

JURY MANAGEMENT ADVISORY COMMITTEE

Report and Recommendations to the Justices of the Supreme Judicial Court on Phase 2 of the Resumption of Jury Trials in the Context of the COVID-19 Pandemic

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INTRODUCTION

Pursuant to the Supreme Judicial Court's (SJC) Sixth Updated Order Regarding Court Operations under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic dated April 15, 2021, effective May 1, 2021 (Sixth Order), Massachusetts courts completed Phase 2 of the gradual resumption of jury trials on April 30, 2021, and began Phase 3 on May 3, 2021. Phase 3 allows for the impanelment of juries of twelve, plus alternates, and continues to prioritize those criminal and sexually dangerous person cases in which the individual on trial is in custody; it also permits multiple impanelments in a courthouse on the same day.¹ Juries of six, plus alternates, continue in the Boston Municipal Court, the District Court, and the Juvenile Court, as well as by agreement for criminal cases in the Superior Court and youthful offender cases in Juvenile Court, and by order in civil cases in Superior and Housing Court. "Jury trials during Phase 3 should be conducted in general accordance with, and in courthouses and satellite court locations that support, the health and safety practices recommended by the JMAC (Jury Management Advisory Committee) in its reports." Sixth Order, par. 8. This phase will continue until further order of the SJC with adjustments as necessitated by "the ongoing effort to balance the safety of everyone who enters a courthouse with the fundamental constitutional right to a trial by jury." *Id.*

The JMAC offers this report on the lessons learned in the jury trials conducted in Phase 2 of the gradual resumption of jury trials in the Commonwealth, and issues still being addressed.

¹ This is a modified version of the Phase 3 described in The Jury Management Advisory Committee's Report and Recommendations to the Justices of the Supreme Judicial Court on the Resumption of Jury Trials in the Context of the COVID-19 Pandemic, dated July 31, 2020 (the Report).

SUMMARY OF OBJECTIVES ACHIEVED AND ONGOING CHALLENGES TO DATE

Overview of Phase 2 Jury Trial Data. Fifty-three jury trials were impaneled in Massachusetts state courts during Phase 2, as follows: five in Juvenile Court, eleven in the Boston Municipal Court (“BMC”), seventeen in the District Court, and twenty in the Superior Court.² Almost all of these cases were tried to a verdict, although three criminal cases in the Superior court resulted in guilty pleas after impanelment, as did one in the District court.³ In addition, one Superior Court civil case settled during the trial.⁴ All of the cases impaneled a six-person jury with alternates. The majority involved criminal matters, but one in the BMC, and twelve in the Superior Court, consisted of civil cases. All of the criminal defendants in the Superior Court trials were in custody, except for one.⁵ One of the District Court criminal defendants was in custody. The following incorporates feedback provided by the trial judges on the impanelment and trial process in Phase 2.⁶

² See Appendix 1 for specific locations, dates, docket numbers, case names, and disposition.

³ Docket #s 1977CR00069, 1977CR00514, 1879CR256, and 1918CR003761, respectively.

⁴ Docket # 1881CV2712.

⁵ Docket # 1879CR256.

⁶ See Appendix 2 for a numerical summary of input received through post trial questionnaires completed by trial judges in Phase 2. The text of this report reflects representative comments from the judges.

OBJECTIVES ACHIEVED

OJC Communication to Jurors. The Jury Management Advisory Committee Report and Recommendations to the Justices of the Supreme Judicial Court on the Resumption of Jury Trials in the Context of the COVID-19 Pandemic, submitted July 31, 2020 (the JMAC Report) recommended revisions to juror summonses, notices, and response forms. The Office of Jury Commissioner (OJC) undertook several measures to address these recommendations. The OJC created a public service video, posted on the website, which disseminates information on COVID-19 safety protocols for prospective jurors arriving in courthouses. The OJC modified the on-line registration process for jurors to include COVID-19 related screening questions, and emphasized the option for potential jurors to provide an electronic mail address by which to receive future OJC communications. The OJC also mailed hard copy communications containing the same information to all jurors who did not supply an email address. The OJC also asked all jurors to re-confirm (preferably by email, but by phone if necessary) their intention to appear, which allowed the OJC to gather more juror email addresses. OJC staff maintains a telephonic presence to answer questions about deferral and disqualification. The information provided to prospective jurors during COVID-19 has been the subject of recent requests from the Committee for Public Counsel Services and others. In response to such requests, the OJC has created a page on its website providing public access to this information.

Excusal by Jury Commissioner. The Jury Commissioner has not yet had occasion to exercise the discretionary authority delegated to her to excuse jurors on their request based on identified vulnerability of the juror or a household member or other circumstances related to COVID-19. Potential jurors who have contacted the OJC with such concerns have all been able

to address those concerns through deferral or request for disqualification (e.g., over age 70; medical disqualification). Several judges who presided over Phase 1 and 2 jury trials have credited this procedure with jury venires needing few excusals due to circumstances related to COVID-19.

Social Distance and Safety Precautions in the Courthouses. Court personnel have acted conscientiously and diligently to ensure social distancing and adherence to safety protocols when leading jurors through our courthouses. The screening procedure upon entry, including COVID-19 related questions and the taking of temperatures, has continued successfully to identify individual jurors who risk exposing others to COVID-19 and must be denied entry. The installation of hand sanitizing dispensers throughout the courthouses, and the posting of signage as to occupancy limits and directional use of staircases and hallways, remain useful tools. These measures have represented a significant investment of time and planning by all involved. Juror feedback has reflected that such measures have been noticed and appreciated, and have promoted confidence in the court system.

The comments of judges presiding over jury trials in Phase 2 also reflect this positive assessment of safety precautions. The judges awarded an average score of 8.9 out of a possible 10 for each of the ten different areas delineated in post-trial questionnaires in use since Phase 1 (e.g., Overall Compliance with Risk Reduction Protocols, Courtroom and Courthouse Cleaning, Courtroom Set-Up, COVID-19 Specific Trial Procedures, etc.).

Specifically, the judges who commented had high praise for the court officers' oversight of safe juror movement despite the recognized need for constant vigilance as to "bunching" (jurors' tendency to gather in close proximity when passing through doorways, moving through

the courthouse as a group, and the like). Likewise, the judges uniformly concluded that the novel arrangements of our courtrooms achieved the goal of physical distancing, in some instances with adjustments to address visibility and acoustical issues.

Approval by the Trial Court of Identified Courthouses to Host Jury Pools. The Trial Court has contracted with Tighe & Bond, an engineering and environmental consulting firm, to evaluate the HVAC systems in Massachusetts courthouses and provide an assessment of system functionality and compliance with COVID-19 safety standards. Tighe & Bond conducts an initial assessment and makes recommendations for any additional steps needed to achieve intended system functionality. After the Trial Court makes any necessary adjustments, testing and balancing is conducted in each courthouse to confirm appropriate levels of cubic feet per minute of airflow per person (cfm/p). Reports on each courthouse are posted online at <https://www.mass.gov/info-details/courthouse-hvac-system-evaluations> as they become available.⁷

Public Access. Public access to jury trials has been achieved in-person and through various virtual means. Judges conducting jury trials have reported no known instances of denial of entry to individuals asking to observe jury trials. Observers have been permitted to sit in designated socially distant gallery seats.

In the recent decision of *Vazquez Diaz v. Commonwealth*, 487 Mass. 336 (2021), the SJC examined, among other issues, whether a virtual hearing constitutes a closure of the courtroom. The court ruled that where there is public access through a Zoom link or designated phone line,

⁷ Appendix 3 lists courthouses and off-site locations that have been approved for jury trials as of this writing, as well as the evaluation status of all other jury courthouses.

there is no intentional barring of the public from the courtroom. The denial of physical access is only a de minimis closure – one that is “so limited in scope or duration that it is not constitutionally relevant.” *Vazquez Diaz*, 487 Mass. at 352. Further, reducing risk of transmission of the COVID-19 virus is sufficient justification for limiting in-person access. *Id.* at 353.

For certain jury trials in Phase 2, the courts used a private YouTube channel to live-stream the trial, providing the YouTube channel access information to the parties to disseminate to persons who wished to observe, and also to certain Trial Court employees for professional development purposes. Concerns over potential harassment of vulnerable victims or witnesses and the surreptitious recording of a YouTube stream has precluded broader use of this technology to date. The use of Zoom video conference technology, with a Zoom meeting ID posted on the courthouse doors and disseminated through the Clerk’s Office, remains an option for public access, but generates similar concerns in certain cases. Although the court is able to deactivate the recording feature on Zoom, and notify participants that recording is prohibited, the ability of observers to record the Zoom video conference using their own devices requires consideration in making this option available to the public. The use of such video access has required the purchasing and installation of additional cameras.

Some trials have involved the use of both video conference and an additional overflow space within the courthouse. At least one courthouse has used this arrangement to conduct the group stage of jury voir dire with a large venire, with the judge, counsel, and some jurors in one room, while other jurors are in another room. Public access at trial can be provided using Zoom

transmission to screens in additional large spaces within the courthouse, such as a secondary courtroom or a large jury pool room, where such spaces are available.

Public access by means of the “bridge line,” which is an open telephone line placed on speaker mode, has functioned with varying degrees of success in various courts. The Boston Municipal Court, District Court, and Superior Court have all used the bridge line as one means of providing public access. Use of the bridge line during jury trials, however, has raised concerns over observers hearing both too little and too much. Listeners may have difficulty hearing what is happening in the courtroom, due to the placement and limitations of the telephone. Additionally, there is no method by which attorney-client interactions happening during the course of trial, if they are audible in the courtroom, can be muted on the bridge line without muting the entire courtroom.

Model Instructions. Model jury instructions for use during COVID-19 have been created by the Superior Court Model Jury Instructions Committee and have been adapted for use in the Boston Municipal Court, District Court, and Juvenile Court. Most of the trial judges used these successfully, often tailoring the instructions to fit the needs of the case.⁸

Jury Trial Checklist. Working from a template originally created by the Middlesex County Clerk’s Office, the JMAC has developed a checklist of tasks to be completed and issues to be addressed by the court prior to holding a jury trial.⁹ Areas covered include Communication and Outreach, Preparation of the Building, Personal Protective Equipment, Public Access, and

⁸ Judges have commented that using the COVID-19 models at multiple stages, such as impanelment, precharge and final instructions, could render them overly repetitive. Some have offered suggestions to condense them.

⁹ See Appendix 4.

Miscellaneous (e.g., cleaning of witness stand, food for jurors, exhibits, etc.). While courts have been very conscientious in their preparation for jury trials and their treatment of jurors, consistent and repeated communication on these issues is necessary as more and more courts, judges, and jury pool officers resume conducting jury trials after a period of many months. We hope this checklist will assist in this process.

CONTINUING CHALLENGES

Allowing Mask Removal During Trial. The courts have seen positive responses to universal mask use. Nevertheless, judges in Phase 2 have received escalating requests to allow jury trial participants to remove masks at various stages of the trial.¹⁰ Acting on these requests requires balancing constitutional and advocacy interests against public health considerations. The JMAC Report recommended that witnesses should be allowed to remove masks while testifying in the witness stand behind plexiglass with an air purifier nearby. Potential jurors during individual voir dire have the status of witnesses, and accordingly also may be permitted to remove their masks while answering questions from behind plexiglass. Mask removal in these instances serves to facilitate credibility assessments. The JMAC Report also recommended that the judge in each case should be authorized to make other exceptions to mask use upon a finding of substantial necessity. The JMAC Report advised judges in such instances to require the use of

¹⁰ The post-trial questionnaires indicate divergent responses to these requests in Phase 2.

alternative means of protection, such as distance from any other person substantially greater than six feet and/or plexiglass enclosure.¹¹

In the case of witnesses, including potential jurors during individual voir dire, due process and the confrontation clause weigh in favor of mask removal. Due process concerns may also require that a defendant, juvenile, and attorneys be permitted to remove their masks briefly, without speaking, to allow prospective jurors to identify any potential conflict. Similarly, it may be necessary for the Court to allow a defendant or juvenile to remove a mask if identification is a live issue at trial.

In contrast, it is the recommendation of the JMAC that mask removal in other instances should be prohibited, and that prohibition consistently enforced, until such time as public health recommendations regarding mask-wearing may change. This recommendation is consistent with current Trial Court policy, as well as with current OJC communications to prospective jurors in advance of their service, representing that all participants will be masked except witnesses while testifying and jurors during individual voir dire. Trial Court approval of courthouses and off-site locations to host jurors has also been premised on consistent mask-wearing, with these narrow exceptions.

In contrast to witness testimony, lawyers' questions, opening statements, and closing arguments are not evidence. Accordingly, lawyers' desire to make these presentations without masks, or to see jurors without masks to gauge their reactions, do not raise due process concerns, and do not outweigh public health and safety considerations as reflected in Trial Court policies.

¹¹ JMAC recommended these alternative means of protection for witnesses and anyone else permitted to speak at trial without a mask, based on consultation with healthy building expert Dr. Joseph Gardner Allen.

Judges should also remain masked throughout the trial, including while instructing the jurors.

On this point, courts should place a high value on consistency in all trials.

Tangible Exhibits. The JMAC Report recommended that tangible exhibits should be avoided in favor of photographs and testimony, so as to avoid risk of transmission through touching of exhibits.¹² This recommendation remains. Although recent guidance from the Centers for Disease Control indicates that the risk of transmission through physical contact with tangible objects may be lower than originally posited, passing of objects through multiple hands still poses some risk, and may impair distancing. These risks continue to weigh in favor of alternatives to physical evidence. Additionally, as venues for jury trials are expanded to off-site locations, concerns arise over the secure storage of evidence, including narcotics and firearms, in non-courthouse facilities, and the transportation of such items between the off-site location and the courthouse. A general policy of avoidance of tangible exhibits will assist with this challenge. Such a policy should be subject to exception upon a judicial determination that admission of a particular tangible exhibit is necessary in a particular case.¹³

¹² The model for a policy of avoiding physical evidence is the Trial Court's policy prohibiting the bringing of fentanyl into courthouses. See <https://www.mass.gov/advisory/trial-court-safety-advisory-and-protocols-for-fentanyl-and-carfentanil>. Although attorneys initially raised concerns about that policy, they have adapted to the use of photographs and testimony to prove the appearance and nature of substances identified as fentanyl, and trials of charges involving fentanyl have proceeded smoothly. A similar approach appears likely to suffice for most items in most cases, although judges should retain discretion to determine that admission of a tangible object is necessary in a particular case.

¹³ Storage of evidence, especially narcotics and firearms, has been a longstanding challenge in Massachusetts courts, which the Trial Court has addressed by adoption of a policy directing that certain items be returned to police after trial. See <https://www.mass.gov/doc/massachusetts-trial-court-policy-on-retaining-and-transferring-exhibits-after-criminal-trials/download>. That policy would not address the challenge of storage and transportation during a trial held in an off-site location. The United States District Court for the District of Massachusetts has eliminated the problem of evidence storage through its Local Rule 79.1(a)(1), which provides:

(a) Custody. (1) Unless otherwise ordered by the court, all exhibits marked in evidence or for identification shall remain in the custody of the party that introduced them. Exhibits shall be preserved in the form in

Electronic Sharing of Exhibits. The Trial Court Virtual Evidence Committee has been collaborating with the Judicial Information Services Department to develop a protocol for use of file-sharing software to transmit and store digital evidence electronically during trial. The Virtual Evidence Committee currently is identifying secure software for this purpose. The District Court and Superior Court have used electronic mail to allow litigants to submit exhibits electronically to the court in advance of bench trials held by video conference, although in cases with voluminous exhibits, courts have directed litigants to mail or otherwise submit paper copies. The Trial Court departments continue to explore ways to adapt such options to jury trials. Superior Court jury trials have used individual exhibit books, each touched by only one juror, and have also used ELMO document projectors.

Cleaning the Courtroom During Trial. The JMAC Report recommended that when witnesses testify in person, court personnel should disinfect the witness stand and surrounding area after each witness, in the presence of the jury. Although jurors have found this process reassuring, it has staffing implications for the Trial Court Facilities Department and has been difficult to employ consistently.¹⁴ As noted above, recent CDC guidance suggests that the risk of transmission through contact with surfaces is lower than previously thought.

Juror Lunches. While the courts have provided for safe recess and deliberation spaces for jurors, the issue of how to provide jurors with a safe lunch hour persists. Jurors who sit on

which they were offered until the proceeding is finally concluded. The party having custody shall make the exhibits available to all parties.

¹⁴ The trial judges report a variety of approaches to cleaning. Some locations employed court officers or facilities personnel to wipe surfaces between witnesses, while at least one lessor of a leased location supplied a person to do so. Other courts did not clean surfaces between witnesses, relying instead on regular daily cleaning. Still other commenters stated that attorneys or witnesses themselves cleaned surfaces after individual witnesses testified.

full-day trials and those who are deliberating need both lunch and a location in which they can safely eat it. Many courthouses have made use of unused courtrooms and other locations, such as jury pool and deliberation rooms, to allow jurors to spread out in different rooms while they eat. Jurors who are not deliberating may be released for lunch, but release into the courthouse community to acquire lunch may raise other health risks. The option to eat in their car or other outdoor space depends on whether jurors drove to the courthouse and on weather. The issue was largely avoided during Phase 1 as most District Court jury trials concluded to verdict prior to lunch time. This issue continues to require attention and tailored solutions, including the option of half-day sittings during deliberation where security considerations permit.¹⁵

Courtroom Set Up. The Trial Court Facilities Department has worked with courthouses designated by the Trial Court to prepare at least one courtroom, jury pool room, and deliberation room in each location equipped for social distance and with plexiglass. As trials have been underway, judges have reported sightline and auditory obstacles created by socially distant seating and plexiglass in some locations. Court personnel have made modifications to these layouts after experiences in certain trials. Juror feedback identified a concern about the spaces between seats in the jury pool room in one courthouse. In response to this concern, court personnel made the necessary adjustments. It remains important for the presiding judge to review the jury pool room and courtroom in advance of trial, determine that six feet of social distance will be maintained, and that witnesses and potential jurors in the process of individual voir dire will be enclosed in plexiglass.

¹⁵ Judges' comments in Phase 2 show marked improvement over Phase 1 in addressing jurors' safety at lunch mainly through the use of larger venues for this purpose, with assigned seating.

Sidebar Conferences and Attorney Client Communication. The JMAC Report noted that the necessity of physical distance precludes sidebar conferences. The Report recommended that any necessary consultation between the judge and counsel will have to occur before the jury convenes or during recesses. In its September 1, 2020, response to public comments, the JMAC indicated it would explore the possibility of a closed-circuit two-way audio system. Feedback from judges presiding over jury trials in both Phase 1 and Phase 2 reflects that sidebar conferences continue to raise concerns, as it is difficult to maintain social distance while hearing the participants in certain courthouses. Many judges who attempted these in the pre-pandemic fashion, did so by simply increasing distance between attorneys and/or repositioning themselves, although this method presented separate challenges in preserving the record. Those who left the courtroom with counsel to record the conferences in another location noted an even greater interruption in the process than occurs in non-pandemic circumstances.

The Trial Court has ordered from For the Record (FTR) a number of closed-circuit communication “remote bench devices,” similar to Bluetooth headsets, that would assign a designated channel for communication between attorneys and their clients, and a separate, recorded channel for conferences with the judge in lieu of sidebar. The Trial Court has taken delivery of ninety-nine sets of remote bench devices (six devices per set) and is in the process of developing a distribution plan. A series of train-the-trainer events is being scheduled, to ensure that FTR operators, judges, and clerks are familiar with the operation of the devices. The JMAC recommends that attorneys be given the opportunity to familiarize themselves with the units

before trial as well, particularly the features that allow confidential, non-recorded communications with their clients on a secure channel.¹⁶

The JMAC report also suggests the use of group electronic mail or text message communication between attorneys, the clerk, and the judge as an alternative to a physical sidebar. These alternatives, however, would place an additional burden on the court to memorialize such communications accurately for the record. It appears that these approaches have not been used.

Off-Site Trial Locations. As of the start of Phase 3, all counties have at least one jury location (space for summoned potential jurors to gather, impanelment to be conducted, and trial to take place) in a courthouse, with the exception of Dukes, Nantucket, and Norfolk Counties. The Trial Court has opened off-site locations in counties where more space is needed for jury business (Barnstable, Berkshire, Hampden, Norfolk, and Suffolk), and is investigating additional potential locations in Bristol, Dukes, Nantucket and Norfolk counties. The U.S. District Court in Boston has dedicated four courtrooms at the Moakley Courthouse for use by the Suffolk Superior Court to conduct criminal jury trials (two courtrooms per trial – one for the trial, and one for jury deliberations and breaks). Potential jurors report to the Suffolk Superior Court building for impanelment and then are told to report to the off-site location the next day for the start of the trial.

Issues raised regarding off-site locations have included clerk's office and security staffing of both a courthouse and an offsite location. The burden placed on parties, witnesses, and other

¹⁶ Appendix 5 provides further detail about these devices.

participants to travel greater distances for trials in some locations has raised transportation concerns. The turn-over of certain locations on the weekends has security implications, especially for trials with defendants in custody. Technical requirements, such as internet access for clerk use, FTR equipment and electronic set up, and the computer system and hardware required for processing jurors, have required extra work and expenditure at the off-site locations. The necessity of sufficient sound-proofing between courtrooms and jury deliberation rooms has affected the layout of certain locations. As indicated above, secure storage and transportation of physical evidence such as firearms and narcotics continues to be an active concern.

Cancellation of Jurors. Since the resumption of jury trials in January 2021, 30,548 summoned jurors have been cancelled either because the courts were unable to schedule a case for trial on a designated jury date; the courthouse was unavailable (e.g., due to COVID-19 closure or incomplete facility evaluation); or the scheduled case resolved prior to trial. In only three instances did a jury pool appear at a courthouse with no impanelment conducted: in one instance the scheduled trial was continued due to a change of counsel; in another the defendant defaulted; and in the third the defendant pled guilty on what would have been the second day of impanelment. About 80% of the jury pools scheduled for the fourteen locations that were approved for jury trials in Phase 2 were cancelled prior to the jurors reporting to the courthouse. While cancellation involves substantial work for OJC and some inconvenience to the potential jurors, the case resolutions triggered by the availability of jury pools reflects an effective process serving the interests of litigants and the public.

UPDATES

Jury Pool Composition. The OJC has compiled detailed statistics comparing the composition of jury pools during COVID-19 to pre-COVID-19 jury pools and to Federal census data. The data reflect that the court's continuing policy to accommodate walk-in jurors during the pandemic has affected the diversity of the jury pools positively. The data also demonstrate that the diversity of jury pools during the pandemic has remained consistent with or greater than pre-pandemic jury pools.¹⁷ The OJC has published demographic reports on the pandemic jury pools on its website, and plans to update those reports quarterly going forward.

Remote Impanelment. The District Court has tried three cases using a hybrid impanelment procedure, providing jurors with the opportunity to appear for impanelment either by Zoom video conference or in person. One case was tried in the Greenfield District Court and two were tried in the Plymouth District Court. In each case, the trial commenced on the day following the impanelment, with all seated jurors reporting to the courthouse. Three other cases were scheduled for trial using the hybrid impanelment procedure, but the trials did not proceed.

For the cases that proceeded to trial, the trial judges reported benefits to the remote and in-person hybrid procedures, including that all participants could observe prospective jurors on video conference without masks; the court could hold individual voir dire without the proximity of sidebar; and generally, jurors appeared appreciative of the opportunity to appear by video conference rather than coming to the courthouse during the pandemic. Jurors who were

¹⁷ See Appendix 6.

impaneled and appeared in the courthouse the following day were informed that they were appearing with only seven other impaneled jurors, rather than a large pool, and the court had advised them in advance of the safety precautions in place in the courthouse. In one trial, an impaneled juror learned of a possible exposure after remote impanelment but before trial. The court advised her not to report to the courthouse, thereby avoiding a court closure event. The jurors who appeared on video conference were facile with the technology involved. Trial Court employees fielded few calls from jurors with technical questions. All three trials concluded prior to lunch-time the following day, thereby avoiding the issue of jurors removing their masks to eat lunch. Juror feedback was generally very positive, and several jurors who appeared in person at the courthouse for impanelment noted that in the future they might take advantage of the opportunity to participate remotely. Judicial and attorney feedback were also positive.

There have been certain logistical drawbacks to the hybrid impanelment procedure. Because the jury pools for the hybrid procedure had been offered the option to appear on video conference, the jurors were released in advance rather than utilized for other trials when the court was unable to identify parties agreeing to remote impanelment. In the third trial, the OJC projected based on juror responses that eleven jurors would appear on video conference, and twelve would appear in person. On the morning of impanelment, however, twenty-one jurors appeared in person.¹⁸ The court therefore did not achieve the anticipated benefit of having fewer prospective jurors appear in person. Additionally, the commencement of trial the following day

¹⁸ The ability to predict and manage the number of such “walk-in” jurors – those who do not respond to OJC communications but then appear on their date of service – has been severely diminished by the loss of the OJC’s automated processes due to the absence of historical data on how people respond to summonses during a pandemic.

resulted in lengthening to two days the three District Court trials, which under normal circumstances likely would have lasted one day. Finally, the effort to identify a file-sharing program to complete and transmit the confidential juror questionnaire remotely, that both maintains confidentiality and is scalable for use in an increased number of trials, remains unresolved.

Remote Trials. The Superior Court has scheduled the first civil all-remote jury trial for May 24, 2021, in Plymouth County. The entire trial, from impanelment through verdict, will be held over Zoom video conferencing. The parties have consented to this procedure. Remote bench trials have been conducted in District, Juvenile, and Superior Courts.

Case Scheduling and Priority. The OJC anticipates producing 219 jury pools per month for each of the first four months of Phase 3.¹⁹ Each Trial Court department that conducts jury trials has established a procedure to identify and prioritize cases ready for jury trial. Generally, the Regional Administrative Justices and the First Justices, in coordination with the Clerks, establish schedules for the use and priority of jury pools for final approval by the departmental Chief Justices. This flexible methodology suits the needs of each court department and location under present circumstances.

¹⁹ Prior to the pandemic, the OJC was producing 725 jury pools per month, through a completely automated process that was premised on decades of data on juror behavior pre-pandemic. The OJC is working to return to some measure of automation to increase the number of jury pools it can produce, but the results will likely be much less predictable due to the lack of data on how people behave during and immediately after a pandemic.

CONCLUSION

The JMAC acknowledges the dedicated efforts of Trial Court employees, attorneys, and court users as the Massachusetts Trial Court continues to expand access to jury trials. We applaud the more than 5,000 citizens who have appeared in courthouses and off-site locations in response to juror summonses. We hope that the information generated and experience gained across the Trial Court, and summarized in this report, serves as a resource as our jury trial numbers expand.

The JMAC offers the following recommendations upon consideration of the feedback offered by judges who presided over jury trials in Phase 2, as well as input from other Trial Court employees, and the OJC:

First, all jury trial participants must wear facemasks at all times, with the following exceptions upon a judicial finding of substantial necessity:

1. a defendant, juvenile, and/ or attorney, may remove the mask, without speaking, when facing the jury venire for the purpose of identifying any potential conflict;
2. a defendant or juvenile may remove the mask at appropriate times if identification is a live issue at trial;
3. a prospective juror may remove the mask when responding to questions during individual voir dire, in the witness stand behind plexiglass; and
4. a witness may remove the mask when testifying in the witness stand behind plexiglass.

A speaker's removal of a mask may be permitted only when other safety precautions are in place, such as a physical distance of six feet or greater, appropriate air filtration, and the presence of plexiglass barriers.

Second, the introduction of tangible objects into evidence, especially firearms and narcotics, should be avoided, subject to judicial discretion regarding particular items in particular cases. This recommendation is particularly germane for off-site locations, which may lack secure evidence storage facilities. Judges should encourage the use of photographs, video, testimony, and demonstrations in lieu of receiving physical evidence. In this regard, the Trial Court may wish to consider a policy similar to its current policy on fentanyl, or a policy similar to United States District Court for the District of Massachusetts Local Rule 79.1.

Third, judges should continue to allow spectators to be present in courtrooms and courthouse overflow spaces, where available, subject to COVID-19 occupancy limits. For jury trials in which a large number of spectators is anticipated, the judge may consider the use of a public Zoom meeting or YouTube stream. The decision whether to use any type of live stream should take into consideration any concerns specific to each case regarding witness safety and the possibility of the surreptitious recording of court proceedings. If a court uses a telephone bridge line to provide public access to jury trials, the court should ensure that the line is fully functional, so that it provides full audio access to the public proceeding while preventing audio access to any part of the proceeding that should not be public.

The Trial Court has made tremendous strides towards the full resumption of jury trials since the JMAC provided its first Report to the SJC on July 31, 2020. While there is still much to be done, experience thus far indicates that the processes and protocols implemented have

succeeded in allowing jury trials to proceed while protecting trial participants, jurors, court staff, and the public. Judicial questionnaires and juror surveys provide positive responses, and no identified instance of transmission of COVID-19 in connection with a jury trial has occurred.

The courts have good reason to be proud of what has been accomplished to date, and to be optimistic about the way forward as more courts are able to resume jury trials in the coming months. If COVID-19 case numbers continue to decline and vaccination rates continue to climb, the return to full jury trial operation is within sight, thanks to the hard work and dedicated cooperation of all of the members of the Trial Court team: judges, court officers, facilities staff, clerks, OJC staff, IT personnel, department heads, and others, under the leadership and guidance of the Supreme Judicial Court.

APPENDICES

Appendix 1 – Phase 2 Impanelment Chart

Appendix 2 – Phase 2 Summary of Rankings

Appendix 3 – Status of Jury Locations

Appendix 4 – Jury Trial Checklist

Appendix 5 –Remote Communication Devices

Appendix 6 – Demographic Charts

APPENDIX 1

Location	Date	Docket	Case Name	Court Dept.	Case Type	Outcome
Brooke	3/1/21	1901CR02486	Comm v. Knight	BMC	Assault	Not Guilty
Salem	3/1/21	1977CR00348	Comm v. Hagen	Superior	Intimidating Witness	Not Guilty
Brooke	3/3/21	1907CR01504	Comm v. Graham	BMC	Non-OUI MV	Not Guilty
Salem	3/8/21	1877CR000651	Comm. v. Sudler	Superior	Gun	Guilty
Lowell	3/9/21	2011CR01358	Comm v. Abraham	District	Viol. Prev. Order	Guilty
Springfield	3/9/21	1923CR749	Comm v. Brown	District	B & E	Not Guilty
Fall River	3/15/21	1973CR0307	Comm v. Aquino 2-day imp't	Superior	Assault	Guilty
Middlesex/Woburn	3/15/21	1881CV002904	Storen Family Trust v. Affiliated Family Funeral Services, Inc	Superior	Other Tortious Action	Defendant
Salem	3/16/21	1918CR003761	Comm v. Annunziata	District	OUI	Plea
Worcester	3/17/21	1962CR6445	Comm v. Fahey	District	OUI	Guilty
Salem	3/23/21	1877CR00278	Comm v. Aziwung 2-day imp't	Superior	Rape	Guilty
Middlesex/Woburn	3/23/21	1581CV05863	Kovacs v. Newton Public Schools	Superior	Admin. Action Involving Comm. or Municipality	Defendant
Brooke	3/29/21	1901CV0640	Spear v. Murphy	BMC	Civil Money Action	Defendant
Middlesex/Woburn	3/29/21	1781CV001119	Randolf v. Sater	Superior	Sale or Lease of Real Estate	Defendant
Brooke	3/30/21	1907CR03579	Comm v. Jackson	BMC	Resisting Arrest	Not Guilty
Salem	3/30/21	1977CR00069	Comm v. Gonzalez	Superior	Drug	Plea
Middlesex/Woburn	3/30/21	1781CV000044	Triantifalles v. Triantafilles	Superior	Slip & Fall	Plaintiff
Springfield	3/31/21	1923CR8380	Comm v. Murphy	District	OUI	Not Guilty
Brooke	4/5/21	2002CR2180	Comm v. Villa	BMC	Assault	Guilty
Brockton	4/5/21	19DL0175BK	Comm v. A Juvenile	Juvenile	Delinquency	Juvenile Not Delinquent
Plymouth	4/6/21	1959CR2913	Comm v. Greeley	District	OUI	Not Guilty
Middlesex/Woburn	4/6/21	1681CV2912	Chisholm v. Chisholm	Superior	Other Tortious Action	Defendant
Salem	4/6/21	1977CR00514	Comm v. Lopez	Superior	Assault	Plea
Pittsfield	4/6/21	1876CV143	Pontes v. Healy	Superior	Slip & Fall	Split Verdict
Lowell	4/7/21	2011CR002278	Comm v. Amadi	District	OUI	Not Guilty
Salem	4/7/21	1913CR2267	Comm v. Martinez	District	Assault	Guilty
Brockton	4/7/21	19DL0264BK	Comm v. A Juvenile	Juvenile	Delinquency	Juvenile Not Delinquent
Brooke	4/8/21	2007CR0006	Comm v. Phan	BMC	OUI	Not Guilty

APPENDIX 1

Location	Date	Docket	Case Name	Court Dept.	Case Type	Outcome
Lowell	4/12/21	1911CR1907	Comm v. Daniel	District	Assault	Not Guilty
Lombardo's	4/12/21	1957CR000993	Comm v. Giorgio	District	Assault	Not Guilty
Middlesex/Woburn	4/12/21	1881CV00058	Ivkov v. Action Comm. Access Television	Superior	Other Negligence	Defendant
Lowell	4/14/21	1911CR3756	Comm v. Brown	District	OUI	Not Guilty
Salem	4/14/21	2018CR3727	Comm v. Jimenez	District	Assault	Not Guilty
Lombardo's	4/14/21	1857CR2011	Comm v. Luchkovitz	District	OUI	Not Guilty
Brooke	4/14/21	19DL0653CH	Comm v. A Juvenile	Juvenile	Delinquency	Juvenile Not Delinquent
Salem	4/14/21	19DL0571CA	Comm v. A Juvenile	Juvenile	Delinquency	Juvenile Not Delinquent
Middlesex/Woburn	4/14/21	1881CV2712	Anzalone v. Thompson	Superior	Motor Vehicle Homicide	Settled
Brooke	4/20/21	1807CR0272	Comm v. Quach	BMC	OUI	Not Guilty
Lombardo's	4/20/21	1956CR0492	Comm v. Cherelus	District	Motor Vehicle Homicide	Not Guilty
Plymouth	4/20/21	1883CV0201	Allen v. August	Superior	Motor Vehicle Homicide	Plaintiff
Brooke	4/21/21	1906CR0500	Comm v. Brice	BMC	Gun	Not Guilty
Springfield	4/21/21	1879CV0479	Estate of Rosenthal v. D'Avignon	Superior	Wrongful Death	Plaintiff
Brooke	4/22/21	2007CR01479	Comm v. Cerretan	BMC	Assault	Split Verdict
Brooke	4/26/21	1802CR1325	Comm v. Vega	BMC	Gun	Not Guilty
Lombardo's	4/26/21	2055CR0757	Comm v. Hersey	District	OUI	Guilty
Salem	4/26/21	1977CR00619	Comm v. Colon	Superior	Indecent A & B/Under 14	Hung Jury
Plymouth	4/26/21	1983CR0034	Comm v. Sota-Bennett	Superior	Assault	Not Guilty
Springfield	4/26/21	1879CR256	Comm v. Williams, Jr	Superior	Gun	Plea
Middlesex/Woburn	4/27/21	19DL0287CA	Comm v. A Juvenile	Juvenile	Delinquency	Juvenile Not Delinquent
Middlesex/Woburn	4/27/21	1981CV00003	Melamoud v. Colbeth	Superior	Services, Labor and Materials	Plaintiff
Brooke	4/28/21	2003CR0281	Comm v. Bastien	BMC	OUI	Not Guilty
Lombardo's	4/28/21	1856CR0651	Comm v. Machowski	District	Negligent Operation of MV	Not Guilty
Fall River	4/28/21	2032CR1385	Comm v. Parker	District	Assault	Not Guilty

APPENDIX 2

Summary of Average Judicial Questionnaire Rankings by Court

Court	# of Surveys	Overall Compliance	Juror Movement	Impanelment Procedures	Cleaning	Courtroom Set-up	Lunch	Trial Procedures	Public Access	Instructions	Deliberations	Average
Brockton	2	9.5	9.0	9.0	9.0	9.0	9.0	9.0	10.0	10.0	9.5	9.3
Brooke	8	9.6	9.4	9.0	9.1	8.5	9.5	8.6	8.4	8.8	9.0	9.0
Fall River	1	9.0	9.0	9.0	9.0	9.0	9.0	9.0	10.0	8.0	9.0	9.0
Norfolk/Lombardo's	4	9.0	8.8	9.0	9.0	9.0	8.0	9.0	8.0	8.3	9.0	8.7
Lowell	2	10.0	10.0	10.0	10.0	10.0	10.0	10.0	8.5	10.0	10.0	9.9
Middlesex/Woburn	9	9.4	9.6	9.0	9.8	8.7	9.8	9.1	9.8	8.5	9.8	9.4
Pittsfield	1	9.0	6.0	9.0	9.0	7.0		9.0	8.0	8.0	9.0	8.2
Plymouth	1	10.0	10.0	5.0	9.0	7.0	3.0	9.0	3.0		8.0	7.1
Salem	5	9.4	9.4	9.4	9.0	9.0	9.7	8.8	9.8	8.8	10.0	9.3
Springfield	2	9.5	9.5	9.0	9.0	9.0	9.5	9.0	9.5	8.5	10.0	9.3
Average		9.4	9.1	8.7	9.2	8.6	8.6	9.1	8.5	8.8	9.3	8.9

May 13, 2021

APPENDIX 3

FACILITIES REVIEW OF JURY TRIAL LOCATIONS

COURTHOUSES APPROVED FOR JURY TRIALS

as of May 13, 2021 (with links to posted reports)

- Barnstable Superior Courthouse (Main Courtroom Only): [Barnstable County Superior Court HVAC System Evaluation Summary](#)
- Berkshire County Court Complex (Superior Court, Main Courtroom only; District Court, Courtroom 206 only):
 - [Berkshire County Superior Court HVAC System Evaluation Summary](#)
 - [Pittsfield District Court HVAC System Evaluation Summary](#)
- Brockton Trial Court: [Brockton Trial Court HVAC System Evaluation Summary](#)
- Brooke Courthouse (Boston): [Edward W. Brooke Courthouse HVAC System Evaluation Summary](#)
- Fall River Justice Center: [Fall River Justice Center HVAC System Evaluation Summary](#)
- Franklin County Justice Center (Greenfield): [Franklin County Justice Center HVAC System Evaluation Summary](#)
- Hampshire County Superior Court (Main Superior Courthouse Courtroom Only): [Hampshire County Courthouse HVAC System Evaluation Summary](#)
- Holyoke District Court: [Holyoke District Court HVAC System Evaluation Summary](#)
- Lowell Regional Justice Center: [Lowell Justice Center HVAC System Evaluation Summary](#)
- Middlesex Superior Court (Woburn): [Middlesex County Superior Court HVAC System Evaluation Summary](#)
- Plymouth Trial Court: [Plymouth Trial Court HVAC System Evaluation Summary](#)
- Roderick L. Ireland Courthouse (Springfield): [Roderick L. Ireland Courthouse HVAC System Evaluation Summary](#)
- Ruane Judicial Center (Salem): [J. Michael Ruane Judicial Center HVAC System Evaluation Summary](#)
- Worcester Trial Court: [Worcester Trial Court HVAC System Evaluation Summary](#)

APPENDIX 3

ADDITIONAL COURTHOUSES WITH HVAC EVALUATIONS POSTED

- Chelsea District Court: [Chelsea Trial Court HVAC System Evaluation Summary](#)
- Dorchester BMC : [Dorchester Division, Boston Municipal Court HVAC System Evaluation Summary](#)
- Marlborough District Court: [Marlborough District Court HVAC System Evaluation Summary](#)
- New Bedford District Court: [New Bedford District Court HVAC System Evaluation Summary](#)
- Norfolk Superior Courthouse and Registry of Deeds Building: [Norfolk County Superior Court HVAC System Evaluation Summary](#)
- Palmer District Court: [Palmer District Court HVAC System Evaluation Summary](#)

COURTHOUSES PENDING APPROVAL

- Barnstable District Court (Main Courtroom only)
- Concord District Court (Two courtrooms only)
- Fenton Center (Lawrence)
- Holyoke District Court (One courtroom only)
- Newburyport District Court (One courtroom only)
- Roxbury BMC
- Somerville District Court
- Taunton Trial Court
- Woburn District Court

COURTHOUSES AWAITING COMPLETION OF EVALUATION OR OTHER REQUIREMENTS

- Attleboro District Court
- Ayer District Court
- Berkshire Juvenile Court
- Brighton BMC
- Brockton Superior Court
- Cambridge District Court (Medford)
- Chicopee District Court
- Dedham District Court
- Dukes County Courthouse
- East Brookfield District Court

APPENDIX 3

- Eastern Hampshire District Court (One courtroom only)
- Falmouth District Court
- Fitchburg District Court
- Framingham District Court
- Haverhill District Court
- Hingham District Court
- Lawrence Superior Court
- Lynn District Court
- Malden District Court
- Nantucket County Courthouse
- New Bedford Superior Court
- Newburyport Superior Court
- Newton District Court
- Norfolk Juvenile Court
- Northampton District Court
- Northern Berkshire District Court
- Orange District Court
- Orleans District Court
- Peabody District Court (One courtroom only)
- Quincy District Court
- Stoughton District Court
- Suffolk Superior Courthouse (Jury Pool Room approved for impanelment)
- Taunton Superior Court
- Waltham District Court
- Wareham District Court
- West Roxbury BMC
- Westfield District Court
- Wrentham District Court

OFFSITE LOCATIONS

- Cape Codder Resort – Barnstable County/Hyannis
- Pittsfield Holiday Inn – Berkshire County/Pittsfield
- Munson Street – Franklin County/Greenfield
- Eastfield Cinema – Hampden County/Springfield
- Lombardo's – Norfolk County/Randolph
- Moakley Federal Courthouse – Suffolk County/Boston

APPENDIX 4

Preparatory Tasks for Jury Trials During COVID

The following is a list of various tasks to be completed in order to conduct jury trials during COVID.

A. Communication and outreach.

Review protocol with trial attorneys at Final Pre-trial, Final Trial Conference, Trial Readiness Conference, or similar event shortly before trial date.

B. Preparation of the Building.

1. General.

- Signage reminding of necessity to social distance and wear masks.
- Occupancy limits posted.
- Hand sanitizer throughout the building.

2. Lobby.

- Security to screen each potential juror.
- Signage for the location of the Jury Pool Room, and information about elevators and stairways.
- Stairways designated as up or down.

3. Jury Pool Assembly Location.

- Hand sanitizer and signage directing its use at entrance to location.
- Numbered seats for jurors and signage directing jurors to sit immediately upon entry.
- Posted Instructions for jurors.
- Jury Pool Officer has plexiglass enclosure.
- Tables for counsel, clerk, FTR with necessary plexiglass.

4. Trial Location.

- Social distancing, signage and plexiglass.
- Test of FTR microphones.
- Witness stand has plexiglass, hand sanitizer and air purifier.
- ELMO for electronic evidence, visible by all jurors.

5. Location for jurors for recesses and deliberations.

- Social distancing and signage.
- Configure for jury deliberations, numbered seats.
- Removal of extraneous material and turn FTR off.
- Jurors assigned seats and instructions.

APPENDIX 4

- Juror paper bags, numbered, containing steno pad, pen, hand sanitizer and maybe small water bottle (depends on availability of space to drink safely).

C. Personal Protective Equipment.

1. Availability and distribution of masks. Masks worn by all, at all times, except attorneys and defendant/juvenile when introduced to the venire at impanelment, and witnesses/jurors when in witness box (and brief removal by defendant/juvenile in cases where identification is an issue).

2. Hand sanitizer throughout.

D. Public Access.

1. Judicial determination of in-person attendance.

- Seek to identify potential spectators by number and category.
- Trial judge makes findings and issues ruling.
- Spectators assigned numbered seats.

2. Video, audio feed to monitor in an overflow room, if possible, arranged for social distancing.

3. Audio access for public through telephone bridge line; judge to rule on video access if technically available.

E. Miscellaneous.

1. Individual voir dire – each juror treated as witness.

2. Attorney/client communication – electronic communication or conference rooms (maintain public access).

3. Use of video recorded or conferencing witness testimony if agreed or judge findings.

4. Clean/Disinfect witness stand.

5. Sidebar conferences, portable Zoom device, use of separate room, social distancing.

6. Exhibits – electronic; copies in individual binders; photographs/testimony in lieu of objects.

7. Water/food for jurors; provided by the court.

- Order individually wrapped food items; marked for jurors; additional distancing during lunch; spread out smaller groups in separate rooms if available.

8. Use model inquiries and instructions regarding jurors' willingness to serve, health concerns, and the importance of focusing on the evidence and the law.

APPENDIX 4

9. Instructions for sitting jurors on what to do and who to call if sick and where to report each morning. (Fillable form w/ blank for court officer and possible assistant clerk).
10. Escort jurors out of the building after discharge.
11. OJC sends survey to jurors.

The Trial Court of Massachusetts

PROPOSAL

***Distanced Bench Conferencing & Remote Interpretation
For The Record***



December 11, 2020

1 SOLUTION OVERVIEW

The Williams Sound systems enables the courts to conduct private conferencing sessions such as Bench Conferencing, attorney/client conferring and interpretation all while maintaining the social distancing recommendations from the Center for Disease Control in response to the COVID-19 pandemic. The two-way wireless system utilizes a frequency-hopping algorithm to avoid interference and provide a secure method of communication. Units have the ability to leverage encrypted groupings that require a user to enter pin to join a conversation thereby instilling a layer of protection against uninvited parties listening to or participating in a conversation. By connecting a receiver to the digital sound processor in the Court's AV equipment rack, the court has the option of integrating the conference session directly into the record in proprietary For The Record format. There is flexibility to bypass this option in instances of confidential sessions.

The system proposed to OTC includes six two-way transceivers, five of the units will include a headset with microphone to enable communications. All units will include a protective cover. A charging station and wires to enable the DSP connection are also included in the proposal. Units are proposed to be utilized by the below positions.

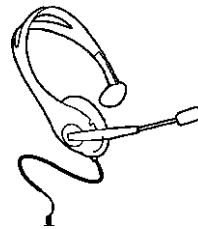
1. Judge Defense
2. Counsel
3. Plaintiff Counsel
4. Defense Client
5. Plaintiff Client
6. FTR DSP Recording Input

The solution includes FTR professional services to configure each courtroom and deliver to site. Where requested, the solution includes the configuration of one (1) DLT-400 to the FTR Digital Recording System.

An overview of the solution is provided below.

Digi-Wave Contactless Courtroom Communication Guide

Sidebar w/ Judge
DLT 400
Group 3
MIC 144



WILLIAM!;AV

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Interpreter (optional)
DLT400
Group 1, 2, or 3
(will use quick group
change feature as
needed)



Defense Counsel

Permanent DLT400
Group 3
(uses MIC 144 from
Group 1 DLT)

Plaintiff Counsel
Permanent DLT400
Group 3
(uses MIC 144 from
Group 2 DLT)

Bench

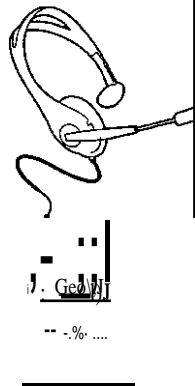
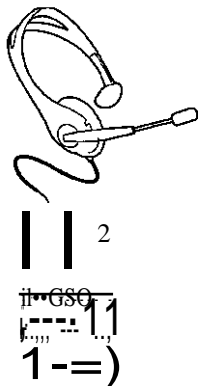
6 feet
2 meters

Defense

Defence Counsel
DLT 400
Group 1
MIC 144

6 feet
2 meters

Defendant
DLT400
Group 1
MIC 144

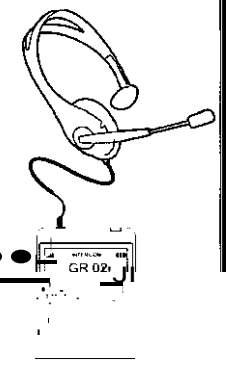
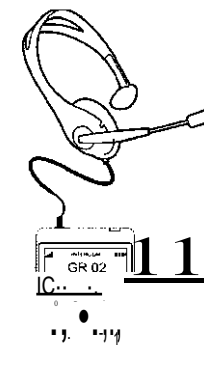


Plaintiff

Plaintiff Counsel
DLT400
Group 2
MIC 144

6 feet
2 meters

Plaintiff
DLT400
Group 2
MIC 144



APPENDIX 6



Office of Jury Commissioner
for the Commonwealth

All Counties except Dukes
and Nantucket

Demographic Survey - Calendar Year 2019, All COVID-19, and Phase 2

Demographic Category	Federal Census 2010		Trial/Grand Jurors Who Appeared for Juror Service: CY19		Trial/Grand Jurors Who Appeared for Juror Service: COVID-19 3/16/20-4/30/21		Trial/Grand Jurors who Appeared for Juror Service: Phase 2 3/1/21-4/30/21	
	Population	%	Population	%	Population	%	Population	%
Black/African American	314,966	6.2%	13,468	6.6%	333	7.0%	206	6.9%
White	4,197,996	82.2%	165,923	81.7%	3,793	80.3%	2,391	79.7%
Native Hawaiian/Pacific Islander	1,686	0.0%	185	0.1%	2	0.0%	2	0.1%
Asian*	270,327	5.3%	7,936	3.9%	222	4.7%	150	5.0%
American Indian/Alaskan Native	13,473	0.3%	292	0.1%	5	0.1%	4	0.1%
Other	308,832	6.0%	15,361	7.6%	371	7.9%	248	8.3%
TOTALS	5,107,280	100.0%	203,165	100.0%	4,726	100.0%	3,001	100.0%

Demographic Category	Federal Census 2010		Trial/Grand Jurors Who Appeared for Juror Service: CY19		Trial/Grand Jurors Who Appeared for Juror Service: COVID-19 3/16/20-4/30/21		Trial/Grand Jurors who Appeared for Juror Service: Phase 2 3/1/21-4/30/21	
	Population	%	Population	%	Population	%	Population	%
Yes, Hispanic/Latino*	415,830	8.1%	13,624	5.3%	363	7.5%	249	7.9%
No, Not Hispanic/Latino	4,691,450	91.9%	187,339	93.6%	4,308	89.2%	2,757	87.7%
No Response His./Lat.	0	0.0%	2,371	1.0%	157	3.3%	136	4.3%

*Asians and Hispanic/Latinos appear underrepresented as compared to the Federal Census population because the census figures include persons who are not qualified to serve as jurors due to lack of citizenship or ability to speak and understand English, as required by c.234A sec. 4.