

# **CRIMINAL CASE MANAGEMENT PROTOCOL FOR PLYMOUTH COUNTY SUPERIOR COURT**

**Effective January 7, 2019**

Members of the Bar can expect the following criminal case management practices to be enforced by judges sitting in the criminal sessions of the Superior Court in Plymouth County. The purpose of these practices is to resolve cases, either by plea or by trial, in a timely and efficient manner to better serve the community with dignity and speed.

In Plymouth County, we have four dedicated criminal sessions: two in Brockton and two in Plymouth. The sessions are designated and located as follows:

## **Brockton (72 Belmont Street)**

1<sup>st</sup> Criminal Session - All initial appearances will be held in this session.

2<sup>nd</sup> Criminal Trial Session – This is a dedicated trial session for certain designated cases originating in Brockton.

## **Plymouth (52 Obery Street)**

3<sup>rd</sup> Criminal Trial Session – This is a dedicated trial session for cases from both Brockton and the rest of Plymouth County.

4<sup>th</sup> Criminal Session - This is a dedicated trial session for cases from both Brockton and the rest of Plymouth County, as well as a session for trial conferences to be held in the afternoon.

### **1. First Session Call of the List**

The call of the list in the 1<sup>st</sup> Criminal Session will commence at 9:30 a.m., in order to allow the jury pool's use of the courtroom to view the Trial Court orientation video for jurors.

## **2. Pre-Trial Conferences**

Cases originating in Brockton, the Bridgewater, Whitman, Abington, Rockland, Hanover, Norwell, Hingham, Hull and Scituate will remain in the Brockton 1<sup>st</sup> Criminal Session for Pre-Trial. Thereafter, all non-Brockton cases and certain designated Brockton cases will be scheduled for pre-trial hearings in the Plymouth 4<sup>th</sup> Criminal Session. Upon request and in appropriate cases, defendant's presence may be waived. Additionally, parties may request to conduct the hearing by means of telephone or video conference to be held on the record.

## **3. Pre-Trial Hearings**

All cases designated to be tried in Brockton will have pre-trial hearings in the 1<sup>st</sup> Criminal Session. All cases designated to be tried in Plymouth will be scheduled for a pre-trial hearing at 2:00 p.m. in the 4<sup>th</sup> Criminal Session in Plymouth on a mutually convenient date. The defendant's presence is required for the scheduling of a future trial date, unless a special request to waive the defendant's presence is timely made. Additionally, parties may request to conduct the hearing by means of telephone or video conference to be held on the record.

## **4. Meaningful Hearing Dates**

As a general matter, cases will be scheduled only for meaningful hearings, i.e. hearings at which a judge must decide an issue or take some action. Status dates will be reserved for cases in which the parties are awaiting a court ruling on a pending motion. Unless good cause is shown, any motion for a continuance shall be filed at least one business day prior to the scheduled hearing date. Failure to appear for a hearing, without moving for and obtaining a continuance, may result in the court taking action in the absence of the non-appearing party.

## **5. Bail Reviews**

Superior Court review of District Court bail determinations pursuant to G.L. c. 276, § 58 and § 58A, normally will be scheduled for hearing at 2:00 p.m. in the 4<sup>th</sup> Criminal Session in Plymouth. Bail reviews might evidentially be conducted by video-conferencing.

**6. Discovery Motions**

As provided in Mass. R. Crim. P. 13(d)(1), all discovery motions must be filed by the time of the pre-trial hearing. Parties should expect that discovery will be closed once the court takes action on any discovery motions. Any late-filed discovery motion must be accompanied by an affidavit establishing good cause as defined in the rule.

**7. Motions to Suppress and Motions to Dismiss**

As provided in Mass. R. Crim. P. 13(d)(2), non-discovery motions, such as motions to suppress evidence and motions to dismiss, must be filed no later than 21 days following assignment of a trial date, unless the court directs otherwise.

**8. Marking of Motions for Hearing**

As provided in Mass. R. Crim. P. 13(e)(3), a party may request a hearing date for a motion from the Clerk's Office at the time the motion is filed. All opposing parties should be consulted beforehand in an attempt to agree on a mutually convenient date.

**9. Plea Discussions**

Counsel for the parties have the responsibility to confer to determine whether a case can be resolved without a trial. If counsel have not conferred by the time of the pre-trial conference, the presiding judge may schedule a case for a "Lobby Conference" or for a possible "Disposition." At that hearing, the Commonwealth is required to inform defense counsel of the disposition it considers to be fair and just. Defense counsel must communicate that offer to the defendant and inform the Commonwealth and the court of the defendant's decision to accept the offer, to continue discussions regarding a possible resolution, or to go to trial. If the defendant intends to plead guilty, the parties should notify the Probation Department to ensure that the defendant's CARI and the applicable sentencing guidelines are provided to the judge prior to the time of the plea. The Probation Department is expected to be available to report on the defendant's compliance with any conditions of release.

## **10. Trial Dates**

In accordance with Mass. R. Crim. P. 11(b)(2)(iii), the parties should expect that a trial date normally will be set at the pre-trial hearing. A final pre-trial conference will also be scheduled in the relevant trial session one to three weeks prior to the assigned trial date.

## **11. Cases Assigned to Plymouth Trial Sessions**

The 1<sup>st</sup> Criminal Session judge may assign all cases outside of Brockton to the 3<sup>rd</sup> or 4<sup>th</sup> Criminal Sessions in Plymouth at any time. Normally, this will take place after arraignment. Once a case is assigned to a Plymouth trial session, it will remain there for all purposes, including any hearings on discovery motions or dispositive motions. Any motion to continue the trial date, must be filed in the 4<sup>th</sup> Criminal Session. Trials will not be continued or canceled without the assignment of a new trial date.

## **12. Cases Assigned to the Brockton Trial Session**

All pretrial matters in cases assigned to Brockton will be handled in the 1<sup>st</sup> Criminal Session, with the exception of final pre-trial conferences. Once the case is assigned to the Brockton 2<sup>nd</sup> Criminal Trial Session, it will remain in that session with an assigned trial date. Trials will not be continued or canceled without the assignment of a new trial date. Any motions to continue must be filed in the 2<sup>nd</sup> Criminal Trial session.

## **13. Motions to Transfer Venue**

In unique circumstances, a party may file a motion to transfer a case that is assigned to the 2<sup>nd</sup> Criminal Trial Session in Brockton to a trial session in Plymouth, or to transfer a case that is assigned to a trial session in Plymouth to the 2<sup>nd</sup> Criminal Trial Session in Brockton. Such motions will be allowed only in rare circumstances and for good cause shown. These motions must be filed in the session that the case is assigned for trial.