

**Boston Municipal Court First Revised Standing Order 12-20:  
Jury Trials During the Exigent Circumstances Created by the COVID-19  
Pandemic**

As Chief Justice of the Boston Municipal Court Department, I issue the following Standing Order regarding jury trials held in the Boston Municipal Court Department (the “BMC”) during the COVID-19 pandemic pursuant to my authority under G.L. c. 211, § 10, G.L. c. 218, § 38, and G.L. c. 220, § 5, as well as the Supreme Judicial Court’s Fifth Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic (issued February 24, 2021, effective March 1, 2021) (SJC’s Fifth Updated Order). This Standing Order is effective March 1, 2021, and shall repeal and replace BMC Standing Order 12-20, which was issued and took effect on October 15, 2020. This Order shall remain in effect until further order of the court.

It is hereby ORDERED, effective March 1, 2021:

- I. Commencement of Phase 2 Jury Trials: In accordance with the SJC’s Fifth Updated Order, beginning on March 1, 2021, Phase 2 jury trials as detailed in the SJC’s Fifth Updated Order and the Jury Management Advisory Committee (“JMAC”) Report and Recommendations on the Resumption of Jury Trials (July 31, 2020) shall commence in the Boston Municipal Court.
  - A. Location of Trials During Phase 2: During Phase 2, all Divisions of the Boston Municipal Court (the “Divisions”) shall continue to hold jury trials in the Edward W. Brooke Courthouse, 24 New Chardon Street, Boston, MA 02114. The Chief Justice will assign each Division to a designated day during which the Division will hold jury trials in accordance with the days assigned to the Boston Municipal Court.
  - B. Eligible Cases: Both criminal and civil cases will be eligible for jury trials during Phase 2. Priority will be given to criminal cases in which the defendant is in custody.
  - C. Identification of Eligible Cases: Each Division’s First Justice or his or her designee, shall identify each Division’s cases to be scheduled for trial in Phase 2, in consultation with the Division’s Clerk-Magistrate.<sup>1</sup>

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<sup>1</sup> Cases from the Charlestown, East Boston and South Boston Divisions that have been sent to the Central Division for a jury trial shall be scheduled for a jury trial by the Central Division.

D. Trial Readiness Conference: During Phase 2, cases presently scheduled for a jury trial or that are awaiting the availability of a jury trial shall be scheduled for a Trial Readiness Conference to confirm trial readiness to the extent possible. At this hearing, a judge shall conduct an in-depth conference with the parties to address all potential pre-trial matters. If the judge at the TRC determines that the case is ready for trial, the court shall assign the case to a COVID Jury Status list or, if the case involves a criminal defendant in custody, a COVID Jury Status Custody list. If a case is assigned to the COVID Jury Status list it need not be scheduled for a further court date, unless the case involves a criminal defendant who is in custody. If the judge at the TRC determines that a case is not jury trial ready, it shall be scheduled for the next event that will allow the case to proceed forward. Specifically, the following shall be among the issues addressed at the Trial Readiness Conference:

- i. All discovery is complete;
- ii. All motions have been resolved;
- iii. All efforts to resolve the matter have been discussed;
- iv. All witnesses have been contacted and availability confirmed;
- v. The nature of the case does not necessitate a large venire;
- vi. The number of interpreters needed; and
- vii. The date, time and location of the jury trial has been confirmed with the parties and their respective clients.

E. Prioritization: Cases in Phase 2 will be assigned a jury trial date by the court. Factors to be considered in scheduling a case for a jury trial include, but are not limited to:

- i. Any prioritization based on an applicable statute or court rule;
- ii. The age of the case;
- iii. The seriousness of any criminal offense(s) charged ;
- iv. Length of time a criminal defendant has been held in custody;
- v. Any order related to speedy trial issues;

- vi. Whether the case involves allegations of abuse as defined by G.L. c. 209A;
- vii. Whether the defendant is charged with a criminal offense under G.L. c. 90 that is alleged to have caused death or serious bodily injury;
- viii. Any objections to a continuance of a trial date prior to Phase 1 jury trials;
- ix. Whether and when a trial of the case has begun and concluded with a mistrial;
- x. Whether a person whose health or medical condition warrants special consideration is an alleged victim or necessary witness;
- xi. Whether a criminal defendant is subject to pre-trial conditions that impose substantial constraints on the defendant's liberty;
- xii. The anticipated length of the trial, number of possible witnesses, and any potential to minimize necessary length by the use of stipulations or videoconference testimony for some witness; and
- xiii. For civil cases, the claims involved.

F. Post-Trial Conference: At the conclusion of each jury trial, the presiding justice shall engage in a discussion by videoconference or in-person with the trial participants, including attorneys, court officers, and clerks, to elicit their feedback on trial procedures with respect to COVID-19 safety protocols. The judge shall use the Discussion Guide provided by the Jury Management Advisory Committee to facilitate the conference. Once completed, the Guide shall be submitted to the Administrative Office of the BMC.

II. Scheduling of Jury Trials in Phase 3: In anticipation of the availability of additional jury trial locations in Phase 3, all Divisions shall begin to evaluate the readiness of all pending cases that are ready for a jury trial according to the following protocol.


A. Trial Readiness Conference: All cases presently scheduled for a jury trial or that are awaiting the availability of a jury trial shall first be scheduled for a Trial Readiness Conference (TRC) event, regardless of the event the case is currently scheduled for. At the TRC, which shall be conducted virtually in the court in which the case is pending, unless

the judge presiding judge determines that conducting a TRC virtually is impracticable, the judge shall determine whether the case is ready for trial based on the factors listed in Section I.D. above. If the judge at the TRC determines that the case is ready for trial, the court shall assign the case to a COVID Jury Status list or, if the case involves a criminal defendant in custody, a COVID Jury Status Custody list, and shall not assign the case a jury trial date. If a case is assigned to the COVID Jury Status list it need not be scheduled for a further court date, unless the case involves a criminal defendant who is in custody.<sup>2</sup> Once Phase 3 jury trials are permitted to proceed, cases will then be assigned a jury trial date by the court. If the judge at the TRC determines that a case is not jury trial ready, it shall be scheduled for the next event that will allow the case to proceed forward.

- B. Prioritization: Cases will be scheduled for jury trial in Phase 3 from the COVID Jury Status lists considering, but not limited to, the factors described in Section I.E. of this Order.

Any deviation from this Order must be sought from the Chief Justice of the Boston Municipal Court Department.

This Standing Order shall be posted on the judiciary's "Court System Response to COVID-19" mass.gov webpage, which is located at <https://www.mass.gov/guides/court-system-response-to-covid-19>.



Hon. Roberto Ronquillo, Jr.  
Chief Justice, Boston Municipal Court Department  
Promulgated: February 27, 2020

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<sup>2</sup> Criminal defendants in custody whose cases have been determined to be jury trial ready after a Trial Readiness Conference shall be brought back before the court every 30 days as required by G.L. c. 276, § 35.