



## STANDING ORDER GOVERNING CRIMINAL CASES

Hon. Jeffery P. Hopkins  
United States District Judge  
Southern District of Ohio  
Western Division

Potter Stewart U.S. Courthouse  
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## I. INTRODUCTION

This Standing Order is adopted under Rule 57(b) of the Federal Rules of Criminal Procedure and governs practice before District Judge Jeffery P. Hopkins, supplementing the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Local Rules of this Court. All attorneys who enter appearances in cases before Judge Hopkins are charged with knowledge of this Standing Order and are obliged to follow it.

## II. PRETRIAL PROCEDURE

### A. Trial Date

Each criminal case will be set for trial **between 59 and 70 days** into the speedy trial calculation under the Speedy Trial Act, 18 U.S.C. § 3161. Generally, the Final Pretrial Conference will be scheduled to take place one week before the commencement of trial. All trial counsel must appear in person at the Final Pretrial Conference.

### B. Discovery and Inspection

Defense counsel is directed to promptly contact the Assistant U.S. Attorney in charge of the prosecution of his/her case, if prior contact has not been made, and arrange a meeting for the purpose of resolving all requests for discovery provided for under the Federal Rules of Criminal Procedure, including Rule 16. When defense counsel requests discovery under Rule 16, the government shall provide the evidence subject to disclosure under the terms and conditions of Rule 16(a). The government shall file a response within one week of the filing of the defendant's request for discovery.

The discovery meeting shall be held as promptly as possible and no later than **one week after arraignment**. If at any time any party fails to comply with Rule 16, such failure shall be brought to the Court's attention by a motion to compel the specific discovery sought. Motions to compel shall be filed within one week from the date of a party's denial of the initial discovery request.

### C. Motions

#### 1. Generally

All motions of any kind, by the defendant or by the government, shall be filed **on or before the date set forth in the Criminal Preliminary Pretrial Order**. All briefs opposing said motions shall be filed **no later than one week** after motions are filed. No reply briefs are permitted without leave of the Court. The moving party shall state in the motion whether an evidentiary hearing is requested and shall provide the reasons supporting this request. If the Court determines that a hearing is required, it will contact the parties with a proposed date and time for the hearing.

2. Motions Requiring Consultation

Before filing any motion relating to bail or detention or any motion for a continuance of any conference, hearing, deadline, or other date scheduled by the Court, the movant's counsel must consult with counsel for the opposing side and inquire if the party consents to or intends to oppose the motion. The movant must state in the motion that such consultation occurred or was attempted in good faith and must state whether the motion is unopposed.

3. Motions for Continuance

Any motion to continue the trial date shall be made in writing **at least one week before the trial** is scheduled to begin. The motion must address the factors listed in 18 U.S.C. § 3161(h) that movant contends support a continuance of the trial date.

**D. Plea Negotiations & Plea Agreements**

Plea agreement discussions between the Assistant U.S. Attorney and the attorney for the defendant, pursuant to Fed. R. Crim. P. Rule 11(e), shall be commenced as soon as practicable. The parties shall notify the Court promptly if a plea agreement is reached and a change of plea will be scheduled. In many instances, the Final Pretrial Conference will be converted to a change of plea hearing.

**III. TRIAL PROCEDURE**

The following procedures are designed to deal with your case promptly and efficiently, without impeding your ability to present your case fully and fairly.

**A. Counsel Tables**

The parties will occupy the counsel table assigned before the first session of trial.

**B. Court Sessions**

Under ordinary circumstances, trials will be held Monday through Thursday. Fridays will usually be reserved for other Court proceedings, such as final pretrials, temporary restraining orders or preliminary injunctions, arraignments, and sentencing.

Trial hours are generally 9:00 a.m. to 12:00 and 1:30 p.m. to 5:00 p.m., with one 15-minute break in both the morning and the afternoon.

The parties and all counsel shall be present at counsel tables at all sessions before the jury is brought into the courtroom and remain at counsel tables until after the jury leaves the courtroom at the end of all sessions. The parties and counsel will stand upon the entrance and exit of the jury.

Counsel and the parties shall be present in the courtroom **30 minutes** before the Court convenes trial every morning (for example, at 8:30 a.m. if the Court convenes trial at 9:00 a.m.). The Court will use this time to resolve any issues that may arise during trial.

If counsel need to bring anything to the Court's attention, they should contact the Court's Courtroom Deputy or Law Clerk before 8:30 a.m. so that the Court can resolve the matter before the jury is brought into the courtroom.

Counsel should also be readily available for conferences during recesses. Please keep the Courtroom Deputy informed as to where you may be located in case the Court needs to find you quickly.

### C. Addresses by Counsel

Counsel shall address the Court and the jury in the following manner:

- During *voir dire* examination, opening statements and closing arguments, counsel shall stand at the lectern facing the jury.
- Counsel may address the Court either from the lectern facing the Court or by standing at counsel table.
- Counsel must stand when addressing the Court for any reason.

### D. Decorum

Counsel shall address the Court as "Judge" or "Your Honor."

Colloquy or argument between counsel is not permitted. All remarks should be addressed to the Court.

Counsel should maintain a professional and dignified atmosphere throughout the trial.

Appearances, mannerisms, or habits that are designed to arouse the sympathy or prejudice of the jury are an impediment to an impartial trial and will not be permitted.

During a trial, counsel should not exhibit familiarity with witnesses, jurors, or opposing counsel and should not address anyone by first name.

During opening statements and final arguments, all persons at counsel tables should remain seated and be respectful so as to not divert the attention of the Court or the jury.

Counsel may not ask the court reporter to mark testimony. All requests for the rereading of questions or answers shall be addressed to the Court.

## E. Voir Dire Examination

The entire panel of prospective jurors (i.e., those in the jury box and seated in the back of the courtroom) will be examined in one continuous examination.

Counsel will be provided with a list of the prospective jurors prior to the commencement of trial. Counsel can contact the Jury Commissioner three days before trial at (513) 564-7522 to obtain the juror questionnaire forms.

Each prospective juror will be assigned a number by the Clerk's office. Counsel will receive a listing of the jurors' names and numbers before jury selection.

Additionally, each prospective juror will be assigned a seat number and given a corresponding index card. During jury selection, counsel shall refer to prospective jurors by their seat number and not by name.

The Court will conduct a preliminary *voir dire* examination tailored to the issues in the case. An outline of the Court's typical *voir dire* questioning is attached as **Appendix A**.

Counsel may supplement the Court's examination. However, counsel may not repeat in some other form the same question the Court has already put to the panel.

Counsel must address their questions to the whole panel. Counsel may not question an individual juror unless the answer of a specific juror justifies further inquiry.

Counsel will not be permitted to question jurors individually regarding background information. This information is contained in juror questionnaire forms, which are on file in the Clerk's office. Counsel should examine these questionnaires prior to the commencement of trial. Counsel may inquire regarding any omission in a juror's answer to the juror questionnaire or, after obtaining the Court's permission, regarding any inquiry justifiably elicited by information contained in the juror questionnaire.

## F. Challenges for Cause & Peremptory Challenges

Challenges for cause and peremptory challenges will be heard outside the presence of the jury (either in a conference room or at sidebar). The Court will first consider challenges for cause; when the parties have exhausted their challenges for cause, the Court will consider peremptory challenges.

Peremptory challenges will be exercised as follows:

1. United States exercises its first challenge
2. Defendant exercises their first and second challenges
3. United States exercises its second challenge
4. Defendant exercises their third and fourth challenges
5. United States exercises its third challenge
6. Defendant exercises their fifth and sixth challenges
7. United States exercises its fourth challenge

8. Defendant exercises their seventh and eighth challenges
9. United States exercises its fifth challenge
10. Defendant exercises their ninth challenge
11. United States exercises its sixth challenge
12. Defendant exercises their tenth challenge

If either party “passes,” (i.e., forgoes to exercise a challenge when it is that party’s turn to do so), that party thereby “uses” one challenge. Subject to consultation with counsel, the waiver of all challenges on a particular round may conclude the challenges.

After the regular 12 jurors have been selected, the peremptory challenges as to the alternate juror(s) will then be exercised in the same manner.

## **G. Jury Instructions**

The Court will use the Pattern Jury Instructions published by the United States Court of Appeals for the Sixth Circuit (available at <https://www.ca6.uscourts.gov/pattern-jury-instructions>), unless the Pattern Jury Instructions do not supply a relevant instruction on the subject matter or a party objects to a pattern jury instruction. In the case of an objection, the Court will consider the argument and authorities submitted by the objecting party and provide the other parties an opportunity to join or respond to the objection. A party’s arguments and authority for or against a pattern jury instruction may be submitted in writing or presented orally on the record in open court.

Counsel must file their proposed jury instructions and email a courtesy copy in Microsoft Word to [Hopkins Chambers@ohsd.uscourts.gov](mailto:Hopkins_Chambers@ohsd.uscourts.gov) at least **14 days** before trial. Counsel may refer to requested Sixth Circuit pattern jury instructions by number; inclusion of the complete jury instruction is not required.

Proposed jury instructions should address the substantive law applicable to the case. Counsel need not submit jury instructions regarding procedural matters, which the Court will provide.

Proposed jury instructions must indicate their supporting authority, if they are not taken from the Sixth Circuit’s Pattern Jury Instructions, and must be numbered for reference purposes.

Requests for additional jury instructions during trial or at the conclusion of the evidence will be granted only as to those matters that could not be reasonably anticipated before trial. Copies of any such instructions must be served on opposing counsel before providing them to the Court.

## **H. Examination of Witnesses**

Counsel should generally conduct their examination of witnesses from the lectern.

In advance of trial, counsel must instruct their witnesses to answer questions with courtesy. Evasive answers, answering a question with a question, or disrespect to opposing counsel will not be permitted.

Counsel are expected to extend equal courtesy to all witnesses. Counsel shall wait until the witness has finished answering before asking the next question. Compound questions and repetitious questions will not be permitted. Counsel may not, by any action, inflection, or expression, indicate disbelief of any answer. Counsel should admonish their clients and witnesses to refrain from such conduct.

Counsel shall not shout at, ridicule, or otherwise abuse any witness.

When a party has more than one attorney, only one attorney may conduct the direct or cross-examination of a given witness. In addition, during the examination of a witness, counsel must request the Court's permission to confer with co-counsel.

Counsel may not approach a witness without first asking and obtaining the Court's permission. When permission is granted for the purpose of working with an exhibit, counsel should return to the lectern when finished with the exhibit. In most instances, the courtroom deputy will hand exhibits to the witness.

Counsel should inform the Court when their examination of a witness is complete so that the Court can advise opposing counsel to proceed.

## I. **Objections**

Counsel must stand when making an objection and must make objections directly and only to the Court, not to opposing counsel.

When objecting, counsel should rise and simply state "I object." Then, if requested by the Court, counsel should state the grounds for the objection. Objections may not be used for the purpose of making speeches, repeating testimony, attempting to guide a witness, or attempting to influence the jury.

Argument upon an objection will not be heard unless the Court requests it or otherwise gives counsel permission to provide argument. Either counsel may request a bench conference.

## J. **Exhibits**

All parties who intend to offer exhibits must mark them before trial. The Clerk of Courts can provide exhibit labels upon request. The government must label its exhibits with Arabic numbers preceded by "GOV", and the defendant shall identify the defendant's exhibits with Arabic numbers preceded by "D" (or "D2," etc.).

Counsel must provide the original and two copies of exhibits to chambers, and one copy to opposing counsel, **at least seven days** before the commencement of trial. The two copies of exhibits to the Court should be three-hole punched and placed in

notebooks or binders, along with a copy of the exhibit lists. Exhibit lists should substantially conform to [AO Form 187](#). Exhibit lists are not pleadings and should not be filed with the Clerk of Courts or served on opposing counsel.

Counsel may not approach a witness to tender an exhibit. Rather, the Courtroom Deputy will place exhibits before the witness.

In formulating a question to a witness, counsel should specify the exhibit number or designation involved so the record will be clear.

If a party introduces a previously undisclosed exhibit for the first time at trial, as in the case of exhibits used for impeachment, the exhibit first must be given to the Courtroom Deputy for marking and then shown to opposing counsel. Copies must be provided to opposing counsel, the Court, and the Court's law clerk.

#### **K. Witness Lists**

The government must submit a copy of its witness list to the Court's chambers **at least seven days** before the commencement of trial. Defendants may submit a copy of their witness list at least seven days before the commencement of trial. Witness lists are not pleadings and should not be filed or served on opposing counsel.

#### **L. Trial Briefs**

The parties may file trial briefs **at least seven days** before the commencement of trial, except upon leave of the Court. Counsel also shall serve their trial briefs on opposing counsel. Each trial brief should include a statement of facts. Counsel also should identify and argue evidentiary matters that might arise with citations to relevant legal authorities.

#### **M. Stipulations**

Stipulations must be signed by the parties' counsel and by the defendant. Stipulations shall be submitted to the Court **at least three days** before the commencement of trial, except upon leave of the Court.

#### **N. Deadlines**

Parties are reminded that all deadlines set forth in this Standing Order and in any other Order issued by this Court are firm deadlines. All deadlines shall be followed unless the parties have obtained prior approval of the Court granting an extension of time. The Court will impose sanctions, including monetary sanctions, for failure to meet these deadlines.



O. Summary of Deadlines

<b>Proposed Jury Instructions</b>	14 days before trial
<b>Witness Lists</b>	7 days before trial
<b>Exhibits &amp; Exhibit Lists</b>	7 days before trial
<b>Trial Briefs (if any)</b>	7 days before trial
<b>Stipulations (if any)</b>	3 days before trial

**SO ORDERED.**

Date: January 31, 2023



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Hon. Jeffery P. Hopkins  
United States District Judge

## APPENDIX A

### VOIR DIRE QUESTIONS BY THE COURT Criminal Trial Procedures

The Court will conduct a preliminary examination of the panel, typically using questions such as the following. After the Court completes its examination, counsel may supplement the Court's examination with questions that do not repeat, in substance, any question the Court already asked the panel.

1. I am now going to read the names of the parties and the witnesses that you may be hearing from in this case. Please listen to the list carefully as I will be asking you whether you know any of these people.
  - a. First, as I just told you, the government is represented by \_\_\_\_\_. Seated at the counsel table with \_\_\_\_\_ is \_\_\_\_\_.
  - b. At the next table is the Defendant in this case \_\_\_\_\_. He [or she] is represented by \_\_\_\_\_ of \_\_\_\_\_.
  - c. The government may call the following persons as witnesses:
  - d. The Defendant in this case may call the following persons as witnesses:
  - e. Are any of you related by blood or marriage to any of the individuals that I have just named?
  - f. Are you personally acquainted with these persons, or do you have any knowledge of them, directly or indirectly, through your social, business, or professional lives?
2. Have any of you ever heard of or been involved with any of the following entities or persons: [*List any businesses or non-witness entities that will be important in this case.*]

Are any of these names familiar to any panel member?

### 3. OUTLINE THE OFFENSE PER THE INDICTMENT OR INFORMATION

Does any panel member have prior knowledge or information about the offense(s) the defendant(s) is/are charged with, which I have just explained to you? This includes knowledge gained from personal contacts or from the media.

*Follow-up questions for any affirmative responses:*

- a. From what source did you hear about this case (newspaper, TV, radio, conversation with others)?

- b. How many times did you hear or read about it?
  - c. Do you remember specifically what you heard or read?
  - d. Did what you heard or read cause you to have any feeling concerning the merits of the parties' claims?
  - e. Did what you heard or read cause you to have a favorable or an unfavorable impression concerning the parties?
  - f. Do you today have any impression or even tentative opinion as to the probable outcome of this case?
4. Does any panel member have any personal interest of any kind in this case, or in the defendant(s)?
  5. If any panel member has served as a juror in the federal or state court—either in a civil or criminal case—and regardless of the outcome of such case(s), would your prior experience have any effect or influence on your ability to serve as a fair and impartial juror in this case?
  6. Does any panel member have any feeling – thought – inclination – premonition – prejudice – religious belief or persuasion – or bias – which might influence or interfere with your full and impartial consideration and which might influence you either in favor of or against either the defendant(s) or the government?
  7. Is there any reason in your mind why you cannot hear and consider the evidence and render a fair and impartial verdict?
  8. Can you take the law as the Court instructs you, without any reservation whatsoever, and apply the facts to the Court's instructions on the law? If you cannot do this, please hold up your hand.
  9. Do you recognize and accept the proposition that jurors are the sole judge of the facts and the Court is the sole judge of the law? If you cannot do this, please hold up your hand.
  10. If you are selected as a juror in this case, can you extend the presumption of innocence to this defendant(s); that is, can you presume the defendant(s) is/are innocent of the charge(s) unless and until guilt is established by proof which convinces you beyond a reasonable doubt? If you cannot do this, please hold up your hand.
  11. Are you—or is any member of your immediate family—a member of a law enforcement agency, i.e., municipal police, county sheriff, state highway patrol, or any federal law enforcement agency, either at the present time or in the past?

12. Does any panel member feel bias – or prejudice – because the defendant(s) has (have) been charged by indictment (information) with an offense(s) against the United States?
13. Has any panel member formed or expressed any opinion as to the guilt or innocence of the defendant(s)?
14. Does any panel member have:
  - a. Any transportation problem? For example, does anyone have difficulty getting to or from the courthouse?
  - b. Any medical or disability problems, such as difficulty hearing, walking or seeing? Does any other medical problem exist which could affect your service on the jury?
15. The Court and counsel estimate this trial will last \_\_\_\_ days. Does any panel member have any immediate family or personal reason or situation which persuades you that you cannot serve as a juror during this period and give your undivided attention to this case?
16. Finally, can any of you think of any matter that you should call to the Court's attention that may have some bearing on your qualifications as a juror, or that—even to the slightest degree—may prevent your rendering a fair and impartial verdict based solely upon the evidence and my instructions as to the law?