

From: [Chief Justice Maureen O'Connor](#)
Subject: COVID Guidance
Date: Thursday, December 10, 2020 2:40:50 PM
Attachments: [12.10.20 Letter to Gov DeWine Vaccine.pdf](#)
[Responsible RestartOhio Court Access.pdf](#)

Dear Judge:

As the COVID situation in Ohio continues to worsen, among the few bright spots I have observed are the active steps many judges have taken to reduce risk to their staff and the public. Courts have maximized their use of technology for remote proceedings. They have scrupulously followed health authorities' guidance, modifying procedures and facilities—both inside their courtrooms and throughout courthouses—to facilitate social distancing and other safe health practices. They have issued orders postponing jury trials and granting continuances, citing their authority under RC 2945.72(H).

These measures have by necessity become our default settings, allowing courts to maintain operations while dealing with the increasing spread of COVID.

At the same time, I continue to receive disheartening reports about some courts that are doing some of the following: holding “cattle-call” proceedings, allowing crowded courthouse hallways; requiring in-person appearances for routine, non-essential matters; denying requests for reasonable, COVID-related continuances; and not mandating ODH safety measures in staff work areas. It is no surprise then, that we are also seeing a rise in infections among judicial staff as well as in the offices of public defenders, prosecutors, clerks of court and law enforcement. This rise in infections has caused a number of courts to curtail their operations.

I stated in March, when the pandemic hit, that the courts could not and would not close. There have been numerous guidance documents released in March and throughout the last 10 months to identify practices that must be followed in order to keep the courts working. Unfortunately, some judges may have heard only the first part of the message and didn't take to heart the guidance detailing what must be done to keep courts operating safely. In addition to the obvious danger to the health of those who enter the courthouse (and their families, etc.), noncompliance with health directives whittles away at the public's trust and confidence in the judiciary.

I want to reiterate the guidance on how courts should operate while the pandemic persists.

Hearings, proceedings, pre-trials, status conferences, fine enforcement hearings, etc.

First and foremost, we must operate with a strong presumption toward remote proceedings. Courts will leverage technology to conduct all trials and proceedings remotely to the extent possible, including but not limited to jury trials, bench trials, oral arguments, pre-trials, status conferences, evidentiary hearings, motion hearings, or any other similar hearings.

In-person appearances should be required only in exceptional circumstances, where there is an immediate need to protect the safety or well-being of a person, and a remote proceeding is not feasible. Examples might include, but are not limited to, proceedings related to civil protection orders, emergency guardianships, civil commitments, and abuse, neglect and dependency cases.

Trials

If a trial cannot be held remotely, judges should liberally grant continuances. In criminal preliminary hearings and jury trials, a judge may grant a continuance under R.C. 2945.72(H), citing the COVID-19 pandemic as the basis. For additional information regarding the continuance of criminal jury trials, please consult [AG Opinion 2020-002](#).

If a trial must be held in person, the court must comply with all Ohio Department of Health and local health department orders and guidance. Additional considerations, specific to jury trials are as follows:

- Schedule in-person trials so that only people such as attorneys, parties, and witnesses are present in the courtroom and surrounding area. Congregating in courtrooms, hallways, or other common or confined spaces is a dangerous practice and contrary to orders from the governor and the Ohio Department of Health;
- Summon the smallest number of jurors possible, conduct voir dire in small groups appropriately protected, establish a liberal policy to excuse jurors with health concerns, and grant continuances;
- Develop a plan to maintain appropriate distancing and to minimize contact among jurors; assemble them in a courtroom or other large room to allow for spacing;
- Limit the number of individuals in the courtroom; consider live-streaming the trial to provide access for the public.

Minimize individuals in the court building

- When remote appearances are not possible, schedule cases at various times and on different days to minimize the number of individuals appearing at one time;
- Do not block schedule a large number of cases at one time (such as arraignments, traffic cases, or fine enforcement hearings), which leads to congestion in the hallways and courtrooms;
- Consider having individuals wait in their vehicles until they are called or texted for a case;
- Update the court's website to encourage self-service, including access to forms and payment information, as well as local bar association contact information and local legal aid contact information.

Comply with Ohio Department of Health and local health department orders

- Require all persons within the courthouse to properly wear masks;
- Maintain at least six-foot separation by designating distances with signage, tape, or by other means;
- Enforce limits on personal capacity of facilities and rooms to comply with social distancing requirements.

Staff

- Work remotely, to the greatest extent possible. Employees in facilities must comply with all applicable health orders and guidance;
- Require daily health assessments of employees to determine fitness for duty. Immediately report infections to and cooperate with the local health department to facilitate contact tracing;
- Use alternate areas, such as the courtroom, jury room, or break room, as temporary work stations to ensure appropriate distancing and minimize contact;
- Establish alternative hours to minimize contact among staff, including dividing employees into groups rotating in shifts when possible to ensure appropriate distancing

and minimize contact.

Facility

- Establish a robust process for cleaning and sanitizing the courthouse throughout the day and at the close of business, particularly in common areas, work spaces, and high-touch surfaces;
- Make hand sanitizer readily available in multiple locations;
- Ensure proper ventilation and the movement of fresh air throughout the court and office areas, if possible.

I know these practices are not new to you. Many of you are already implementing most, if not all of them, and for that I am grateful. I also recognize that we are all weary of COVID-19 and are excited at the prospect of a vaccine. In the attached letter to Governor DeWine, I asked him to add you and your staff to the list of essential workers eligible to receive the vaccine during Phase 1 of the state's distribution plan. The vaccine is a long-awaited light at the end of the tunnel, but we cannot allow ourselves to become complacent now. Your vigilance continues to protect your employees and the public you serve.

Lastly, the Supreme Court staff can provide support to you and your staff as you work to implement these recommendations. The [Court Services Division](#) is available to answer your questions regarding case scheduling and case processing, and the [Ohio Judicial College](#) has created several timely webinars that can provide education for you and your staff on a number of COVID-19 related topics.

Stay safe and God Bless,

Maureen O'Connor
Chief Justice of Ohio