all parties in the court without vaccination.		I would significantly modify detention policies relative to bond and allow defendants, for whom speedy trial is an issue, to be released. Systems such as electronic monitoring with GPS and other forms of supervision are available and presently in use. These could be expanded and implemented and speedy trial time could then be modified so as not to undermine the rights of the accused.	have juries view trial remotely with 2-3 cameras/monitors: defendant, witness, interrogator/exhibits
	Handing exhibits/evidence to witnesses will require special planning.		Individual exhibits when feasible. Projections with clear type. Instant transcripts for jurors to read. Proper jury instructions. Individual voir dire so jurors feel comfortable divulging their fears. Hire additional cleaning services. Video services to comply with the open courtroom doctrines. Measures to ensure that criminal defendants receive the proper attention to their cases that the law requires.	Having to sit or not having the opportunity to sit with the police officers at the bench during the trial.
11	How to confer confidentially with my client or co-counsel during a trial while maintaining a safe distance.	3	Install barriers	How can a "sidebar" objection presentation take place outside the presence of the jury, but with proper distancing?
	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 physical space to do so.		Install plexiglass partition in jury box	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.
	I feel that the defendant may be mistakenly held responsible for the jurors being summoned to court and placed in personal jeopardy.		Instruct jury with every trial stating jurors may not consider the fact the defendant is wearing a mask in their deliberations.	I am concerned 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.
	I have grave concerns for folks that are being refused their right to a jury trial right now and sickened to think what this means for our state and federal constitutions		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.	I am opposed to just blindly moving forward as occurred in Ashland. I would think contact with those jurors to get their insight may be beneficial.
	I worry that people won't show up for jury duty. With the size of our courtrooms, we can't really social distance. As an attorney, I can't social distance from my client, I need to be able to speak to him or her during the trial (all parts of it).I feel like people who have been locked up and they want a jury they just keep getting their cases push out farther and farther. I think we are going to lose a facial expressions, if everyone has to use masks, and also the ability to hear people will be difficult.		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 in if selected. For the final panel use the gallery as a jury box and interested parties that want to observe can watch on zoom.	I anticipate getting jurors to show up will be as big of a task as any. With that in mind, for the report to OH Sup. Ct. and on any information released to the media and public, be sure to include "jurors" or "those call to jury duty" in the list of folks for whom we are seeking to insure health and safety. This survey, at the top introductory paragraph, lists lawyers, clients, judges, etc. Any such list should include the juror function, and preferably at the start of the list, in my humble opinion. This is an interesting challenge, thanks for your work Peter Rost. dg
	If no testing, at least minimum of 14 day quarantine prior to trial		Jails to install video and audio rooms for client consultation - not monitored or recorded	I don't think video testimony is a solution. I mean, obviously it's a solution to prevent disease transmission, but it's too much of a problem for defendants' confrontation rights.
	impracticality of maintaining social distance from clients (particular concern where clients have been 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.	I think all court directly or indirectly related to Constitutional rights is "essential". I am concerned for those employees/attorneys more susceptible to viruses. I recommend requiring masks in the work place for those who choose to work, similar to any risk in the workplace might lend to certain polices. Maybe let the most vulnerable people have the choice to mitigate their work from home or with more PTO, without the need to shut down most all of industry.
	In person conduct of trial is important		Jurors will be reluctant to serve due to fear of infection and resent defendant.	I think for non jury cases, the judges are going to need to do staggered dockets. Where they have maybe 2 per hour and go all day. That is going to be the only way to safety get people into the courthouse and to also get through the dockets.

	inability to meet with clients confidentially prior to trial if incacerated		Jurors: Provide masks and hand sanitizer to all that enter room Take temperature of all in room Expand jury seating No spectators- maybe provide stream of trial Lock up clothing- All clothing we provide should be bag an laundered promptly once worn (we basically do this) Just an extreme thought.... Stream the trial only allow the essential people (judge prosecutor defense crt reporter) in room put jury in a larger separate room for social distancing.	I think it is practically impossible to have a fair jury trial under the current restrictions/conditions while also adequately protecting the health of all participants.
	increasing distances of people in the courtroom, or particularly with remote/video participation will distort the process and lead to jury decisions at a distance from the crucible where the truth is best		Jury selection service should send out information that with the notice to serve that provides what the safety guidelines are.	I think we need to wait a little longer to see how things play out. If we don't have a big spike in Covid-19 cases now that the state is reopening then we might be ready to start jury trials again soon.
	Inmates who are in close quarters with infected		Jury 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. Sufficient space needs to be provided for distancing and for litigating the case.	I'm also concerned about how this impacts judges and attorneys. What about 65 year-old judges? Or diabetic judges? Same with attorneys. Are we going to overload the available court personnel and attorneys because the in-court work will necessarily be handled by fewer people?
	Interpreting 2945.71 et seq to ensure any further delays are not punitive		jury trials in Franklin County could be given definitive scheduling dates, not just tentative dates so that jurors are summonsed for specific trials/cases, not just sitting in the jury room waiting to be called as part of the general jury pool; courtrooms on the same floor could stagger their criminal dockets on different weeks so that two courtrooms can be used on one case/by one judge if needed to separate people; pamphlets could be sent to jurors to advise them of all of the precautions that are being taken to ensure their safety; clear safety protocols for attorney visits at the jail could be established so that attorneys are able to prepare their clients for trial	It's going to be hard to find workable answers for the near future.
	It is highly irresponsible to even consider placing the Court, its staff, parties, and potential jurors all in the same space while this pandemic continues. There are no differences between now and when the pandemic set-in, other than the fact that it has grown in infections and deaths. Face masks, gloves, and plexiglass won't create a safe environment so long as any single person entering into that courtroom has been exposed to the virus. There aren't enough safeguards the court could put in place where I would consider risking the health and safety of my loved ones just so a jury trial could go forward.		Jury trials in very large court rooms that can accommodate all stakeholders and that utilize ample audiovisual aids may be the best way to preserve the essence of jury trials; any other criminal jury trial should not occur until circumstances improve.	It's hard to reconcile the criminal defendants constitutional rights with legitimate juror concerns for their personal safety.
2	Juror has animosity towards a defendant for electing to go to trial under the current circumstances?		Jury use gallery	Jails are very unsafe right now and ours is filling back up because our courts are essentially shut down.
	Juror has animosity towards a defendant for electing to go to trial under the current circumstances?		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.).	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.
	Jurors have to remain sequestered in rooms that are not very large. Their main concern will not be solely focused on coming to a fair verdict, but they will make decisions to distance themselves from each other. They will not adequately evaluate physical evidence or read through reports for fear that they will contract the virus. These are real concerns because jurors already focus so much on things outside of the purview of the instant case. When jurors are in the box, they will feel uncomfortable. There are a minimum of 15 people in a courtroom during a trial and can balloon to over 50 if the gallery is full. Finally, a lot of jurors are in the critical ages that are susceptible to the virus.		Larger public outreach for jurors	Judges will have to be flexible with attorney scheduling during jury trials. Allowing retired judges to try cases will keep attorneys from dealing with other matters earlier in the day, and the retired judges must be ordered to accomodate the scheduling needs of the litigating attorneys.
	Jurors in one place separated by plexiglass		Larger space I think it would be difficult but a possible solution would be to move trials to another building, such as the law school, where there are large rooms/auditoriums that would allow significant space between people. Additionally, I think we should have a pre-screen of potential jurors over the phone where we could identify, and possibly excuse in advance, at risk individuals (older population, pre-existing health issues, etc.) This could help ease concerns.	Jurors perceived safety is my biggest concern. Jurors should not rush a verdict or be preoccupied with concerns for their own safety, or concerns about bringing the illness home to their families.
6	Jurors reluctant to serve and/or not show up because of concern for their own safety.		Larger space use of auditoriums rather than crowded court rooms.	keep crowds to a minimum and only persons affected and the press be permitted within the courtroom
	Jurors will also feel more imposed upon during this time period.		Make clear to jurors in detail what precautions are being taken (i.e. the jury box will be sanitized regularly).	Public safety has to be the priority. Thank you for taking your time to consider all of the complex pieces to this puzzle.
	Jurors will be reluctant to serve due to fear of infection and resent defendant.		Make sure no individual Judge can order an attorney to trial until he or she approves	Resources like masks and sanitizer will need to be available to the additional people
16	Jurors will be reluctant to serve due to fear 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	Should have at least 3-4 alternates
	Jurors/critical witnesses getting sick/not showing up mid-trial.	9	Mandate spacing and social distancing	some jury rooms are too small to allow for social distancing such as in Franklin County Municipal Court
14	Jury box and jury deliberation room too small for social distancing		Masks hinder communication and observation of facial expressions (weakening credibility of witnesses and difficult to select jurors in voir dire).	specific appointment times and not mass call of the docket would be helpful
2	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.).		Maybe allow for the jurors to sit in areas that aren't actually the jury box to allow them to sit further away. Make sure everyone is wearing a mask. Make sure the jury feels that it is a clean environment.	That everyone continues to be cautious and follow any orders set by the governor, including safety masks and/or gloves. To have the attorney's and other important parties complete some information in pdf format that can be viewed prior by password protected that would allow less time in close contact settings.
11	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.). We must enforce jury summonses (both trial juries and grand juries).		Maybe the jurors could sit in some of the audience seats, so they can spread out. Have a good supply of chlorox wipes.	The effort to restart the trial system is, obviously, necessary. However, as a defense counsel, it often seems that the compromises and accommodations that are proposed in this arena address how not to take 'too much' from the defendant in order to maintain a modicum of fairness. As a novel suggestion,I would be interested in seeing how much we can take from the other side of the equation in order to accomplish that same goal. Safety for all is the paramount concern and it is not unreasonable for the give and take to come from all participants in the system.
	Limiting spectators may violate right to a public trial.		more OR bonds, face to face client communication with masks for attorney and inmate- jail to provide masks for inmates, bigger courtrooms for trial with jurors unmasked but separated, more teleconferencing for pre-trials and other non merit hearings to cut down on traffic while jury trials take place	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 from.
	Lock ups COVID-19 status Getting clients dressed for JT Social distancing		move the jury into the gallery close the gallery that way they can spread apart	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 justice personnel are on the front lines and will be subject to "vicarious trauma" and long-term exposure to anxiety. This cannot be ignored.
8	Masks hinder communication and observation of facial expressions and witness credibility.		My clients are entitled to a fair and impartial jury, not a group of people who are concerned legitimately about their safety, and the safety of their families (once the return home after the trail). The State and the alleged victims need to lower their expectations of what they consider "justice" when attempting to resolve their issues short of a trail. Otherwise, we need to start reserving auditoriums at the schools to conduct these trial in a safe manner.	There are obvious concerns about clients and members if the public not following guidelines. Masks, social distancing, etc.
3	Masks hinder communication and observation of facial expressions during voir dire.		Need to delay till the distancing is relaxed	There is a complete lack of access to some of the Courts as well as some of the offices that deal with the Courts like the County Building. I am sitting on filings.
4	Masks hinder communication and observation of facial expressions for jury selection and witness credibility.	2	No masks for attorneys during examination of witnesses. No masks for witnesses. No mask for judge. Jurors must wear mask at all times unless scheduled break.	Use BMV records for juror summons to cast a wider net of jurors assuming some will not show; temperature checks for jurors; clients who are not being indicted should be entitled to a preliminary hearing even if their presence is via remote
14	Masks hinder communication and observation of facial expressions.		Obvious appellate issue with ability to have a fair trial	Video attendance is unacceptable. Removing a witness, party or participant from the courtroom is not a solution.
	Mistrial - Quarantine requirements after exposure may well cause an entire empaneled jury to be ordered into isolation and cause a mistrial. Due to the juror lobby's this could end up wiping out an entire jury pool.		Off the top of my head, the trial court may need to develop directives, standing orders, or other tools that can assist in ensuring appropriate personnel are still available and responsive. See above regarding physical modifications. I also support using clear face shields rather than masks as proposed by the public defenders office.	We may need to consider voluntary jury service. Anyone who wants out will cite virus concerns.
	No (6 responded No)		One idea is to secure an auditorium or hall or large space where trials can take place while adhering to social distancing rules. This too would be complicated with respect to travel to such venue. Others have suggested some sort of plexiglass system to keep people 'away' from eachother. I can not immagine how this will work. My fear is that defendants will get wind of these issues and all will begin to demand jury trials.	With the backlog of cases and filings in both criminal and civil dockets it will take some time for the courts to catch up especially if the precautions used to stop the spread of Covid 19 slow the courts down even more.
	No (6 responded No)		Open up the courts, but exempt the high risk for death groups.	Would be difficult to have jurors deliberate in small rooms. I cannot protect my clients rights with witnesses and jurors wearing mask in the court room. Credibility of witnesses cannot be weighed with them wearing a mask in court.
	No, so long as appropriate precautions are taken for physical distancing, use of masks, and temperature screening		Option 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. If a trial is needed, one jury trial per week per courtroom. Deliberation would be held in the courtroom with court personnel leaving and going into a jury room, offices, etc. Option 2: Jurors phone in, zoom in to the court trial. Potential problem lies with those not technologically advanced, others hearing case sensitive information, and actual deliberation. Option 3: wait to hold trials until a vaccination is out and accessible. Resume trials thereafter. Release non-violent offenders	Yes, the court should be more concerned about the safety of those who serve it as opposed to expedited dockets.
	Number of people in court		Permit jurors who have the preoccupation with the pandemic a right to reschedule jury service one time without having to go through voir dire.	

	Potential resentment the jurors may have against the Defendant in having a trial during the Pandemic.		Possible COVID testing for all trial actors prior to commencing trial.		
6	Preparation with client does not allow for social distancing - with high risk clients	6	Postpone all jury trials.		
	Procedure would have a jury secluded together to deliberate, during recesses, etc., but health concerns and guidelines show that persons should stay 6 feet distance between them. As such, when practicing before the court and presenting to the jury, both prosecution and defense will be limited -how much space between first and second chairs? How much space between defense counsel and defendant? Logistically, where will jurors sit? How will the jury and court reporter hear arguments through the mask? Do we then go unmasked? If that is the case, then each night when we adjourn, how do we know both ourselves, the court, and jurors are not exposing themselves to carriers or those infected? There are many reasons why the typical procedure of paneling a jury and holding a trial can seriously and adversely affect the health of not only those in the room but those we interact with after court.		Postpone Delay until it is safe		
	Reinfection		Postpone delaying trials if the defendant is not incarcerated.		
	Safety and due process for the parties.	8	Postpone jury trials		
	Side Bar conferences during trial outside the hearing of the jury		Postpone Jury trials should be postponed until at least August.		
2	Social distancing makes it harder to hear and understand		Postpone Suspension of all non-essential jury trials until August.		
4	Social Distancing of jurors during trial in jury box and deliberation room, and during voir dire which requires large groups		Postpone trials on all but the most serious felony cases		
	Spread of infection to court participants if defendant is being held in custody where Covid patients are		Postpone until treatment, proper testing, and adequate tracing.		
	Stigma of masks and face coverings - how can we be sure a defendant wearing a mask will not be prejudiced by doing so?	4	Postpone wait until there is a vaccine.		
	Temperature screens are not sufficient		Priority of trials should be to those currently encarcerated pre-trial as they are at highest risk of constitutional violations and prolonged exposure to COVID19		
	Temperature screens should be required		Provide masks for everyone		
	Temperature screens should be required		Recommendation of more than two alternates. Preemptively culling older/high risk citizens (55+) from jury veneer or giving them an out.		
3	Testing all who will attend trial.		Reduce number of seated jurors		
	The considerable, tangible harm to all parties' rights to a fair trial.		Reduction in bond		
	The impact of dehumanzing a defendant if counsel is required to sit 6 feet from him/her.	9	Require masks		
	Tolling jury trials of defendants who are encarcerated pre-trial and unable to post bond raises serious constitutional concerns.		Require masks		
	Trial counsel being able to have private communications with their clients during a jury trial	2	Requiring jurors to take notes may help them stay focused on the case at bar.		
3	Universal requirement for masks by everyone.		Restart them with social distancing.		
	Use of auditorium for jury trial social distancing		Screen at entrance		
6	Voir dire of large group of potential jurors - increased risk of infection among large groups.		See Judge Forsthofel's order		
	What are we to do with the microphone we pass around during voire dire, with a virus can can linger on that surface.		Technology ("video trials") to my mind is not a feasible option.		
	Will client receive fair trial considering questions and fears surrounding this pandemic.		Technology will not work		
	Will my witnesses feel comfortable attending trial and handling exhibits? Will we need to disinfect the witness stand after each witness?	4	Temperature screening		
2	Witness refusal to appear	2	Test everyone		
2	Witnesses reluctant to appear and/or not show up because of concern for their own safety.		Testing of all clients/inmates who are in contact with Covid 19		
		3	Testing potential jurors, witnesses and defendants		
		5	Use larger rooms for jury trials, voir dire, jury deliberations - work with community partners to find larger spaces		
		4	Use larger rooms or areas to allow for social distancing, convention centers, conference centers		
			Use larger space for jury		Either close everything completely or go with business as usual.
			Use smaller venires and conduct voir dire over an extended time period to accomodate		Extend deadlines - OSC lift the Rules of Superintendence for cases to be completed so the Judges are not concerned about those timeframes. A judge should not be worried about a case being "out of time" during this unprecedented crisis.
			Very reasonable plea negotiations		Option to wear masks - Do not require this.
			Video		Potential additional costs at a time when budgets are being hugely cut.
			Video Consider allowing jurors to serve electronically if they have fears about exposure. Find alternate larger spaces for jury deliberation. Find alternate larger spaces for jury trials where people can social distance, but witnesses and attorneys can remove masks when testifying or speaking.		Prosecutors need to reassess plea offers given the current pandemic. Prosecutors need to get discovery to defense counsel sooner. Many cases should be resolved without clients spending excessive time in jail awaiting trial or plea offer.
			Video continue telework - continue to resolve cases by video - be open to changes on the fly		Provide masks
			Video for public - limit amount of people in courtroom - spacing in the viewing areas of the courtroom with broadcast of the trial for the public. 2		Sidebars could be eliminated by utilizing text messaging between plaintiff counsel, defense counsel and the judge during a jury trial
			Video trial allowed in certain cases.		Use larger rooms the largest courtrooms available.
		2	Video usage for jury trials - video stream to jury in separate room		We need to get trials going ASAP. It simply isn't fair to people to sit in jail with no chance of finality of their case. We can't continue down this road or the system will come to a grinding halt with trials that courts simply won't have time to physically handle.
			Videotaping possibly using a deposition format Conducted prior to the trial and present it to the via monitor		
			Voir dire could be conducted remotely, or at least have the court provide juror questionnaires before trial to potentially remove people before they have to come in. The court would have to have strong measures in place to assure the public that it is safe for them to serve on a jury (and I am not sure any of us know how to do that right now).		
			Voir dire done individually or at least a small group of individuals at a time.		
			Voir dire, I think we could have two or three people sitting in the box, with appropriate social distancing and then we could question them that way. I think it would take a lot longer, but then people wouldn't have to wear a mask and we would be able to see how they react to certain questions. I think we must have the correct mask for the defense attorney and their client. There is no way to have a trial and not be close to a client. But if we were to have the proper medical mask, that could cut back on the spread of germs and still allow the ability of talking closely. I think we are going to also have to have more leniency from the criminal bailiffs about being able to take our client into a different room to discuss matters, without our masks, and also the judges need to allow this as well.		
			Witness seated far away for social distance without mask		
			Witnesses and attorneys should not wear face masks.		
		2	Witnesses not wear masks		
			Witnesses on the stand to allowed to remove their masks.		

Ohio Regional Bars - Civil (Non-Commercial) Practitioner Responses

Times concern was mentioned	Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist? (Please identify any specific concerns)	Times recommendation was mentioned	What ideas and/or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of jury trials?	Do you have any additional thoughts, concerns or recommendations you would like to share?
	Access to the witnesses		Allow high risk clients/witnesses to testify via perpetuation deposition prior to trial so they can avoid exposure to others at the courthouse.	A lot of people, including attorneys, have risk factors that should not have to be disclosed to the court in order to have jury trials delayed until a vaccination is available
8	Anxiety/distraction of jurors (fear of infection) cause poor judgement or rush to judgement and resentment.		Call Dell Corp, buy Juror notebooks, deliver them to the jurors at their homes, imposed a trial schedule, attention check them as done with CBA CLE, install incryption/ camara/ sound/ voting /Question to Judge software, collect them after trial, sanitize them, give them to the next batch of jurors. Start training today, so we can convene trials in July, 2020. Draft party consent forms to electronic trials using Skype authorized software. There is no reason 10 jury trials in Franklin County CP and 10 in Muni cannot be conducted per day.	A major concern I have is that we need to be practical about reopening the courts, as well as the rest of business. The worst 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 then lead to additional closings and we end up in the same place or worse. I understand that our clients need justice, but we also need to ensure that the public at large has access to justice and we do all we can to prevent a larger spike that leads to more closures. Let this one interruption be the only interruption.
	Being able to maintain the appropriate social distancing between counsel, parties and jurors. How do we deal with the jury pool or 30-40 individuals when selecting a jury? Once the jury is selected, how are the seated to maintain the proper distance? Will we be able to have a sufficient number of individuals to show up for jury selection if they fear for their safety. I also anticipate concern on the part of elderly party's for their safety. I have a number of cases where the plaintiff or defendant are over the age of 70. Some continue to express concern during discovery in sitting for a deposition and submitting to a medical exam. This certainly is the case at the present time with all of the unknowns that persist. I suspect this will be a concern for witnesses and some attorneys.		Consider summary trial to a smaller body (3 or 4) completed in a day or less with right to appeal, utilizing volunteer or senior practitioners as the Judge	a temporary pause seems prudent, don't rush back
	Civil trials getting bumped indefinitely in favor of criminal trials.		continue everything, order mandatory mediation	as a potentially vulnerable population to COVID I have appreciated being able to conduct court business by phone and it has allowed my cases to keep moving forward to their typical conclusion (settlements) without the increased cost to the client of having to drive into court. I encourage the courts to continue this practice for as many cases as they can and where feasible. Not only is it more efficient for the attorney and allows us to better serve the client, it helps to make hiring a lawyer just a tad more affordable when the client doesn't have to pay an extra hour or so of fees from my drive and wait at court.
	concern that jurors may not be open in voir dire regarding covid impact		Cut into observer space to spread people out and use other courtrooms as jury rooms to establish a large conference room for deliberations.	As someone who is immunosuppressed, I am very concerned about going back into a courthouse any time soon. Masks should be mandatory. All people coming to the courthouse should be tested. It is my understanding that taking temperatures is not accurate especially considering the number of positive cases with no symptoms. At this time civil jury trials should not be a top priority but Court settlement conferences by Zoom or Mediations by Zoom will help move the Court dockets. Appellate practice by Zoom should be the norm.
	Concern that jurors will not attend full trial.		Discovery issues with conducting discovery with healthcare workers right now - trial court must grant leeway on dates to complete discovery.	Being on a jury is important but should not be a life or death decision for the juror. Jurors need to be able to focus on the evidence instead of their health concerns. The set up of the courthouse was designed over 100 years ago and, although it is quaint 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 regarding the most recent tolling of deadlines and the impact that tolling will have on the presentation of evidence. We have been precluded from holding depositions where social distancing cannot be implemented. We have also been prevented by witnesses, who out of fear for their safety, have elected to postpone depositions until the orders are lifted. This causes both parties to essentially stop-and-restart our preparation. Secondly, we have an outdated jury system in many counties. We are requiring large groups of people to come to the physical courthouse, sit in close proximity and wait to see if they are needed. Many courts have updated these policies, but the less exposure, the better. Especially since our jury pools come from all aspects of our society.		Distance the jury	Between now and the time electronic jury trial laptops are put together, assign criminal plea mediators to move existing criminal cases through the system. Arrive at plea deals that reflect the possibility of trial delays, lost or ill witnesses, jurors, judges, attorneys, get victims' buy in (they will understand, of course).
	Contact with client and witnesses does not abide by social distancing recommendations		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 adequately taken to ensure safe participation in jury trials.
	Continued overreaction by judges and other public officials - resume the jury trials. Jury trials are a Constitutional right and a check on abuses of power by judges and other public officials.		Electronic exhibits	Delay is bad for plaintiffs. Cases need to be moved along.
	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.		Encourage or force parties to arbitrate their cases, using a 3-arbitrator panel, allowing the parties to select or agree to the arbitrators, including the neutral third arbitrator. The court should not get involved in appointing anyone unless the parties request that.	Encourage bench trials, private judges who used to operate under ORC could hear cases with out a jury , arbitrationâ€™s. Etc. my concern is jurors ? While maybe not coming out and saying it) will not want to serve on a jury for the next 6 to 1& months. . They will have concerns a for their safety in all aspects of service from initial orientation , riding elevators together , sitting in jury box , experiencing void dire. Especially if they face increased financial burdens from COVID 19. The next 6 to months will not be a great time to conduct jury trials except when necessary due to individual case circumstances like criminal cases , speedy trial , plaintiff with dire health consequences , or if all parties and court want to proceed .
8	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.		Ensure disinfectant wipes are available to jurors	Everyone will benefit from a gradual re-entry into the pool.
11	Design of jury box does not allow for social distancing among jurors.		Excuse those jurors that are fearful for their health, excuse jurors that document high-risk before they ever become part of the jury pool	Everything besides civil jury trials should be possible to accomplish via video/remotely.
	Distancing affecting ability to have ongoing discussion with client and/or co-counsel.		Extend deadlines - all deadlines should be liberally extended, upon motion, at a minimum one time.	Expand the jury box. This will vary courtroom to courtroom
	Distracted jurors if moved to video trials - distracted by their own cell phones or other people at home		Face masks and hand sanitizer will need to be provided. Plexiglass may need to be installed in and around the jury box, the witness box, the court reporter, counsel tables, and the Bench.	For members of the bar and judiciary, this is simply the latest risk. We face physical danger and are often exposed to TB, HepC, HIV, Strep, Staph. It is a privilege to be a member of the bar and, with privilege, come risks and responsiblities.
	Ensuring right to call all witnesses at trial and right to depose all witnesses during discovery is not interfered with.		for civil trials, let's push everything back 6 months or so. Give people time to get over their fears of sitting on jury. My wife was recently served with a grand jury subpoena for juror service. She was very upset. She would have served but it would have been very difficult for her. How fair can that be to the parties?	Great caution will have to be taken to protect people in the courthouse. Masks, sanitizing, etc. will have to be provided/accomplished. There is never hot water in the restrooms--how does one wash his/her hands? And in the criminal trials, you will be bringing people from Ohio prisons which are hotbeds of the virus. I am concerned that we would be creating an untenable and dangerous situation. Not to mention liability to the County if any jurors get sick while in the juror process.
5	General health and safety of all		For communicating to client and co-counsel, allowing notes to be exchanged prior to excusing witness	I am concerned that jurors will not respond to summons. If they do, how does the court maintain them safely while they are there?
7	Handing exhibits/evidence to witnesses will require special planning.		For non-essential cases (speedy trial issues, etc.), there needs to be a well thought out plan on setting matters up to be tried. Although legal services were considered "essential," we were often unable to meet with clients, or conduct normal litigation strategies for discovery. Without depositions and extended discovery, we are rushing cases that may not need to go forward. We should be focused on judicial economy, as there will be a bottleneck issue when the courts reopen.	I like the chief justices directives effective now,and believe they should continue.
	How to conduct voir dire.		greater use of technology that permits deponents and witnesses to speak without masks remotely.	I think it would be a wise idea to have court staff and security ensure people are maintaining distance in common areas such as lines for security, lines for other things etc. Also, I would maybe limit the number of people that can be on an elevator at the same time together to allow for distancing.
	How will they deliberate? Will they be paying attention or worrying about getting sick? Face masks, and social distancing will be major obstacles for a jury trial. Not to mention obstacles to constitutional rights. I get it--the president wants the states to reopen, and he is really putting the pressure on elected officials. However, need to take this seriously, let's not do this too soon. Jury service is stressful enough, many are reluctant/bitter about being there--will this cause bias? For petty crimes or drugs, will they say "why am I risking my life to be here for this case," or for civil suits will they say "why am I risking my life because these two parties couldn't work this out?" Especially when most folks are working from home now--including court staff and government--I think it sets a bad precedent to force citizens into jury service during the pandemic. We ought to wait until there has been a "full reopening" of restaurants/gyms/barbers etc. If those venues aren't safe why would a jury box be safe? Can you really judge credibility one way or the other when testimony is hiding behind a mask?		Have the eight jurors sit one seat apart.	I went to the Franklin County Municipal courthouse on May 4, 2020 and I was the only one wearing a mask. Security told me they won't be required to wear masks until June when the court house fully reopens. I fear the court house will be a breeding ground for covid19 if safety measures are not taken now. Also the mask that the bailiff had was just a scarf. That's not exactly sufficient. All court personnel should have N95 masks.
	I am concerned about requiring a jury to deliberate in a closed room without accurate, daily testing. I am concerned about having sidebars during trial with other lawyers and the judge without accurate, daily testing. I am concerned that: a jury cannot adequately evaluate the credibility of a witness who is wearing a mask; it is unfair and prejudicial to require the parties' only day in court to be by video; and trials cannot be done safely if witnesses come in live, unmasked. While delay is certainly problematic, our current system routinely allows cases to be delayed for far less important reasons. Cases are routinely delayed while motions are pending. I have personally waited more than a year for rulings on motions for summary judgment. If that is acceptable, then waiting for a safe courtroom experience certainly is as well.		Have the jurors sit in the gallery instead of the jury box. Conduct all sidebars in chambers to allow for physical distancing. No idea how to consult with a client at trial table.	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 technology at the trial court level? I know there are many more "cats to herd," but perhaps a technology person could advise on creative ways to address this to ensure fairness and security.

	I am concerned about the availability of jurors if we cannot assure them of their safety. If we cannot get enough jurors the civil bar and litigants will be disproportionately affected since criminal cases take precedence over civil cases particularly in metro areas.		Health screens	I'm not comfortable with the idea of conducting a trial under these circumstances, and I imagine many others may be similarly situated. I don't have good solutions, but the more that can be done to address these concerns, the better.
	I am concerned about the inability to remain socially distant in the Cuyahoga County courthouse, for all involved, but especially jurors. I do plaintiff-side employment law and would also be concerned about juror bias against the plaintiff for "forcing us to be here for trial."		I ask that jury trials with in person juries viewing the evidence and witnesses once it is safe to do so. Trials can be adjourned for 60-90 days with no real effect upon litigants in tort cases. Even if a year were lost while a vaccine or other physical layout measures were addressed, it would not prevent cases from proceeding to preparation within the limitations currently in place in Ohio and other states. There is no substitute for in person jury trials to decide these issues in contested litigation. To the extent there are delays, it is likely that more cases will get informally resolved, limited issues submitted to the bench or arbitration, or alternative forums can be agreed, if desired.	Important to continue this process without undue delays.
	I am concerned that judges will require jury trials remotely by video which will be a significant, undue and unjust prejudice on the parties and their right to a trial by jury, even if not a Constitutional violation. It is impractical to do so in any case of significance and I don't even know if it works with a jury for a one-day trial.		I do not believe that live, in person jury trials should be replaced with electronic/remote/zoom procedures	It is essential that before jury trials are resumed that policies and procedures are put in to effect that protect judges, courtroom staff, attorneys, parties, witnesses and potential jurors. These need to be adequately communicated to all, including the public, so that all will feel safe coming to the courthouse and participating in the trial. This may be difficult because we are only now beginning to open up certain activities in the state and no one knows at this time whether this will lead to an increase in the number of those infected. I am also concerned that if a jury trial takes place before we are confident in what we are doing, and some who attend the trial get infected, what publicity nightmare that might create for future proceedings. I wish you the best of luck.
	I am concerned that prospective jurors will not respond to summons, will not appear, and therefore, we will be unable to seat a fair jury representative of the population. I am also concerned whether we are able to provide a safe environment for jurors, prospective jurors, clients, counsel, witnesses, and court personnel without adequate testing for the virus and without sequestering all during the pendency of the trial until a cure or vaccine is made available and widely administered to the general public.		I would think they need to be spread out and limited to the # of jury trials that can occur in an area of the building each day. Also you may need to only bring in small groups of the jury at a time. Finally, you need a way to minimize folks in the court for other matters or non jury trials from having much contact with the jury pool. I would certainly recommend as large of a jury deliberation room as possible, even moving them to multiple courtrooms for periods they aren't in court and not deliberating in order to maintain social distancing as much as possible	It is too soon to believe the virus is in arrest.
	I am high risk and uncomfortable being in a courtroom setting. Further I'm not sure that we can get a representative jury given that many older and at risk people will opt out or ask for their service to be postponed		If it is possible to space out jury member more throughout the courtroom so they are at least 6 feet apart and given the proper equipment (masks and gloves) then jury trials could resume. I would provide enough space in the room to let jury members spread out and possibly extra tables for counsel so they can also spread out more and be 6 feet from everyone at all times.	It might be a good idea to separate civil courtrooms from criminal courtrooms for the remainder of the year. All civil cases, pretrials, etc., could be heard in the Magistrates' courtrooms and the criminal matters heard in the Judges' courtrooms.
	I ask that jury trials with in person juries viewing the evidence and witnesses once it is safe to do so. Trials can be adjourned for 60-90 days with no real effect upon litigants in tort cases. Even if a year were lost while a vaccine or other physical layout measures were addressed, it would not prevent cases from proceeding to preparation within the limitations currently in place in Ohio and other states. There is no substitute for in person jury trials to decide these issues in contested litigation. To the extent there are delays, it is likely that more cases will get informally resolved, limited issues submitted to the bench or arbitration, or alternative forums can be agreed, if desired.		Increase size of veneer to allow more jurors off if their anxiety will interfere with ability to serve.	It will be difficult to get jurors to willingly participate in trials in a courtroom setting and during a traditional voir dire in the courtroom while in close proximity to each other.
	I believe we're going to have to overcome what will be, from our jury pool members, fear/anxiety (whether rational or not, it does not matter) that will guide their response to even serving on our petit juries.		Individual juror boxes (like hockey penalty boxes) with plexiglass dividers. Letting jurors use the courtroom for deliberation (verses the very small jury rooms). All jurors required to wear masks. Marking off 6 ft from jury box, opposing counsel table, judge, so attorneys do not violate the social distancing requirements.	It will be very difficult to determine juror and witness true feelings/truthfulness without being able to see the person's entire face
	if the current health and safety rules re followed in jury trials, the level of advocacy will suffer. while it can be said, the playing field will be level, that is unlikely.they shouldnt be resumed until normal trial work can be done.		Install plexiglass dividers in jury box	It's too soon. I believe that even limited reopening of the economy is going to cause a huge spike in COVID-19 cases. We can't fix jury trials to make them safe for participants, and that means we're providing less than justice for litigants. Justice delayed may be justice denied, but it's better than the travesty that will replace it with a premature opening of the courthouse.
	Issues with jurors' health (and others' health) over the duration of a trial, potential for mistrials		It needs to be done via video somehow. The courts need to establish a VERY secure and solid portal to conduct hearings. And perhaps gather a jury via online OR by physically sitting separated in the courtroom.	Judges need to get over postponing trials. It needs to be done if one party is uncomfortable. Narrow issues through motion practice.
	It must be clear to jurors that it is not the parties or attorneys decision to bring them in for trial.		Judges and courts will need to work harder to accommodate everyone. Keep civil trials on the docket and require litigants to be ready to go quickly.	Letâ€™s get the trials moving. Most common pleas judges in Hamilton county do not do civil trials. That should be noted and publicized.
	juror spacing - install plastic barriers? jury deliberation room/restroom jury venire room - call less prospective juror at a time?		juror spacing can be done by using the back of the room. attys cant get <6' from the witness, court reporter, et al. perhsps use more 3 judge panels, rather than juries, even in civil cases.	Masks must be provided and not expected to be brought.
	Jurors are very close in the jury box. Masks, which I believe are necessary, prevent jurors from seeing the facial expressions of witnesses and counsel during trial. The inability to hear may also be a problem for jurors as everyone should wear masks.		Jurors alternate sitting in the jury box and in the back of the courthouse so that they might always be able to observe the witnesses while practicing social distancing. Testing before participants enter the court room to ensure no participant demonstrates Covid-19 symptoms.	Not sure the masks are going to work in trial. Hard to assess credibility, uncomfortable, and distracting.
17	Jurors reluctant to serve and/or not show up because of concern for their own safety.		Jury reports in person, wear masks, and spread throughout the courtroom, wearing masks - while witnesses (and maybe attorneys) appear via video conferencing. Encourage bench trials whenever possible. Revise the rules to choose additional alternate jurors. Screen every person entering the courthouse.	Parties should be encouraged to stipulate to as much as possible before trial, work together with the court to schedule witnesses to minimize the amount of time the jurors are in the court. Deliberations may have to take place in larger rooms, such as the courtroom itself.
	jurors should not be placed at risk and resent the legal system for doing so until we can resume in court trials with people physically present while ensuring the safety for and from everyone involved.		Jury trials cannot take place if courtrooms do not have the capacity to maintain social distancing. Courts need to provide larger tables for the parties to spread apart. Juries will need to be seated in areas not just within the jury box.	portable plexiglass shields can be used through out the court room to add protection.
	Jurors sitting close to each other		Jury trials may have to be moved to facilities that can generally provide large enough rooms to allow for the necessary social distancing at all phases of the trial, from jury selection to empaneling to deliberations. If this i snot done, people simply will not agree to show up or serve on a jury. Moving the location of a jury trial will cause stress on the normal level of security that is also required during a trial.	Postpone until vaccine - deadlines extended by one year.
	jury pools and courthouse access. Elevators, security check points, etc.		Jury videos can be sent to potential jurors to be watched at home. Expand the use of questionnaires. We don't want jurors sitting in the holding pen â€" we need to reduce their time at court. Use the old courthouse for trials to get more civil cases to trial. More video recording of witnesses to reduce the number of people in the courtroom. More chairs in/out the jury box to keep 6 feet distance. Provide masks to everyone in courtroom. Increase juror pay, and feed them.	Reopen
	Jury selection will take forever. Maybe limit the pool and have distancing, masks, etc.		Keep spacing requirements	Rooms used for conferences and jury deliberations will have to be larger to allow for social distancing.
	Jury spacing will be difficult also		Liberal extensions of time to complete discovery Boxes of gloves for each party's attorney supplied by the Court. Clear tall plexiglass barriers installed in front of the jury box and the witness stand Masks for all attorneys but only to be worn at sidebar conferences with the judge; attorneys cannot have faces covered during the majority of the trial	Secured online court interactions are imperative right now. Get the federal courts to support these options for us. Oh, and you might check out tonight's episode of "All Rise", which is addressing this VERY ISSUE! They did a virtual episode, with lots of issues and problems. Check it out.
10	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.).		Liberal granting of extensions.	Still quite formative. We might have to consider a different way of creating our jury pools, and in selection our prospective jurors from those pools. For instance, in moderately-sized system like Summit County's, pulling 100 or so jurors into the jury room on Mondays is not going to meet current strictures for health/safety purposes. We may have to create/move to a system that will allow for either distancing the pool members across spaces in the courthouses, or even toward a virtual appearance for the potential jurors - more like a Zoom or other app that will allow for a temporarily remote location for each potential jury member. We're also going to have to deal with spacing in the courtroom settings, and that's going to be challenging across the state, as each of our courts and courtrooms comes in a huge variety of shapes, sizes, and configurations.
2	Lack of testing	2	Limit the number of people to only necessity	the courts need advance technology if we are going to re-start jury trials this year. I could see witnesses testifying via Zoom. Rules regarding the administration of the oath may have to be changed to allow this to work. I am not sure how to seat jurors and keep them 6 feet apart unless we bring in folding chairs.
	Lack of tracking		Limited jury pool, masks, distancing	The importance of the jury trial is the ability of jurors to view and perceive all aspects of the witnesses in order to arrive at determinations regarding credibility. The very procedures that are used to protect against spread of the illness undermine the ability of jurors to perform this most important function. The measures taken need to meet both functions.
	Lack of vaccine		Mandate alternate dispute resolution	The logistics of moving a jury around a courthouse will be difficult to fix. Elevators, shared bathrooms, furniture. Constantly sanitizing this will be impossible. How to "market" this to potential jurors will be really difficult.
	Maintaining social distancing and health/safety - especially for jury trials. (2) Limitations on ability to assess witnesses' demeanor/credibility if appearances are via video.		Mandate mediation or settlement conferences	The OSC needs to give better guidance to all courts; there are too many variations fron court to court on what to do and some judges are not being safety conscious. Also OSC should strongly recommend that all events that can be held virtually (CMCs, status conference, pre-trial conference, mediation, etc) be held virtually for a long time. Too many courts have in person hearings, of various worth, that can and should be done virtually for the time being.
8	Masks hinder communication and observation of facial expressions.	2	Mandate social distancing	The pausing of civil trials is already being used against plaintiffs during negotiations. Insurance companies are already telling attorneys "either take this money now or you will be waiting another 2 years." The lack of clear direction from anyone in the state on how things will be reopened is causing havoc on the day-to-day operations. There is no greater example of "justice delayed is justice denied" than what is occurring now.

	Mask-wearing and social distancing should be observed. How will this affect attorneys, parties, judges and jurors?		Masks mandatory. Microphones mandatory to hear voices. Only use courtrooms large enough to have spacing. Jury trials optional only until vaccination is possible.	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 cannot afford to ignore the science and the very real possibility that things will worsen if we don't remain circumspect.
3	Mistrial - Quarantine requirements after exposure may well cause an entire empaneled jury to be ordered into isolation and cause a mistrial. Due to the juror lobby's this could end up wiping out an entire jury pool.		masks mandatory; physical distancing of parties and jurors	The rural courts have different issues than the metro courts so this cannot be a one size fits all band aid to this situation.
	Multiple parties, witnesses, attorneys, and court personnel in the same room at a time.		Microphones to amplify the voices of speakers for the room would be very helpful.	This situation is difficult because if people are exposed they may transmit the virus unknowingly. Life is a marathon, not a sprint. We can take our time. In the interim I would require mandatory mediation with the trial judge for all civil trials to try to lessen the docket.
	My concerns would be jury members being able to social distance properly in the courtrooms during trials. There is not enough space for this is Cuyahoga County presently.		More alternate jurors	This will require significant thought from every perspective, i.e., court house personnel/administrative/maintenance/cleaning/security/deputies/prisoners, attorneys, clients, spectators, etc.
	My main concern is how to properly pull and seat a jury while maintaining the constitutional guarantees.		Most testimony could be done by video or Zoom. Limit the attorneys at and parties at the trial tables. Jury deliberation is a big concern. Need larger rooms to pool the jury and have deliberations.	Video usage for mediations, discovery and pushing virtual depositions.
	my primary practice area is medical malpractice. We have many experts who are out of state. Many courtrooms are no equipped with live video technology. I think all courtrooms need funds to ensure that experts will be able to testify live via video.		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 there is one dedicate courtroom in the building for voir dire that is set up for it specifically. It may also make sense for Judges to order mediation to limit the number of jury trials.
	No (15 responded No)		no civil jury trial until at least July. Schedule telephonic or video pretrials or settlement conferences with an eye towards reducing any backlog.	We must immediately reopen and get back to operating as normal as possible.
	Not keeping a safe distance involving jurors, parties and their counsel, counsel and the Judge and staff, witnesses. 2) Wearing PPE (masks and gloves) during trial would interfere with the trial process and distract a jury. 3) Allowing people in the gallery. It's too soon during this pandemic to resume jury trials, since new diagnoses and deaths continue to occur.		No solution for contact at counsel tables. Hold side bar conferences in a conference room or excuse the jury and hold them in the courtroom.	We need to be cautious with our health and the health of all involved. If that means no civil trials for a year, so be it. That is better than the prejudice from remote civil trials or from making attorneys try to try a case while wearing a mask. And, I cannot imagine trying to be a court reporter and trying to take that down. Criminal trials are different with the rights and rules at stake. But, to balance health and prejudice in civil trials, it would be best to just continue them unless the precautions taken are minimal and do not interfere with the attorneys or their ability to try a case for their clients.
	Number of people in the courthouse - travel of some from urban to suburban to rural areas		No trials until fall at the earliest	Wear masks.
2	Out of town witnesses		None, other than we need some idea re the new procedures.	While the right to trial is an important right and sacred to all Ohioans, the right to a fair jury trial will be impossible without ensuring that the jurors are safe in participating in the process.
	People will be generally more concerned about their health and the health of the people they live with so that people will be hesitant or unwilling to serve as jurors under the current circumstances.		not hold trials until it is safe we have inadequate testing and have no idea who may infect someone in a closed setting for hours a day	Yes. Interested in hearing other opinions about whether the jury selection process and other jury functions can be conducted remotely, at least into the near future.
	Personally, I am in a risk group. The jury boxes, especially during voir dire, will be crowded. Handling exhibits will be difficult. Talking to jurors will not be as casual. Also, getting ready for trials will be difficult. We aren't in our offices, and it's difficult to get depositions. For attorneys and witnesses, and client representatives, travel and lodging/dining is difficult. Getting experts to trial via deposition might be more difficult.		Not many--potentially lengthening the trial day in trials that will last less than a week, but hard for multi-week trials.	
	Picking a jury, jurors not wanting to be jurors and rushing to decisions		Obviously, we cannot wait until there is a vaccine to re-start jury trials, and so the public must feel confident that the courthouses are safe places --- from a masking and social distancing point of view.	
	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 on larger cases that require in depth discovery. Smaller cases like certain MVAs could likely proceed before larger cases where depositions have been delayed.	
	Preparation meetings with clients and witnesses		Pay jurors more money. Have jury trials at local universities or colleges where they have auditoriums that allow for distancing.	
	Preparations have been limited due to inability to obtain testimony from medical professionals who are understandably unable to participate in pre-trial depositions.	6	Postpone / Suspend jury trials until they can be conducted safely.	
	procedures to govern interactions with witnesses, bailiffs and exhibits published to the jury, as well as sidebar conferences, and jury deliberations (and social distancing)		Postpone 60 days	
	Prospective jurors showing up. Fear and rushing to a quick verdict		Postpone any and all or almost all civil jury trials until 2021. If there are some very limited trials that are required to proceed for some reason, allow them to proceed live with all parties and the jury live but with social distancing safeguards in place. However, I do not think you can ask attorneys speaking in court to wear a mask. That is too much.	
	Putting aside health issues, we will pull jurors from their jobs they desperately want to be at because they need the money and security.		Postpone civil cases.	
	Response times prior to trial. Most of us will continue to work remotely which can and has caused some strange technological issues which could cause unforeseen delays. I hope that extensions will be given to all parties as issues arise.		Postpone civil trials until new cases of Covid19 have diminished to a significant degree (observe the 14 days of declining diagnosis of new cases, etc.)	
	safety measures will create unnecessary burdens on counsel.		Postpone Do not resume any civil jury trials until sometime in the Fall. Wipe down all tables, chairs and other commonly touched items after each use. Masks for all jurors. Do not allow lawyers to approach the jury with all questioning and 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.	
	Social distancing confer confidentially with client off the record		Postpone until there is a cure for this disease.	
26	Social Distancing of jurors during trial in jury box and deliberation room, and during voir dire which requires large groups		Postpone until this fall.	
4	Social distancing to confer with counsel and side bars		Postpone until this second round of infections plays out before even thinking of civil jury trials.	
	Some jurors will be afraid to speak out publicly about their concerns of contracting the virus and may rush to judgment. What screening measures will be in place to catch asymptomatic jurors who may shed the virus?		Postpone Wait until the stay at home order has been completely lifted. For criminal matters, folks who are awaiting trial and are non-violent/not a threat to society ought to be out of jail. If they don't return hit them with a breach/escape charge. We really need to consider long term--do we want responsibility for all these people? We have so many people in jail/prisons awaiting outcomes of criminal litigation--most of them poor. This needs to stop. Do we need to send/keep everyone in jail? No! I also have concerns about limited jury pools--we cannot get a representative/fair sample of the population by only having non-vulnerable people serve on a jury. Is everyone over 60 going to be excused? All healthcare folks? All of those with kids at home? Those who take care of elderly parents? I think opening too soon could result in a swell of appellate litigation, as well as some fundamentally unfair outcomes no matter what side you're on.	
	Sufficient time to conduct discovery that may have been delayed during the COVID outbreak including depositions.		Postponed until adequate testing, tracking, and a vaccine.	
	use of remote jurors are used, the entire process will become disruptive to the point where the trial is impacted.		Provide PPE and sanitizer to jurors	
	Voir dire does not abide by social distancing recommendations	8	Require masks and PPE	
	Will the court urge liberally granting motions to extend procedural deadlines with good cause?		Resume the jury trials. Jury trials are a Constitutional right and a check on abuses of power by judges and other public	
2	Witness reluctant to appear		Sanitize exhibits	
	Witnesses from medical field cannot appear due to COVID restrictions		Sanitize frequently	
			sidebars be held in chambers, bailiffs give exhibits to witnesses and jury members (none as to jurrors	
		7	Social Distancing of jurors during trial in jury box and deliberation room, and during voir dire which requires large groups	
			Technology	
		3	Technology Allow jurors to view trial remotely	
			Technology greater use of video in the courtroom -- though it is difficult to maintain jurors' attention and focus.	
			Technology Permitting witnesses to be brought in via Zoom, with or without agreement of counsel. Voir dires done with proper spacing. Requiring counsel to use new technology to take depositions even when not desired, or if agreement can't be had, pushing out the trial date. Excusing jurors over 65 automatically, and those with conditions by request. Assigning adjoining conference rooms or courtrooms to each side so that spacing can be maintained. Hand sanitizer next to the water pitchers. Questionnaires and temperatures taken daily of all persons, including the judges, going into the courtroom. Perhaps sequestering all juries for all trials or some subset of trials.	
			Technology remote testimony	
			Technology utilizing when possible remote testimony by video	
			Temperature screening	
		4	Test everyone	
			The best response at this point would be to stay all civil jury trials until there is either a cure/vaccine or a significant reduction in the possibility of contracting the virus.	

			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	
			Use larger space for jury box and jury deliberations	
			Use transparent masks so face can be seen	
		5	Video usage for jury trials	
			Video usage for jury trials - video stream to jury in separate room	
			Video use for virtual testimony	
			Voir dire one juror at a time	
			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

Ohio Regional Bars - Civil (Commercial) Practitioner Responses

Times concern was mentioned	Do you have any procedural concerns about the resumption of jury trials while the COVID-19 conditions persist? (Please identify any specific concerns)	Times recommendation was mentioned	What ideas and/or recommendations do you have to resolve or mitigate the concerns you expressed regarding resumption of jury trials?	Do you have any additional thoughts, concerns or recommendations you would like to share?
7	Anxiety/distraction of jurors (fear of infection) cause poor judgement or rush to judgement.	2	Allow PPE for jurors.	Allow for mock/training trials and permit videotaping of trials.
2	Confer with my client or co-counsel during a trial if he/she cannot sit next to me?	2	Allow PPE in court.	More ADR less litigation. Force all through mediation twice AFTER ALL MSJ MTD DECIDED.
1	Court reporter capturing the record.	2	Anxiety/distraction of jurors (fear of infection) cause poor judgement or rush to judgement.	Conversely, under no circumstance would I agree to a virtual trial. Prevent Judges from hauling the lawyers into court for Case Management Conference and Pretrials and do everything except the trials via phone or zoom. I am over 60 and very concerned about exposure.
1	Depositions in close/confined spaces.	5	Best practice around audio, video capture, and host controlling main virtual courtrooms and the breakout rooms as well.	Temperature check and medical screening.
19	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.		Cancel civil jury trials and have bench trials.	Masks on the witnesses would defeat, and potentially create error for, the purpose of the jury being able to hear and see the testimony of the witness.
10	Design of jury box does not allow for social distancing among jurors.		Close courtrooms to public. An idea would be to provide all tangible evidence in advance to all parties so only the clerk needs to handle during trial.	Temperature check prior to entry to courthouse;
1	Enforcement of any applicable procedures (procedures may be good, but people don't follow them).		Control access to the court.	Perhaps could reduce the number of jurors in civil cases from 8 people to 6 people (then, could seat them every other seat).
	Exhibits pre-approved by Court, distributed to all jurors in marked volumes before testimony.		Criminal cases need to take priority. Civil cases are backing up and months worth of lost jury trials must be accounted for, and rescheduled, in such a fashion so as to not allow these case to get lost in the shuffle. It is important to reschedule old cases 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 sooner.	A deferred quality trial is better than a rushed less than perfect trail
1	Exposure to more than 10 persons in the court.		Deliberation - jury stays in courtroom and all else exit.	Don't rush to do something; take time and cosndeir the health of all involved.
2	Face coverings would make lawyers less effective and are not compatible with witness examination.	2	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.	Make real efforts for mediation and bench trials to be available in civil litigation matters. It may be easier to accommodate social distancing without a jury, if parties are willing.
1	General health and safety concerns about meeting with clients.		Do not require masks, but keep people 6 ft apart.	Testing before enter courtroom.
11	General health and safety concerns resulting from exposure to all parties in the court.		How far does the reach extend? Now possibly limiting or even eliminating (if even temporarily) the fundamental right to a jury trial? It is a delicate dance, admitely; yet health, freedom and liberty are equally important principles.	I am concerned that many defendants will take advantage of the reluctance of courts to hold jury trials to not cooperate with discovery
3	Handing exhibits/evidence to witnesses will require special planning.		I resist trying jury trials on video. Not the same. Even for judges who are experienced it has weaknesses not to see people in person.	Have many more active civil pretrial with the court and things will resolve. Be tough. Enforce the rules and get the dockets cleaned house.
1	Having a positive test of COVID for a jury member or attorney in the middle of a trial will likely result in stopping the trial and having to start it with a new jury at a later date.		I suggest we study the models of Korea and Taiwan. The bench and bar need to be pro active about the science of securing the operation.	Jury trials in civil matters are relatively rare. To the extent possible those people who have asked for a jury but do not plan on using one need to waive the jury as soon as possible to allow for better allocation of jury pools and court time and to ease the court in rescheduling trials
1	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.		If possible, keep them out of a crowded jury box, perhaps socially distant in the gallery. Then, give them plenty of room to deliberate.	As long as the jurors can socially distance, the trials should be permitted to go forward.
1	How to handle the following safely: jury selection, sidebars, jury deliberation.	2	Jurors will be reluctant to serve due to fear of infection. Limited availability of jurors.	Jurors wear masks; otherwise proceed as jury trials proceeded previously
	In person meetings for pretrial issues such as depositions, and hearings.		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.).	it is possible that remote, video, virtual trials would work -- i am dubious, but it would be helpful to survey what other courts have done -- i understand that some courts in Texas have conducted video trials
	Jurors in venir will use the curent "crisis" as basis for being excused.		Lack of COVID testing of juries, attorneys & court personal.	See above. Do not move too rapidly, as the outcome could place us in a more precarious position than we are in at this time. Also, younger people need to pay attention. While younger people are less at risk the fatality rate is still 10 times higher than influenza fatality rate for younger people. Also younger carriers will give it to people at higher risk. Then the disease spreads to employees at nursing homes and medical care which face higher fatalities. Then higher case loads stress the health care system. Those with heart conditions, cancer, diabetes will have less resources and face higher morbidity. We need to look at the situation globally as well as internally. We must be cautious and judicious.
	Jurors will also feel more imposed upon during this time period.		Limiting the number of people in the courtroom, Strict social distancing and requiring the use of masks as well as monitoring the health of everyone such as by taking temperatures.	Restrooms
9	Jurors will be reluctant to serve due to fear of infection.		Masks are not practical.	No civil jury trial is worth risking one's life.
	Jurors will excuse themselves if a party in the courtroom coughs or sneezes - more alternates will be required.	3	Masks hinder communication and observation of facial expressions (weakening credibility of witnesses and difficult to select jurors in voir dire).	Citizens have the right to the day in Court. We should be sensitive to those moving more reluctantly forward but move forward nonetheless.
	Jury deliberations does not allow for social distancing among jurors.		More alternate jurors for those who do not want to participate.	Jurors and court personnel should all wear masks
9	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,		Need to continue jury trials until after it is safe	Revise jury seating and consider courtroom logistics with witnesses.
	Lack of COVID disease tracking.	2	No	All the usual hand washing and sanitizing must be carried out throughout the trial proceedings
	Lack of COVID treatment.		No hand shaking	Witnesses may attend via the internet, the case will not be prejudiced. Attorneys should be in the court room. I do not really like the idea of virutal jurors attending via zoom or other app.
	Lack of protocols for health and safety in the courtsmasks, gloves, hand sanitization, checking temperatures of everyone coming into security.		No jury pools, highly managed selection process.	Testing before enter courtroom.
	Lack of testing.		Physical barriers like plexiglass for witnesses and ct reporters perhaps. Sound will be a concern so miking folks is important	Conducting some jury trials (at least civil, perhaps, where nobody is going to prison as a result of the outcome; or civil cases where the amount in dispute is below some dollar number cutoff) entirely remotely. Unless they are sequestered, we can't control whether jurors read social media or share information with their friends and family anyway -- we instruct them not to do so, but we cannot monitor their compliance when they go home at night in any event. Jurors as we all know are used to consuming information via video or other electronic media already. Many people have had to learn to use Zoom or other videoconferencing tools to communicate with co-workers and family in recent months, so even conducting deliberations remotely by video conference may not seem like as much of a leap as it might have six months ago. It may seem extreme to some traditionalists, but I would just hate either to see more public negativity around being called for 'jury duty' than there already is, or, even more importantly, an outbreak occurring among citizens who are doing their civic duty. The virus is not going away for many months, more than likely not until there is a vaccine, so it is worth considering investing in these measures. (Perhaps it will even help streamline some kinds of court proceedings--preliminary injunction hearings, etc.--after this crisis has passed.)
	Make sure plenty of advance notice is provided to the parties before rescheduling jury trials, including pre-trial filings (like motions in limine)		pick largest courtroom for all jury trials, pre set that space for cleanlinesses etc. Have a staging area for potential witnesses other than hallways.	The Ohio Supreme Court's tolling order is subject to multiple interpretations with respect to whether case management deadlines in civil cases have been tolled. Consequently, some attorneys are treating discovery deadlines and motion deadlines as if they have been tolled, while others are treating them as if they are still in effect. I think the Supreme Court should have been more clear. In addition, the tolling order failed to address tribunals other than â€œcourtsâ€ - such as Ohio administrative agencies (i.e. the Ohio Environmental Review Appeals Commission). One can only assume that administrative tribunals are included since the tolling applies to all deadlines set by the ORC or OAC, and these bodies are created and governed by statute.
	Masks hinder communication and observation of facial expressions.		Postpone for the next year-let judges decide all motions and clean up dockets-trials can start in fall of 2021.	Temperature check
	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.	Many civil trials can be postponed without significant prejudice. Courts and counsel should focus on identifying time sensitive matters instead of mechanically pushing every case forward through to trial as prioritized by date of filing, as often happens in civil litigation. Some flexibility on judges part is key to that. Where judges wonâ€™t be flexible, and that is putting folks at unnecessary risk, there should be some type of way to address that. Even now in the heart of the crisis I have judges pushing folks along towards trial in cases with almost no urgency putting people at risk, and thereâ€™s really nothing I as counsel can do about it.
8	No	1	Postpone To wait until at least August or September 2020	I'm high risk due to an underlying medical condition (diabetes), so safety is paramount.
	No use of "Zoom", "GoToMeeting", etc. trials.		Postpone trials until COVID-19 over for commercial matters.	Personal concern for infection.
	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 procedural and physical accommodations.
2	No, so long as social distancing rules are followed and masks are worn.		Postpone until normalcy resumes	I am very concerned about returning to the courthouse petri dish. I would probably retire
	Option for telephone or video hearing should be allowed, but parties should not be forced to proceed when their ability to present their claim or defense will be adversely impacted by not being in a live courtroom setting.	3	Postpone.	Require all judges whenever possible to conduct status conferences, including case management conferences, by technological/remote means to avoid further congestion in the courthouse.
	plenty of cleaning / hand sanitizizng / disinfectant products throughout the courtoom		Postpone. Video trials would be awful.	It is imperative to resume jury trials ASAP.
	Plexiglas partitions between jurors	2	Sanitation	To limit the amount of time needed to be in courthouse, conduct pretrial hearings virtually and rule on pretrial motions prior to the parties showing for trial. Also, have the understanding that if the matter is going to trial (especially in civil context) that the matter will proceed as scheduled with minimum delay for other matters and/or settlement discussions.
	Preparation / breakout areas be set up to allow witnesses/clients/attorneys to safely prepare?		SD Conduct jury trials in open arenas.	Not other than to have the Judge and staff remind them about spacing. I don't think you can force them to wear masks.

	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'm concerned about how to do this while maintaining social distancing. I am also concerned about courts holding hearings by phone or video when the presentations are highly document-intensive or require extensive witness testimony. It will be hard to make a persuasive argument without being in		SD Criminal hearings at a separate location.	I am very concerned that this will make judges even 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 urging civil litigants to resolve their disputes with ADR providers. For the reasons suggested above, I doubt that civil jury trial will be possible through the end of 2020.
	Require courts to allow adequate time for complete discovery and preparation without forcing witness and litigation to expose themselves to		Social distancing requirements will make for awkward presentations.	
	Scheduling and procedure for in-person activities		Some publication should go out with the jury duty notice that addresses these concerns. We should also do whatever we could to eliminate keeping jurors in the jury waiting room.	
2	Social distancing affects being able to clearly hear others and being clearly heard.	2	Spread of virus via high traffic areas of court, paper, surfaces.	
5	Social distancing using the galleries of the courtrooms to seat the jury with distance		Stay home if sick.	
	The bar and the bench need to weigh in and push for national testing, national emergency production of supplies and pharmaceuticals.		Strict social distancing and move trials to other areas like ballrooms, assembly halls, etc.	
	Travel for counsel restricted.		Strict social distancing by re-configuring the lay out of the courtroom	
	Universal requirement for masks by everyone except witness.		Strict social distancing is maintained in courtrooms and just boxes.	
	Universal requirement for masks by everyone.		Strict social distancing Spread out their seating in the box (with additional chairs outside the box if necessary). Find bigger space in the Courthouse to deliberate.	
	Variety of interpretation of supreme court tolling orders, general orders and individual case order making completion of adequate discovery		Strict social distancing, assure well ventilated rooms	
2	Voir dire and empaneling are cumbersome and should entail plaintiffs and defendants being able to see jurors.		Strict social distancing, delaying jury trials until the COVID-19 new cases decline in Cuyahoga County	
	Voir dire will be more intrusive than normal on basic health issues and being able to sit for periods of time.	5	Strict social distancing.	
	Will trials take much longer because of the additional precautions		Strict social distancing. Juries will need to be provided more space to deliberate and more room to view the trial.	
3	Witness appearances restricted due to travel restrictions or fear related to COVID-19. May only want to appear via video.	2	Strict social distancing. Use of gallery for jury.	
			Strict social distancing; jurors may have to sit on both sides of the bench using chairs and the baliff's area and they may also have to use the spectators seats.	
		3	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 Old Courthouse for JUST trials. That way people can walk stairs if want to maintain social distance. Impose mandatory summary juries or off campus focus group/juries for me day presentation and non binding awards. Use conference centers of downtown buildings. (Many old office buildings have conference floors.).	
			Video and live trial combination	
			Video for jury selection be done by a zoom type meeting? that way citizens are not forced to congregate a the court house awaiting the actual trial? Also can the jury members be separated by plexiglass partitions? Can the parties be separated by partitions, and can counsel and client be separated? Can the entire trial be done by a zoom meeting without violating constitutional rights? is there any guidance from history that we can look to? I saw a photo from the Spanish flu where court was held outside; I'm not saying this is or isn't the solution, but I found it very interesting.	
			Video streaming of testimony to jurors; moving jurors further apart and out of the jury box to maintain social distancing; limiting in-person attendance at trials of the public to ensure social distancing - perhaps allowing persons to watch and listen via audio or video (similar to US Supreme Court oral arguments being streamed).	
		2	Video use for jury is not effective. Jury would be disengaged from the events in the courtroom and important subtleties of witness behavior (i.e. posture, tone, eye contact, etc.)	
			Video Use technology. Require exhibits be electronic whenever possible, to minimize passing around of physical documents. Consider allowing witnesses to testify via video (at a minimum, witnesses who would have to travel more than a couple of hours, or who are high risk, or expert witnesses). Allow company representatives to be "present" by video. Encourage the parties to stipulate to using deposition evidence in lieu of live testimony on certain issues, to speed up presentation of live evidence. Consider reconfiguring courtrooms to place clear barriers in strategic locations. Consider whether people in the courtroom should all be wearing masks -- this may be difficult as it may impede the ability to assess credibility, but if properly and carefully explained to jurors, it could work on a temporary basis. Spread things out physically and don't try to ramp up too quickly -- this could mean using adjacent courtrooms as breakout or preparation rooms (meaning, they can't also be used to hold other proceedings at the same time). Look at the courthouse as a whole and try to stagger or schedule proceedings to minimize the number of people in the building or on a given floor at a time. None of these steps are ideal, but the situation we are in is not ideal, and if implemented with clear mandate and explanation they will only be equally "prejudicial" to both sides, not favoring one over the other.	
			Video Use zoom or other virtual meeting rather than having jurors in the courtroom/jury room. I don't know how a jury could be selected from the pool--I leave that to others to devise a safe way.	
			Voir dire remotely or offsite to minimize the number of people summoned to court	Add some questions to the jury questionnaires to try to identify high-risk individuals based upon age or health status.
				Drive more cases to settle - require judges to have pre-trial conferences
				Encourage more mediation, which can be conducted via Zoom.
				Install plexiglass dividers in jury box
				Limit people and only allow access for necessity
				More alternate jurors.
				More time for voir dire to explore virus concerns
				Postpone trials that can be delayed.
				Require masks
				Sanitize
				Strict social distancing of jurors
				Temperature checks
				Video streaming of jury
				Video voir dire
				Video witness appearances
				Virtual summary jury trials for civil cases

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