

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

COVID-19 JURY TRIAL PROCEDURES

The Judges of the General Division of the Court of Common Pleas have strived to mitigate the spread of the COVID-19 virus and protect public health by limiting the amount of in-person individual interaction within the court. Included in this effort was the cessation of in-person jury trials. During this pandemic essential court functions and actions necessary to protect the rights of all individuals subject to the authority of this court have continued. Few rights are more essential than an individual's right to a trial by jury. It has been determined that the mitigation efforts endured by this community now permit this court to safely conduct socially distanced jury trials.

The court is guided by the Ohio Supreme Court as stated in the case of *In re Disqualification of Fleegle*, 2020 Ohio St.3d 5636, in which the Chief Justice wrote that:

During this public-health emergency, a judge's priority must be the health and safety of court employees, trial participants, jurors, and members of the public entering the courthouse. Attorneys and the public have a right to know what steps a court is taking to keep them safe while the court continues conducting essential business. If attorneys or litigants believe that judges are not taking seriously recommendations from this court, the governor, or other public-health officials, and that as a result the health of trial participants, jurors, or the public is at risk, the judge's disqualification may be sought.

In accordance with the directive of the Chief Justice this court hereby outlines the steps being taken to keep court employees, trial participants, jurors,

and the public safe while the court conducts in-person jury trials. Effective Monday, May 3, 2021, the COVID-19 restrictions on jury trials in the Lucas County Court of Common Pleas are modified as follows:

1. This court will hold up to two jury trials at a time using the facilities offered within the courthouse.
2. The name of each case and its respective case number shall be forwarded to Deputy Court Administrator, Don Colby, who will maintain a master list of criminal trials.
3. The cases set shall proceed pursuant to the Rules of Superintendence and the controlling case law.
4. Only witnesses, attorneys, the parties, and jurors shall be allowed within the courthouse during the trial. All persons within the courthouse for trial shall remain socially distanced during the trial.
5. During the testimony of a victim, the accused, or a minor/child witness, the court may permit no more than two persons to be present in support of the person testifying. This limitation does not include persons present for accommodations made for the witness such as a comfort animal and its handlers.
6. During the trial the courthouse will remain closed to all spectators and the public. To satisfy the open court requirement the court will offer the ability to broadcast live trial proceedings over the internet¹ to the public from courtrooms 4 and 5 only. "Open court" includes a court proceeding open to the public in person or by remote access to the live proceeding.
7. The Toledo-Lucas County Health Department has toured and approved courtrooms 4 and 5 for socially distanced trials. Please note that the Toledo-Lucas County Health Department has not approved any courtroom for multiple co-defendant trials. No equipment may be removed from

¹ Internet links to the stream of the trial proceedings will be freely provided by the Court Administrator's office.

courtroom 4 or 5 without the expressed permission of the Administrative Judge or the Court Administrator.

8. Jurors are required to wear a mask at all times during a trial. All trial participants will be required to wear a mask during the trial except a witness may be permitted, by the trial judge, to remove their mask while testifying and an attorney may be permitted, by the trial judge, to remove their mask while speaking on the record.
9. The first-floor jury assembly office will be maintained for the use of the jury as the court sees fit. Jury deliberations may be held in the jury assembly room or in any courtroom with a disabled recording system.²
10. The court will provide snacks, beverages, lunch, and any other necessary meals to the jury. Please contact the court administrator's office for additional instructions.

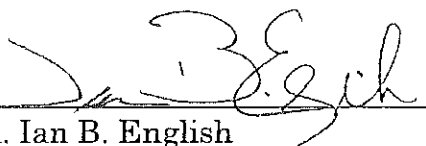
Recommended Socially Distanced Jury Procedures

Before the trial date, it needs to be determined how many jurors are desired to make it through the general question phase of general voir dire. The court will summons jurors to report to the third or fourth floor of the Courthouse. **An in-custody defendant must be in the courtroom by 8:00 am.**

~~Jurors will check in with the Jury Commissioner, Michelle Heffner, and she~~
will collect their current phone numbers. These phone numbers shall be released only to the bailiff or another employee of the court.

² As a general rule, no one--including the judge presiding at trial--has a "right to know" how a jury, or any individual juror, has deliberated or how a decision was reached by a jury or juror." *State v. Robb* (2000), 88 Ohio St. 3d 59, 81, 723 N.E.2d 1019, 1044, quoting *United States v. Thomas* (C.A.2, 1997), 116 F.3d 606, 618. See *Virginia Erection Corp.*, 335 F.2d at 872 ("presence of the alternate in the jury room violated the cardinal principle that the deliberations of the jury shall remain private and secret in every case"). See, *Koch v. Rist*, 89 Ohio St.3d 250, 252, 2000-Ohio-149, 730 N.E.2d 963.

Jurors will be seated six feet apart in chairs in the hallway. After the jurors are assembled, they will be taken into the courtroom one at a time. Once in the courtroom the juror should hand their summons to the bailiff so that the bailiff can introduce the juror and they can be seated. Once the pre-determined number of jurors are seated in the courtroom, the court and counsel should begin voir dire. If a juror is released from the courtroom during voir dire, the juror should be sent into the hallway to see Michelle Heffner and she will dismiss them from their service. All remaining jurors will be seated in the hallway to be called into the courtroom as needed by the trial judge. After the court and counsel have met to exercise any challenges to the prospective jurors and a jury is seated all remaining jurors should be released from further service. During the trial jurors may take their breaks (including lunch breaks) in the Jury Assembly Room. Jurors will be provided beverages including bottled water. Snacks will be made available in the Jury Assembly Room because the café is closed. The court can instruct jurors that they are welcome to bring snacks with them. Lunch will be provided to the jurors beginning the first day of the trial. This is to be arranged by the bailiff each day the jurors are in session. Jury deliberations may be held in the jury assembly room or in any courtroom with a disabled recording system. A whiteboard will be placed in front of the glass door so the jurors are not visible from the hallway.



Hon. Ian B. English
Administrative Judge

April 30, 2021

Dated