

**JURY MANAGEMENT PLAN
LOCAL RULE FOR CIRCLEVILLE MUNICIPAL COURT**

INTRODUCTION

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18(C), which requires that each municipal court, before July 1, 1994, develop and implement a Jury Management Plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Circleville Municipal Court.

JURY ELIGIBILITY

To ensure that the jury pool represents the adult voting population of Pickaway County, Ohio, all registered voters are eligible to serve on a jury, except as follows:

1. Persons less than 18 years of age.
2. Persons who are not residents of Pickaway County.
3. Persons convicted of a felony that have not been restored to their civil rights.

Reasonable efforts shall be made to accommodate prospective jurors who have special needs.

PROCEDURE FOR JURY SELECTION

Potential jurors shall be drawn from a "jury source list." That list shall consist of all registered voters in Pickaway County. Random selection procedures using automated data processing equipment in conformity with Ohio Revised Code (hereinafter O.R.C.) Section 2313.01 and O.R.C. Section 2313.21 shall be used to select a jury venire for Circleville Municipal Court.

Not less often than once annually or as otherwise required by Ohio law, the Jury Commissioners, duly appointed by the Common Pleas Court pursuant to O.R.C. Section 2313.01, shall convene and select a jury venire for Circleville Municipal Court to cover potential jury trial dates throughout the calendar year. Unless otherwise directed, 200 eligible jurors shall be chosen for each quarter. "Venire" is the term used to describe those persons that the Sheriff is directed to cause to come before a court so that the truth of the matters tried may be better known.

In the event the jury venire drawn is insufficient to meet the needs of the court in the calendar year, the Jury Commissioners shall reconvene as necessary to select additional jurors, also according to O.R.C. Section 2313.01.

If, in the opinion of the court, the jurors selected are not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law. The additional list authorized by law consists of licensed drivers who need not be registered voters. (See O.R.C. 2313.08)

Further, a pure random selection process shall be used to assign prospective jurors to specific periods of service and for assignment during voir dire (see page 7).

Departures from random selection shall be allowed only as follows:

1. To exclude persons ineligible for service as set forth in this rule.
2. To excuse or defer prospective jurors.
(O.R.C. 2313.12, 2313.13 or 2317.16)
3. To remove prospective jurors for cause or if challenged peremptorily.

4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

NOTICE BY SHERIFF OF SELECTION FOR POTENTIAL SERVICE

The Sheriff of Pickaway County, Ohio, shall notify each juror of his or her selection for a term of service not to exceed ninety (90) days. Ohio law defines the methods used to notify the jurors chosen from the source list that they have been selected. The Sheriff decides the method of service or notification. The court plans to carry out this rule in such a manner to reduce the number of persons required for jury service without discouraging litigants from requesting jury trials.

SUMMONING OF PROSPECTIVE JURORS FOR ACTUAL SERVICE

Prospective jurors shall be notified by regular mail of their service requirement by the issuance of a summons directing them to appear on the date assigned (See Attachment A). Further, all prospective jurors shall be requested to complete a jury questionnaire approved by this court and, if appropriate, a "Request For Excuse, Exemption or a Deferral" (See Attachment B). The juror summons shall be phrased to be readily understood by an individual unfamiliar with the legal process. The jury summons shall clearly explain how and when the recipient must respond and the consequences for failing to respond. A parking pass shall accompany each summons for the day of service. In addition an explanation of "Juror Rights" (See Attachment C) and a brief description of "Serving as a Juror" shall be included (See Attachment D). These are included to help jurors feel comfortable and necessary. Any person who fails to respond to a duly served summons may be served with a citation for contempt of court and must after that appear to answer

that summons or, if appropriate, may be arrested and detained for examination about why they failed to attend.

A DEMAND FOR JURY SERVICE IS NECESSARY

Prospective jurors shall be summoned only upon the filing of a written "jury demand" or where the potential penalty is 365 days or more for any single offense. The granting of a continuance at a defendant's request will not extend the time for filing a jury demand. In civil cases, an advance "deposit" of two hundred dollars (\$200) shall be assessed. The deposit shall be filed with the clerk no later than fourteen (14) days before the first scheduled trial date. In the event the deposit is not made, no jury will be summoned and the failure to make said deposit shall be deemed a waiver of any right to trial by jury at any subsequent time. A person without funds to pay a deposit may petition the Court for a waiver of the jury deposit requirement.

In criminal cases, no deposit shall be required.

Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. A panel of twenty-five (25) persons per trial shall be summoned for service unless the court decides that a lesser or greater number is necessary for a particular trial.

PLEA BARGAINS

Every reasonable effort shall be made by the parties to resolve cases by pleas or agreement before summoning juries. In criminal/traffic cases **no amended charges or plea bargain will be approved without thorough consultation with any victim, the arresting authority and factual justification.** Under no circumstance shall a defendant

with multiple OMVI's, crimes against children, or crimes against the elderly be deemed appropriate for reduced charges. No amended charges or pleas to reduced charges or dismissals will be accepted after a jury is summoned. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial or multiple jury cases shall be set to insure jurors are utilized.

DUTY OF COUNSEL

The counsel of record or the parties, whichever is appropriate, at least ten (10) working days before the scheduled trial date shall advise the court that a jury either will or will not be required. If it appears that a jury trial is required, a jury panel shall be summoned upon court order. No one shall be treated prejudicially for requesting a jury determination. Those costs associated with the summoning of a jury shall be assessed against the party requesting the trial, unless acquitted or otherwise exonerated by trial.

If any civil or criminal matter is settled on the day of trial, all lawful jury costs shall be assessed against the party who requested the jury. In cases where multiple trials are set for the same date, jury costs shall be assessed to the last trial resolved on that date. Costs shall also include transportation arrangements made for views requested.

Persons summoned for jury service shall receive compensation in the amount of Ten Dollars (\$10) per day or as otherwise set by the Board of County Commissioners. Such fees shall be promptly paid from the City or County Treasury, as appropriate.

Any juror wishing to waive his fee and/or mileage for service shall be allowed to do so in writing in the Clerk's office. All waived fees shall be returned to the City or County Treasury, as appropriate.

The term of service for any prospective jury panel shall be one day or the completion of one trial, whichever is longer.

TALESMEN JURORS

A "talesman" juror is someone summoned by the Sheriff to act as a juror when a jury panel is exhausted. A talesman juror is selected from bystanders. There shall be provided the Sheriff a list of eligible persons who could be called as talesmen in the event insufficient jurors appear for service or if the panel is insufficient for any reason. If practical, no talesman juror should be associated by blood, affinity, employment or commission to any law enforcement agency.

EXEMPTION, EXCUSE AND DEFERRAL

All persons except those who exercise their right to exemption are subject to service. Eligible persons who are summoned may be excused from service **only** if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service on a jury would constitute a significant hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service later. All requests for excuse, exemption or deferral must be made on the form provided (See Attachment B), and shall be accompanied by appropriate documentation. The court shall retain these documents.

The following factors are a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service:

1. Any person who suffers from a substantial physiological or psychological impairment.
2. Any person who has a scheduled vacation or business trip during potential jury service.
3. Any person for whom jury service would constitute a substantial economic hardship.
4. Any person for whom service on a jury would constitute a substantial hardship on their family, clients or members of the public affected by the prospective juror's occupation.
5. Any person who has served on a jury within the last year.
6. Any person from whose attitude it may be readily determined is unfit for jury service.
7. Any person for whom it is readily apparent would be unable to perform their duty as a juror.

No person shall be excused from jury service, except by the Judge or an individual specifically authorized by the Judge to excuse jurors in the Judge's behalf. No person who does not complete the jury excuse, deferral or exemption form shall be excused from service. Once a prospective juror has submitted his request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

EXAMINATION OF PROSPECTIVE JURORS-VOIR DIRE

Voir dire is the preliminary examination of a prospective juror, under oath, to allow the Judge or parties to decide if the prospective juror is subject to removal from service for some cause or otherwise as permitted by law. On the day of the trial, examination of

prospective jurors shall be limited to matters relevant to determining whether a juror must be removed for cause or to decide the juror's fairness and impartiality.

All prospective jurors shall be placed under oath according to the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires.

Jury questionnaires showing basic background information concerning panel members shall be made available to counsel before the day on which jury selection is to begin (see Attachment E). Counsel shall be allowed to record or copy the information contained on the questionnaires. The court upon the completion of trial shall retain all jury questionnaires. Under no circumstances may counsel or a party retain any jury questionnaire.

Neither counsel nor a party will be permitted to question prospective jurors as to matters contained in the questionnaire unless an answer is unclear. Parties and counsel may be allowed to ask follow-up questions concerning such information.

The Court may conduct a preliminary voir dire examination concerning basic and relevant matters. Counsel shall be allowed a reasonable period to question panel members after that. One hour of voir dire to secure eight (8) jurors is deemed reasonable. Counsel or parties shall conform their voir dire questioning to the following rules:

1. Counsel may not examine prospective jurors concerning the law or possible instructions.
2. Counsel may not ask jurors to give answers to hypothetical questions.
3. Counsel may not argue their case while questioning jurors.
4. Counsel may not engage in efforts to indoctrinate jurors.

5. Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.
6. Questions are to be asked collectively of the panel whenever possible.
7. Counsel may ask by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

In the event there exists a potential for sensitive or potentially invasive voir dire questions, the Court or any of the parties may request a hearing preceding voir dire to consider these questions.

In all cases, voir dire shall be held on the record, but may be conducted outside the presence of other jurors to protect juror privacy, or to avoid juror embarrassment.

If the court determines it during the voir dire process that an individual is unable or unwilling to sit in a particular case fairly and impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented or upon the motion of the court. Further, O.R.C. Section 2313.42 and Ohio Criminal Rule of Procedure 24(B) set forth additional "challenges for cause" which may be made against potential jurors.

Peremptory challenges shall be exercised alternatively as presently established by O.R.C. Section 2945.23, and Civil Rule 47, and Criminal Rule 24, unless before trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open court. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall be no limit to challenges for cause, however peremptory challenges shall be limited to that number established by the Rules of Civil and Criminal Procedure. Objections to the manner in which peremptory challenges were

exercised must be made on the record and before impaneling and swearing of the jurors after voir dire. No Batson v. Kentucky (1986) 476 U.S. 79 challenges shall be entertained without a specific supported pattern of discrimination.

Challenges to the jury array shall be made according to Ohio law.

In criminal cases, the jury shall consist of eight regular jurors and one alternate juror, unless there is an alternate agreement. In civil cases, the jury shall consist of eight regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be selected.

The court shall entertain no motions the day of trial, except those that the court must consider by law or by rule of procedure.

JURY ORIENTATION

Orientation is a brief tour of the court, its facilities, an introduction to staff personnel and an explanation of the court's programs. Jurors shall report for service on the trial date by 0900 unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the court before the completion of orientation.

Prospective jurors shall be provided with written and audio/visual orientation materials upon their initial appearance and prior to service. The court may give preliminary information to all prospective jurors, as well as preliminary instructions following the impaneling of the jury to explain the jury's role, trial procedures of the court, along with other basic and relevant legal principles to insure that jurors feel comfortable with their role as finders of fact.

Upon the completion of the case and prior to jury deliberations, the court shall instruct the jury on the law and the appropriate procedures to be followed during deliberations. According to the Civil and Criminal Rules of Procedure, the parties or their counsel may request special instructions. Proposed written instructions shall be submitted not later than seven (7) days before trial.

A final jury charge or the salient parts, whenever possible, shall be committed to writing and provided to the jury for its use during deliberation.

Jurors may be permitted to take notes during the presentation of evidence after proper instruction by the court. Jurors shall be allowed to ask questions of witnesses subject to court approval and upon appropriate instruction.

The procedure for jurors asking questions shall be as follows:

- a. Upon impaneling, the court shall provide pens, pencils and paper to each juror.
- b. At the conclusion of direct and cross-examination of a witness, any juror may ask a witness any question allowed by the rules of evidence.
- c. The juror question must first be reduced to written form and reviewed by the Judge.

- d. If acceptable to the Judge, the question(s) should be reviewed for other objection by respective counsel or the party trying the case.
- e. Jurors will not be limited to the number of questions they may ask.
- f. Upon completion of juror questions, counsel for the respective party may reexamine based on juror questions.

Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such court personnel for appropriate action.

After orientation, all communications, regarding the case being tried, between the judge and the members of the jury panel, from the time of reporting to the court through dismissal, shall be committed to writing or placed on the record in open court. Counsel for each party shall be informed of any communication and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with jurors.

All jury deliberations shall be conducted in the jury deliberation room, which shall include space, furnishings and facilities conducive to reaching a fair verdict. Court personnel shall attempt to secure the safety of all prospective jurors and shall arrange and conduct all activities to reduce contact between jurors, parties, counsel and the public. Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be allowed to leave the court without permission.

Deliberations shall not continue after a reasonable hour, unless the trial judge decides that evening or weekend deliberations would not impose an undue hardship upon the jurors. Jurors shall be consulted before any decision.

If jury deliberations are halted, jurors shall be allowed to be separated, unless for good cause shown, the Court finds that sequestration is necessary. If a jury is sequestered, the court shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors. All such expenses shall be assessed as costs.

Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

Upon the completion of service, each juror shall be given a personalized "Certificate of Appreciation." (See Attachment F)

CONCLUSION

The court shall collect and analyze information regarding the performance of this jury management plan to evaluate the representativeness of the jury pool; the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors; the cost effectiveness of this plan; and general juror satisfaction.

To achieve these goals, the court shall adopt and use a juror exit survey, (See Attachment G) along with maintaining regular data on all jury pools.