

BRISTOL COUNTY SUPERIOR COURT
CRIMINAL SESSIONS PROTOCOL

(Updated January 7, 2019)

The Superior Court in Bristol County operates four criminal sessions at the Fall River Justice Center, 186 South Main Street, 5th Floor, in Fall River. Beginning in May, 2019, the court expects to also operate a mixed civil/criminal session at 40 Broadway in Taunton. The following protocols apply to the handling of criminal business.

1. First Criminal Session – Hours of Operation

The First Criminal Session handles all pretrial matters, except as otherwise noted herein. The First Session is held in court room 8, which is shared with the District Court. The First Session shall commence each day at 11:00 A.M. or as soon thereafter as the District Court Session ends.

While the District Court is in session, the District Attorney's Office shall have a staff member stationed outside court room 8 to advise counsel and members of the public that the room is still in use by the District Court and that the Superior Court Session shall commence as soon as the District Court adjourns.

2. First Criminal Session – Scheduling

To ensure the orderly processing of business, the First Session Judge, in consultation with the Regional Administrative Justice, shall from time to time set a cap on the number of cases scheduled for hearing each day. The number of dangerousness hearings and probation surrender hearings scheduled each day shall be limited to a manageable number, in compliance with time limits required by the dangerousness statute, G.L. c. 276, § 58A, and Superior Court Probation Guidelines. The cap shall not apply to bail hearings, bail revocation hearings, other detention hearings, warrant requests, appearance/appointment of counsel dates and emergency matters.

To keep the daily list manageable, cases shall normally be placed on the list only for actual hearings. Status conferences, motion filing dates and other dates where no judicial involvement is anticipated shall normally be treated as out-of-court deadlines and shall not be placed on the daily list.

3. First Criminal Session – Transfer of Cases to Trial Sessions

Motions to suppress, motions to dismiss and dangerousness hearings may be transferred for hearing by the First Session Judge to any trial session that is then available.

4. First Criminal Session – Bail Reviews

Bail reviews shall normally be heard in the First Session at 2:00 P.M. each day. Bail reviews for defendants then in custody shall normally be heard by video-conference, in

compliance with the Trial Court Policy and Protocols for Videoconferencing. In cases where the defendant is held at the Bristol County Jail, defense attorneys may consult with their clients by telephone prior to the hearing by calling the Sheriff's video-conferencing coordinator, Kenneth Souza, after 1:00 P.M. on the day of hearing, at (508) 995-6400 ext. 2315. In cases of defendants held in custody outside Bristol County, defense attorneys may consult with the Clerk to determine how they may consult with their clients for purposes of the hearing.

5. First Criminal Session – Modification of Conditions of Probation/Release

Defendants who are on probation or pretrial conditions of release and who seek a minor adjustment of the conditions imposed by the court (such as an adjustment of hours of employment or performing community service in lieu of fees, etc.) may request that the court take action administratively, without a hearing. The defendant shall file a written motion explaining the need for the change. (Motion forms are available to pro se defendants at the Probation Department.) The Probation Officer shall indicate on the motion whether the defendant is in compliance with conditions and whether the Probation Department objects to the change. The motion shall be filed with the Clerk, who shall determine whether the District Attorney's Office has any objection to the change. If there are no objections, the court may rule on the motion without a hearing. The judge always retains discretion to hold a hearing.

Where a judge has retained jurisdiction of a probation matter, such as a surrender proceeding, the matter may be heard wherever the judge is then sitting, including the sessions in New Bedford and Taunton.

6. Trial Sessions – Hours of Operation

Trial sessions shall normally hold trials from 9:00 A.M. to 4:00 P.M. Mondays through Thursdays. Final pretrial conferences, guilty pleas, motions and other non-trial matters shall normally be heard on Fridays. In addition, the First Session Judge may assign motions to suppress and any other matters that involve lengthy evidentiary hearings to trial sessions in Fall River on Fridays and to the trial session in Taunton, as the court's schedule may permit.

7. Trial Sessions – Readiness for Trial

When a case is assigned for trial, the court expects that all pretrial matters will have been completed, including compliance with discovery obligations, and that all motions to suppress and to dismiss shall have been filed and heard. Cases will not normally be transferred from a trial session back to the First Session after a trial date has been set. Absent good cause for failure to comply with deadlines required under Mass. R. Crim. P. 13 & 14, a trial judge may impose sanctions, including the exclusion of evidence and the denial of late-filed motions, as may be appropriate to ensure that cases are tried in a timely manner.

Cases that are not reached for trial in the session to which they are assigned may be transferred for trial to any other trial session that is available. Parties should not assume that if they are not reached when scheduled in their assigned session, the case will be continued.

8. Trial Sessions – Continuances of Trials

Motions to continue trial dates must be in writing and be based on good cause, as required by Mass. R. Crim. P. 10. Except in extraordinary circumstances, such motions should be filed and heard no later than the final pretrial conference.

9. Trial Sessions – Requests for Priority

Each month, the District Attorney's Office may file a list of trials it contends should be given priority. The list shall be filed with the clerk and available for public inspection. The list shall also be distributed to judges in the trial sessions for their consideration in setting priorities. However, the court retains the authority to establish the order in which cases are tried.

10. Transportation of Defendants in Custody

Defendants have a right to be present at all "critical stages" of criminal proceedings but need not be present "at any proceeding where evidence is not to be taken." Mass. R. Crim. P. 18(a). In order to protect the rights of defendants in custody, while not overburdening the Security Department, the court protocol is to issue writs of habeas corpus for a defendant's presence for arraignments, pre-trial hearings (if requested by defense counsel), motions to suppress and dismiss, other motions where evidence is to be taken, plea hearings (where counsel has indicated the defendant has agreed to plead guilty) and trials. Unless a judge otherwise orders, detainees will not be brought to court for pretrial conferences, motions where evidence will not be taken (such as discovery motions, motions for joinder or severance, Rule 17 motions and motions for a continuance), plea offer dates and final pretrial conferences.

11. Grand Jury Matters

The grand jury shall normally be empanelled in a trial session. Ordinarily, the empanelment shall take place in the Fourth Criminal Session since that session has the largest courtroom. Grand jury matters that arise after empanelment shall be heard in the First Session, unless transferred by the judge of that session to another available session.

12. RAJ Meetings

The Regional Administrative Justice ordinarily holds meetings on the first and third Fridays of each month, at 8:30 A.M., attended by representatives of the Clerk's Office, the Probation Department, the Security Department, the District Attorney's Office, the Committee for Public Counsel Services and the Bristol County Bar Advocates, for the purpose of addressing issues that may affect the functioning of the criminal sessions. Any person who has an issue that would be appropriate for discussion by this group may raise it by contacting the clerk's office.