

THE OTTAWA COUNTY MUNICIPAL COURT
OTTAWA COUNTY, OHIO

IN THE MATTER OF:

ADMINISTRATIVE ORDER

JURY PROCEDURE DURING
COVID-19

2020-AO-021

Effective immediately, the Court finds:

WHEREAS: The COVID-19 Pandemic continues to effect this Nation.

AND WHEREAS: In order to protect and safeguard the public, as well as court staff and personnel, it is necessary to take extreme measures and precautions.

AND WHEREAS: In order to protect and safeguard one of the most essential and crucial rights that an individual has in the American legal system, and to promote public confidence in the judicial proceedings, it is necessary to conduct jury trials in the Ottawa County Municipal Court, with the establishment of modified protocol and procedures, taking into account all of the above.

The following Administrative Order is adopted and shall remain in effect until further Order, establishing the following procedure. It is therefore ORDERED:

1) Juror Summons

Based on juror response rates and approved excused dismissal rates for "COVID-19 era" jurors summonsed for jury trials, the Court will summons forty (40) prospective jurors, an increase from the traditional twenty-five (25) prospective jurors usually summoned.

2) Pretrial Juror Communications

The Clerk of Courts will mail the customary letter to each prospective juror, together with the Courts' May 13, 2020 letter regarding masks and medical excuses, as well as the June 4, 2020 letter advising jurors of the Court's recent safety precautions.

3) Juror Appearance on Day of Trial

(A) On the day of trial, and before they come to the courthouse, all non-excused prospective jurors will be asked through the Court's letter to self-monitor whether they are experiencing any of the following symptoms within the last 2-3 days or have been exposed to someone experiencing these symptoms:

- i. Fever more than 100.4 degrees;
- ii. Persistent, dry cough;
- iii. Shortness of breath or difficulty breathing;
- iv. Chills, Muscle pain or Sore Throat;
- v. New loss of taste or smell;
- vi. Nausea, vomiting or diarrhea;

Jurors will be instructed not to come to trial if they are experiencing these symptoms or feel sick. Jurors experiencing symptoms or feeling sick will be instructed to call Clerk's office (419-734-4143) to be excused from jury service.

(B) Upon arriving at the courthouse and entering the building, lawyers, witnesses, parties and prospective jurors will be screened for COVID-19 symptoms, including taking of temperature.

- i. The lawyers, witnesses, parties and any participating juror will have their temperature taken at the beginning of every day of service.
- ii. All individuals entering the courthouse will also be screened in accordance with court security policies for weapons and inspection of handbags.

4) Facial Coverings/Gloves/Hand Sanitizer/Wipes

(A) All lawyers, witnesses, parties, prospective jurors and trial jurors will be required to have facial coverings before entering the courthouse.

(B) Lawyers, witnesses, parties and jurors will be required to bring and wear their own facial covering.

- i. The Court will provide any prospective juror and each trial juror who does not bring a facial covering to the courthouse with a disposable face mask for each day of service.

(C) Lawyers, witness, and parties (except when testifying) shall wear masks throughout the trial.

(D) Lawyers, witnesses, parties, and jurors are not required to wear gloves, but instead will be encouraged to use hand sanitizer every time they enter the courthouse.

(E) Hand sanitizer and wipes will be placed in the entrance to the courthouse, and other locations.

5) Trial Witnesses

(A) Any witness, including law enforcement officers, lay witnesses and expert witnesses expected to testify shall:

- i. Adhere to the “self-monitoring” requirements noted in Paragraph 3, above.
- ii. Comply with the “health screening” and “security screening” noted in Paragraphs 3 and 4, above.
- iii. Comply with the “facial covering” requirements noted in Paragraph 4, above.
- iv. Shall be seated in chairs in the hallway outside the courtroom while waiting to testify, and shall maintain social distancing.

(B) The party that subpoenaed the particular witness is ordered to communicate this directive to their prospective witness before trial and monitor the hallway during the trial in order to ensure that this directive is being complied with.

6) Courtroom Configuration-*Voir Dire*

(A) Prospective jurors will be seated (socially distanced) in the gallery seating in the courtroom.

(B) In order to comply with “social distancing” requirements, during the presentation of *voir dire*, the required number of jurors will be called to the jury box and seated accordingly.

(C) The Court will address all prospective jurors (both in the jury box and in the gallery).

(D) Both counsel will individually address only the prospective panel of jurors seated in the box, from behind the podium.

(E) Challenges for cause and peremptory challenges will be made at a side bar at the bench.

7) Courtroom Configuration – Trial

(A) Tables and chairs will be spaced in order to comply with social distancing requirement, as best possible.

(B) Trial jurors will be seated in the jury box to comply with “social distancing” requirements, as best able.

8) Testifying Witness

(A) The witness stand configuration will enable the Court, the jurors and counsel the opportunity to observe the witness’ demeanor and facial expressions during the examination process.

(B) The testifying witness will be socially distanced and will not wear a mask while testifying.

(C) When asked to identify another person/party in the courtroom all individuals (except the jurors) will lower his/her mask.

(D) Lawyers may ask questions from counsel table or the podium.

(E) Lawyers shall attempt to minimize the number of times they need to approach the witness.

9) Trial Exhibits

(A) Exhibit(s) shall not be passed to jurors during the trial.

(B) Counsel shall provide opposing counsel, the Court, and each juror with a separate copy of each exhibit for his/her review during deliberations. (This shall be in addition to the original exhibit.)

10) Bench Conferences

(A) In an effort to adhere to “social distancing recommendations”, bench conferences will be attempted in a corner of the bench farthest away from the jury.

(B) For anticipated prolonged bench discussions, the trial jury will be escorted back to the annex courtroom, or the Judge and Counsel may proceed to the Judge’s chambers.

11) Juror Conduct During Trial

- (A) Upon commencement of the actual trial, the trial jurors will each be provided with a notepad and a pen.
 - i. The trial jurors will be permitted to take notes during the trial.
 - ii. The trial jurors will be instructed that upon completion of the trial to return the notebook and pen to the Court Bailiff.

12) Restroom Use

- (A) During short trial recesses when the jury is housed in the annex courtroom, only one person will be permitted to enter the same gender specific restroom at one time.
- (B) Court staff shall monitor the restroom occupancy during a recess break.

13) Trial Recess/Breaks

- (A) The Court will not provide jurors with beverages. The jurors may bring their own beverages to be consumed only during breaks in the trial.

14) Retention of Cell Phones

- (A) Prospective jurors will be permitted to retain their cell phones in the “off position” during *voir dire*.
- (B) During the presentation of trial, trial jurors will not be asked to place their cell phone in one of the Court’s secured pouches. Instead, the trial jurors will be asked to place their cell phone in the “off position” with instructions not to use it during their trial service.
- (C) During a break in the trial, the juror will be permitted to access their cell phone, provided that the juror complies with Court instructions not to research the case, conduct experiments on their own or communicate or express opinions about the case with others regarding their service.
- (D) When the jury retires to deliberate, the trial jurors who have cell phones in their possession will be ordered to place their cell phone in the “off position” with instructions not to use it until their jury service is completed.

15) Deliberations

- (A) All deliberations of the trial jury will occur in the annex courtroom.
- (B) Jurors will knock on the jury room door to notify the Bailiff of the need to use the adjoining restrooms before jurors are permitted to depart the jury room.
- (C) Jurors will knock on the jury room door to notify the Bailiff when they have a question or have reached a verdict.

16) This protocol is subject to further modification by the Court should circumstances arise necessitating deviation from the procedures set forth herein.



Judge Louis P. Wargo III

Journalized and Filed

JUN 4 2020
OTTAWA COUNTY
MUNICIPAL COURT