

JURY MANAGEMENT ADVISORY COMMITTEE

Preliminary Report and Recommendations

To the Justices of the Supreme Judicial Court

**On Phase 1 of the Resumption of Jury Trials in the Context of the
COVID-19 Pandemic**

Submitted: February 8, 2021

I. Introduction

Pursuant to the Supreme Judicial Court’s (SJC) Fourth Updated Order Regarding Court Operations under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic dated September 17, 2020, effective October 1, 2020 (“the Order”), Massachusetts courts began Phase 1 of the gradual resumption of jury trials during the week of January 11, 2021, and so far have conducted five jury trials. In accordance with the Order, consistent with recommendations contained in the report of the Jury Management Advisory Committee (JMAC, “Committee”) dated July 31, 2020, Phase 1 consists of a limited number of six-person jury trials conducted in person in a select number of locations. The courts conduct no more than one trial at a time in each location, and observe other specified limitations, such as on the number of peremptory challenges available to each party. The Order provided that the SJC “shall issue direction” regarding Phase 2 “after reviewing the JMAC’s evaluation of Phase 1,” but that “cases to be tried in Phase 2 in accordance with the JMAC’s recommendations may be scheduled in anticipation of Phase 2 commencing in February 2021, with such jury trial dates subject to revision after the SJC’s review of the JMAC’s evaluation of Phase 1.”¹ The Order further provided that “[a]ll plans and

¹ See, “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,” July 31, 2020,

expectations regarding the resumption of jury trials may be adjusted if there is a significant change in the rate of COVID-19 transmission in the Commonwealth.”

On January 25, 2021, in response to recommendations from court leaders and the JMAC, the SJC agreed to pause Phase 1 jury trials from January 26 through February 12, 2021. The Justices will make a determination regarding the remainder of Phase 1 before February 12, after considering all relevant information available at that time, including conditions in the Commonwealth with respect to COVID-19.²

To assist the Justices in that determination, the Committee offers this preliminary evaluation of the resumption of jury trials thus far in Phase 1, and recommendations regarding further resumption of jury trials.

Phase 1 Jury Trial Data

The five trials conducted so far in Phase 1 consist of one District Court criminal case tried in each of Lowell, Plymouth, Salem, and Worcester District Courts, and one Superior Court civil case tried to a jury of six in Middlesex Superior Court in Woburn. The Trial Court selected these locations from a group of nine facilities throughout the Commonwealth screened for their ventilation and occupancy capacities.³ The District Court cases each lasted one day or less, with the Lowell and Plymouth cases tried on Tuesday, January 12, 2021, and the Salem and Worcester cases tried on Tuesday, January 19, 2021. The Superior Court civil case lasted three half-days on a 9 a.m. to 1 p.m. schedule, commencing on January 25 and concluding on January 27. Court leaders in each location selected the cases, in consultation with their Department Chiefs and the Chief Justice of the Trial Court. Three of the District Court criminal cases

(hereinafter “JMAC Report”), Part V.1.

² Letter of January 24, 2021, from Chief Justice Budd to Chief Justices Carey and Fabricant.

³ See Mass.gov, “Tighe & Bond HVAC Evaluations of Courthouses.” <https://www.mass.gov/info-details/courthouse-hvac-system-evaluations>

(Lowell, Plymouth, and Worcester) charged operating under the influence;⁴ the fourth (Salem) charged distribution of a class A controlled substance.⁵ The Superior Court civil case presented a claim of personal injury.⁶ These cases met the Committee's recommendation that this first round of cases consist of relatively minor matters not involving incarcerated individuals.⁷ The average age of the four criminal cases was one year from date of filing. The civil case was filed in 2016.

The five judges presiding over these jury trials each provided detailed feedback by means of a standardized questionnaire prepared by the Committee and covering the following ten areas: Compliance with Risk Reduction Protocols, Juror Movement within the Courthouse, Impanelment Procedure, Courtroom Cleaning, Courtroom Set-Up, Juror Lunch, COVID-19 Specific Trial Procedures, Public Access, Model Voir Dire and Jury Instructions, and Jury Deliberations. As the JMAC had recommended, each judge conducted a debriefing session with trial participants, including counsel and court personnel, and reported the views expressed during these sessions in the questionnaire responses. The District Court judges provided additional feedback during post-trial meetings with Trial Court leaders, including the Jury Commissioner and the JMAC Chair.

The judges' responses were generally very positive, with eight of the ten areas of consideration scoring an average of at least 8 out of 10 for effectiveness. The judges noted the enormous collaborative effort put forth by all of the participants in the process, including the Office of Jury Commissioner (OJC), Facilities and Security personnel, Clerks, and the litigants

⁴ Docket numbers 2011CR02726, 1959CR0539, and 1936CR475, respectively.

⁵ Docket number 2067CR0004.

⁶ Docket number 1681CV02984.

⁷ JMAC Report, *id.*

and their attorneys. A summary of the trial judges' evaluations follows.⁸

Overall Compliance with Risk Reduction Protocols (Average Score: 9.4 of 10)⁹

The judges reported excellent compliance with mask use by all, with minimal prompting. Masks were available for distribution, but not needed, as all participants, including jurors, came prepared with masks. Testifying witnesses either wore masks or face shields, or testified without face coverings while sitting inside a plexiglass-enclosed witness box. Facilities personnel had installed ample hand sanitizer dispensers, and except in one instance, a designated cleaner wiped down surfaces between witnesses in view of the jury. One judge commented that “[a]ttorneys were receptive and appreciative of safety precautions.”

Juror Movement within Courthouse (Average Score 9.4 of 10)

The judges uniformly noted excellent compliance with safe entry of jurors into the buildings and jury pool rooms, as well as maintenance of at least six to eight feet of spacing between jurors, all largely due to the exceptional efforts of court officers.¹⁰ One judge noted the need for more court officers than usual, to the extent that the number of officers appeared cumbersome. Judges also noted that officers had to pay special attention to lining up jurors before attempting movement in and out of courtrooms.

Jury Impanelment Procedure (Average Score 8.6 of 10)

Each of the courts started the impanelment in the jury pool room, because of its relatively large capacity, and then moved to a courtroom. Each court also had to provide space for juror “walk-ins,” i.e., those appearing for service without having previously confirmed that they would

⁸ The Committee gratefully acknowledges the detailed input of the justices involved: Hon. John F. Coffey, Hon. Stacey J. Fortes, Hon. James M. Sullivan, Hon. Robert A. Brennan, Hon. Jennifer L. Ginsburg, and Hon. Helene Kazanjian. Appendix 1 consists of a summary of the five Phase 1 Jury Trial COVID-19 Judicial Questionnaires, prepared by OJC Project Coordinator Tanisha Perkins, followed by the five questionnaires.

⁹ This and the following average scores are based on five reported scores unless otherwise noted.

¹⁰ Trial Court standards provide for six foot spacing. The Trial Court Facilities Department has set occupancy limits for jury pool rooms based a standard of eight feet to allow for flow patterns.

do so. Each of the courts, therefore, dealt with a larger group than anticipated, which meant that capacity limits in the jury pool room necessitated the use of secondary space. One District Court judge noted the necessity of individual voir dire to vet these individuals, who had not availed themselves of the screening process now overseen by OJC. The same judge perceived serious difficulties in conducting individual voir dire at side bar. She noted that participants had to stand too close together to be heard by all and properly recorded.¹¹ Other courts avoided the use of sidebar by either conducting individual voir dire in a hallway adjacent to the courtroom, or having jurors other than the individual being interviewed wait in a separate courtroom.

In the civil trial in Middlesex Superior Court in Woburn, during the initial stage of the voir dire process, the clerk set up a Zoom connection so potential jurors who were located in a separate courtroom (because of the occupancy limit in the jury pool room) were able to observe the judge and hear the questions. Court officers in the room with those jurors announced the numbers of those who gave affirmative responses to the group questions. Counsel were unable to see those jurors during this part of the process, but did not object.

Courtroom and Courthouse Cleaning (Average Score 8.8 of 10)

The judges observed that facilities personnel did a fine job of cleaning the buildings in general and the courtrooms in particular. Nevertheless, one noticed that desks and podium areas needed dusting. In one case, as noted above, the witnesses stand was not cleaned between witnesses; that judge attributed the lapse to his own oversight.

Courtroom Set-Up (Average Score 7.8 of 10)

Each of the Phase 1 District Courts sat from four to six jurors in a jury box designed for 14 or 16 jurors. The court that sat only four in the box used part of the public gallery for the rest

¹¹ This may have resulted, in part, from a volume increase in the FTR white noise feature in this location prior to the trial.

of the jurors. In the courtroom in Middlesex Superior Court in Woburn, the jury box has been reconstructed to fit 16 with distancing, so that the eight impaneled jurors were able to use the reconstructed jury box. Some courtrooms had plexiglass panels that separated the jurors from each other and from the rest of the courtroom. In some instances these caused problems regarding sightlines, acoustics, and glare, necessitating regular adjustments for visibility and audibility. One judge suggested that more display monitors would address these challenges. Another questioned the court's ability to accommodate a greater number of jurors or participants in the courtroom as currently configured.

Juror Lunch (Score: 5 of 10)¹²

Only one court had a jury deliberate through a lunch hour. The six jurors in that case, in Worcester, used a jury deliberation room normally used by a jury of up to 16, so that the six had sufficient space for social distance. The judge instructed the jurors to eat their lunches, put their masks back on, and then begin deliberation. Despite the size of the room and that instruction, the judge expressed serious concern about unmasked people who are not members of the same household eating together in a confined area. In Middlesex Superior Court in Woburn the court ordered lunch for jurors, anticipating that they would deliberate through the lunch hour, but planned to instruct them to wait to begin deliberations until after the group had eaten in smaller groups in multiple rooms. This never happened as the jury returned a verdict before the lunch break, and jurors took their lunches with them.

COVID-19 Specific Trial Procedures (Average Score 8.5 of 10)¹³

One court relied on electronic equipment to display exhibits, while the rest provided individual copies to each juror for that juror's exclusive use throughout the trial. Two of the

¹² Only one score was reported for this category; see text *infra*.

¹³ Based on four reported scores.

judges felt that there was sufficient room and protection to conduct sidebar conferences in the normal manner. One reiterated serious issues with sidebar conferences (as mentioned above), as well as conferences between lawyer and client during trial.¹⁴ Two of the District Court judges reported that jurors were not permitted to take notes; the other two did not report on this point either way. Jurors in the Superior Court trial were provided with materials for note-taking and instructed on that subject.

Public Access (Average Score 9.75 of 10)¹⁵

Each of the courts participating in Phase 1 jury trials had a courtroom that could accommodate more members of the public than actually showed up to observe. In addition, each of the courts provided remote access to the trials through the telephone bridge line.¹⁶

Model Voir Dire and Jury Instructions, If Available (Average Score 9.66 of 10)¹⁷

Two of the courts used model voir dire and/or jury instructions that have been drafted for use in the pandemic and posted on Courtyard, in the Judges section, in a folder labeled Superior Court Model Jury Instructions. These judges found them well done and very useful. The judges who did not use the models felt that the protective measures were self-evident or that the current opt-out procedures were effective in addressing COVID-19 concerns.

Jury Deliberations (8.8 of 10)

Four of the courts involved in the Phase 1 jury trials had the jury deliberate in a separate courtroom that was configured for this use, or another room that was large enough to maintain appropriate physical spacing. This appeared to be an effective arrangement, with sufficient

¹⁴ The Trial Court is in the process of purchasing from FTR a number of portable communication devices for use between attorney and client, and between counsel and the judge, to address this issue. The device is the “Williams AV: Digi-Wave 400 Transceiver with MIC 144 Headset Microphone.”

¹⁵ Based on four reported scores.

¹⁶ In the Woburn case, the clerk arranged a Zoom connection to allow certain court leaders to observe. The Zoom link was not available to the public.

¹⁷ Based on three reported scores.

space for the purpose and instructions on continued physical spacing. Salem used the trial courtroom itself, which was locked and appropriately monitored by a court officer just outside the interior door of the courtroom.

II. Juror Demographics in Phase 1

Since jurors who appear during the pandemic effectively self-select,¹⁸ and since the pandemic has disproportionately affected the Commonwealth's communities of color, diversity of jury pools is an issue of substantial concern. The judge and attorneys who participated in the Lowell trial particularly expressed this concern, based on observation of the jury pool in that case. Nevertheless, the data regarding the small sample of these five jury pools do not appear to show a significant divergence from pre-pandemic jury pools or from census data for these counties.¹⁹

The data do, however, indicate that the so-called "walk-ins" (jurors who appeared without having confirmed their intention to do so) in these five jury pools were a more diverse group than the jurors who had confirmed, and in that sense were necessary to the representative character of these jury pools.²⁰ As indicated *supra*, the presence of walk-ins posed a challenge in each instance, since each court had to accommodate more jurors than were anticipated, and more than could be accommodated in the jury pool room. One potential method of addressing that challenge would be for the OJC to send notices of cancellation to jurors who do not confirm. These data suggest, however, that use of that method might reduce diversity in the jury pools to a level that would be inconsistent with the population of the counties.

¹⁸ All persons summoned are entitled by law to postpone their service for up to a year, and anyone who contacts the OJC to express concerns about COVID-19 is assisted with a postponement or disqualification.

¹⁹ See Appendix 2, which provides data comparing these 5 jury pools with calendar year 19 jury pools and with census data for these counties.

²⁰ See Appendix 3, which provides data comparing jurors who confirmed and appeared with jurors who appeared without having confirmed ("walk-ins") in these 5 jury pools.

The increased diversity among walk-ins also may have another implication. The OJC provides instruction, through its website and mailings, on jurors' various options to delay or to be disqualified or excused from service. Walk-ins, as a group, may include a disproportionate number of jurors who have not learned of their options, and who believe that they have no choice but to appear. In Lowell, for example, two jurors over age 70 appeared, one bearing an oxygen device; both would have been disqualified if they had so requested through the OJC website, "JurorHelp" email, or Call Center. To the extent that walk-ins are a more diverse group than those who confirm, their appearance may suggest that jury service during this time is putting a greater burden on members of minority groups than on others.

As to the size of the pools summoned for service in Phase 1, the OJC endeavored to keep these consistent with pre-pandemic pools for the same type of jury trials.²¹ The data regarding Phase 1 jurors reveal a greater number of prospective jurors summoned to achieve target goals, which may indicate that the OJC will need to issue significantly more summonses to yield a sufficiently large pool to impanel a jury of 12 (14-16 with alternates). The data also showed that in Phase 1, a somewhat greater number of jurors were utilized to seat six to eight jurors compared to pre-COVID-19 pools.²²

III. Juror Feedback

In accordance with standard practice, the OJC asked jurors participating in Phase 1 impanelments to complete a survey on the experience.²³ Of the twenty-six comments received

²¹ This is but one of the areas in which the OJC has had to implement resource-intensive manual efforts to support jury operations in the courts. The inability to rely on automation and past practice is severely limiting the OJC's ability to provide jury pools to all but a few courthouses, although the OJC is working to develop procedures to expand the number of pools that can be provided. See, Appendix 4, attached.

²² See, Appendix 5, which compares juror utilization in these 5 cases with pre-COVID utilization.

²³ The survey contains 10 rating-style questions and a free-form box for comments. Not all jurors who answer the ratings questions provide comments. <https://survey.vovici.com/se/54861F090AE3276E>

with juror survey responses, at least seventeen reflected a positive reaction, in which the respondent expressed appreciation for the great number of safety measures taken.²⁴

Nevertheless, comments included several points of criticism. Juror responses from one location were critical of coordination among court officers.²⁵ Jurors who appeared for the Salem trial, and then learned that a person who had been in the courthouse on the day of the trial had reported testing positive, expressed significant negative reactions. One such juror labeled “[c]alling jury duty during these times . . . reckless.”²⁶

IV. Remote Impanelment

Although no remote impanelments have yet occurred, preparations are ongoing for two remote-implemment pilot trials. We describe those preparations here because they bear on our recommendations. A Greenfield District Court case is scheduled for Tuesday, February 16, 2021, and a Plymouth District Court case is scheduled for Tuesday, February 23, 2021.

The Office of Jury Commissioner has notified prospective jurors that they may participate in voir dire remotely in these trials. The juror response as of this writing is as follows:

Greenfield:

21 jurors have accepted the offer to participate in voir dire remotely;

18 jurors have responded to an earlier email/letter that they intend to appear, but have not responded to the offer to participate in voir dire remotely;

²⁴ See Appendix 6, attached.

²⁵ The perceived lack of coordination may have resulted from the absence on the trial date of the designated primary and back-up jury pool officers due to COVID-19 related issues.

²⁶ The morning after the Salem trial, a lawyer who had been in the building at the time of the trial reported testing positive. He was near, but not within six feet of, some of the potential jurors as they entered the building, for a period of less than five minutes. This report resulted in closure of the building on the day after the trial, and the OJC notified all members of the jury pool that day. A somewhat similar event occurred in Middlesex Superior Court in Woburn. Four days after the end of the trial, a staff person who had been present throughout the trial reported testing positive; again the OJC notified all members of the jury pool, although the information available indicated that none had been in close contact with the staff person. No Woburn jurors have commented on this topic as of this writing, but that may reflect the timing of the notice in relation to submission of the surveys.

14 jurors responded to a summons that they would appear on this date but have not responded to any post-summons communications;

15 jurors have not responded to any communication including the summons; and,

6 of the non-responders have an email address on file with OJC.²⁷

Plymouth:

28 jurors have accepted the offer to participate in voir dire remotely;

9 jurors have responded to an earlier email/letter that they intend to appear, but have not responded to the offer to participate in voir dire remotely;

21 jurors responded to a summons that they would appear on this date but have not responded to any post-summons communications;

15 jurors have not responded to any communication including the summons; and

14 of the non-responders have an email address on file with OJC.

The OJC will randomize and assign juror numbers to combine the group of jurors participating in voir dire remotely with the non-remote group to preserve pool representativeness and diversity. As the actual trial dates approach, these pools will need to be reduced to a more manageable size commensurate with a six-person jury trial. The OJC will likewise complete the reduction process in a randomized fashion, although doing so may result in some jurors appearing in person instead of others who would have participated remotely.

The OJC has mailed the Reminder Notices (including map, directions and Confidential Juror Questionnaire) to the Greenfield jurors as of January 29, 2021 and the Plymouth jurors as

²⁷ Non-responders for whom the OJC does not have an email address are more likely to become “walk-ins,” because of the tight timelines involved in trying to create jury pools during the pandemic by asking people to re-confirm that they intend to appear. The OJC emails cancellation notices to non-responders the day before the service date if possible, but those who cannot be reached by email have received multiple mailings telling them to appear (three summonses and a reminder notice). Unless they call the Juror Line the day before their service and hear (and understand) that non-responders must not appear, they may follow the directions on those mailings and come to court.

of February 5, 2021.

Both courts involved in this pilot project have identified the appropriate person to be the “Technical Clerk” for purposes of managing the remote jurors through the Zoom impanelment session. Technical assistants from the Administrative Office of the District Court have met with the trial judge and staff at each location to ensure all necessary equipment is present and functional and to conduct a run-through of the remote impanelment process with the trial judge, the Technical Clerk, Jury Pool Officer and staff.

V. Observations and Recommendations

This report describes five trials of relatively minor cases, each to a jury of six, each involving an investment of resources far exceeding that normally required for any single case among the nearly four thousand trials the Massachusetts Trial Court impanels in a normal year. Although the sample is too small for any firm conclusions, we make the following preliminary observations.

First, the protocols recommended in the JMAC report appear to be generally feasible and effective for juries of six in these buildings, although we recommend certain adjustments regarding side bar conferences and juror lunches. Side bar conferences should not occur. As noted *supra*, devices that the Trial Court is in the process of acquiring should provide a sufficient alternative. In the absence of such devices, courts should make arrangements for the use of separate spaces.

Juror lunches present a serious challenge with no simple and uniform solution. Having jurors remove their masks and eat together in one room, even with social distance, poses an unacceptable risk of infection. For short cases, a 9 a.m. to 1 p.m. schedule may be the best option, although every time jurors leave the courthouse and then reconvene the next day, they are

subject to exposure and may bring infection back with them. Sending jurors out of the courthouse to eat lunch on their own poses the same risk, and in some locations options to purchase lunch are limited or non-existent. In addition, a juror dining in a local establishment may expose members of the community around the courthouse to the virus, if the juror is infected. Some courthouses provide parking lots, where jurors might eat in their cars, and some are near open spaces where jurors might eat outdoors in favorable weather, but many courthouses have neither. Separating deliberating jurors in serious cases, and exposing them to public contact, presents security risks unrelated to COVID-19. In some buildings, sufficient separate rooms or other spaces may be available so that the court can arrange for a small number of jurors to eat separately, without conversation, and resume wearing masks as quickly as possible. Overall, we recommend that judges conducting jury trials select among these options with careful attention to all of these risks, and give appropriate instructions for the option selected.

Second, the feasibility and effectiveness of these protocols for short trials with juries of six does not establish that the same protocols will be feasible and effective for longer, more complex trials, with juries of 12 (14 or 16 with alternates). With the exception of Middlesex Superior Court in Woburn, the courtrooms used for these cases would not accommodate 12-person juries with social distancing. Court personnel have devoted substantial efforts to preparing a courtroom in each of the available buildings for 12-person trials, but these arrangements have yet to be tested in actual trials. Courtroom configurations in some of these locations appear likely to function satisfactorily, others less so.²⁸

²⁸ As of this writing, efforts remain in progress to license non-courthouse buildings for the conduct of jury trials in five counties in which courthouse building systems have not been determined to provide ventilation adequate for jury trials.

Perhaps more significantly, counsel who have attended trial-readiness and scheduling conferences express significant reservations about trying serious cases under pandemic protocols. Concerns include constraints on effective cross-examination with social distancing; difficulty in perceiving reactions of jurors wearing masks; interruptions from infections among court personnel or others in courthouses and resulting court closures and potential mistrials; and jury pools that, even if representative with respect to constitutionally-protected demographic categories, may be skewed in other, less measurable respects. Also, the trials conducted so far have required a level of cooperation among participants that may not occur when the stakes are higher.

Most significantly from a court perspective, the presence of a large number of people in a courtroom for multiple days in sequence poses an unavoidable risk of infection, even with careful observance of all protocols. Any infection that may occur among jurors or other participants would likely be attributed to exposure during trial, whether actually linked or not.

Based on these observations, we make the following recommendations. First, we recommend that the two trials planned for remote impanelment proceed as scheduled in Greenfield and Plymouth District Courts on February 16 and 23, respectively. We make this recommendation based on the substantial investment of resources that has already taken place in planning for that process, and the possibility that successful implementation of remote impanelment may facilitate larger numbers of trials than would otherwise be possible over the coming months.²⁹ If the remote impanelments result in fewer potential jurors coming to the courthouse in person, the risks of exposure will be substantially lessened.

²⁹ We have had preliminary discussions about the possibility of fully remote trials of civil cases with consent of all participants. Information gathered from remote impanelments in these two cases may assist in consideration of that possibility, as well as consideration of the further use of remote impanelment for criminal and civil cases.

Second, except as to the two cases scheduled for remote impanelment, we recommend that the current pause continue for a longer period, to be determined in consideration of two related factors: rates of COVID-19 infection in Massachusetts, and vaccination of court personnel. Infection rates currently appear to be on a downward trend from the high of early January, but remain dramatically higher than they were at the time the JMAC issued its report on July 31, 2020, and at the time the Order took effect on October 1, 2020.³⁰ Further, a recent study indicates that the more contagious “U.K. variant” of the virus is spreading rapidly in the U.S., doubling roughly every ten days, and will be the dominant variant in this country by March.³¹

Regarding vaccination, court security personnel have been offered vaccination already, and other court personnel are classified in Stage 3 of Phase 2 of the Commonwealth’s vaccination plan, which we are informed may be reached later in February or in March. Vaccination of a substantial percentage of court personnel may reduce the frequency of illness and resulting court closures, and increase confidence among jurors and trial participants in the safety of their presence in courthouses.³²

Our third recommendation relates to scheduling trials for Phase 2. The JMAC report recommended that trials to be conducted in Phase 2 consist of cases that have the highest priority, including serious criminal cases with defendants in custody and youthful offender cases.

³⁰ See Appendix 7, attached, which provides numbers of positive tests for COVID 19 from March 8, 2020, through January 31, 2021.

³¹ See, e.g., *New York Times*, February 7, 2021, <https://www.nytimes.com/2021/02/07/health/coronavirus-variant-us-spread.html?action=click&module=Spotlight&pgtype=Homepage>

³² We note the uncertainty about whether vaccination prevents transmission as well as illness. Still, less illness among court personnel, and fewer resulting closures, appears likely to increase confidence generally. We also recognize that the Trial Court may not have full information about the percentage of personnel who receive vaccinations, but it will obtain some information through requests for paid leave being offered for the purpose, subject to documentation of vaccination.

(Report, p. 18). We made that recommendation based on the urgency of the due process and public safety interests those cases present. As indicated *supra*, the Order provided that the SJC “shall issue direction” regarding Phase 2 “after reviewing the JMAC’s evaluation of Phase 1,” but that “cases to be tried in Phase 2 in accordance with the JMAC's recommendations may be scheduled” with dates “subject to revision after the SJC's review of the JMAC's evaluation of Phase 1.” Accordingly, courts have been conducting conferences to assess trial-readiness and set tentative trial dates beginning in March, focusing on the most serious cases with defendants in custody.

Judges conducting these conferences have reported that counsel express substantial reluctance to schedule these cases for early trial dates in Phase 2, based on the concerns discussed *supra*, including potential interruption of lengthy trials, or mistrials, due to infections and court closures; the risk of infection arising from large numbers of people being in the same place for multiple days in sequence; and the challenges of conducting complex trials under pandemic protocols. Judges and court personnel echo some of these concerns.

Accordingly, we recommend that courts have flexibility to set tentative trial dates for Phase 2 beginning with relatively short, simple cases, in which a person in custody seeks to proceed to trial as soon as possible, and to set more complex, lengthy cases for a later stage of the resumption of jury trials. Such scheduling should reflect consultation with Regional Administrative Justices and First Justices in each court, along with Chief Justices of each department and the Chief Justice of the Trial Court.

The Jury Management Advisory Committee appreciates the opportunity to provide this information and recommendations to the Justices.

Appendix 1



Phase 1 Jury Trial COVID-19 Judicial Questionnaire Results

Jury Management Advisory Committee, January 2020

QUESTIONNAIRE FEEDBACK RESULTS

The following data includes feedback from the following:

Lowell Justice Center - Judge John Coffey
Middlesex Superior Court – Judge Helene Kazanjian
Plymouth District Court - Judge James Sullivan
Salem District Court - Judge Robert Brennan
Worcester Trial Court - Judge Jennifer Ginsburg

1. Overall Compliance with Risk Reduction Protocols

Average Score: 9.4 High Score: 10 Low Score: 9

Noteworthy Remarks:

Plymouth Trial Court: Attorneys were receptive and appreciative of safety precautions.

Salem District Court: After consultation with the parties, witnesses removed masks during testimony (jurors reported no health/safety concerns and agreed it was important to credibility assessment. Court forgot to have witness stand cleaned between first and second witnesses. No hand sanitizer on bench or counsel tables.

2. Juror Movement within the Courthouse

Average Score: 9.4 High Score: 10 Low Score: 9

Noteworthy Remarks:

Plymouth Trial Court: Juror entrance was staggered social distancing and juror movement was not a problem.

3. Juror Impanelment Procedure

Average Score: 8.6

High Score: 10

Low Score: 6

Noteworthy Remarks:

Middlesex Superior Court: We did need a juror overflow room because more than 30 jurors appeared and it put us over our maximum capacity. The jurors in the overflow room were able to view the main room via video and participate in answering questions. However, the lower number jurors were not in the main room. I worry that in another case the lawyers might object to this procedure. It would be better if we had a system that put the higher numbers in the overflow room.

Salem Trial Court: Diverse pool and seated jury racially, ethnically, and socio-economically.

Worcester Trial Court: Although practice rounds went ok, during real trial many jurors had a hard time hearing me through hole and lawyers struggled to hear also. Lawyers participating in this trial are not interested in doing virtual empanelment. They both felt they wanted to see potential juror in person to be able to assess.

4. Courtroom and Courthouse Cleaning

Average Score: 8.8

High Score: 10

Low Score: 7

Noteworthy Remarks:

Lowell Justice Center: Facilities were present during trial.

Plymouth Trial Court: Impanelemnt of a more complex case utilizing multiple jurors and witnesses would be best served by having several cleaners assigned to facilitate a quick transition from one person or group to another.

Worcester Trial Court: Lawyers commented that some areas of courtroom such as desks and podium were very dusty and were cleaned by lawyers before trial.

5. Courtroom Set-Up

Average Score: 7.8

High Score: 10

Low Score: 7

Noteworthy Remarks:

Middlesex Superior Court: We could use more monitors to deal with exhibits. It was not a huge issue in this case because but one of the exhibits were agreed upon and in binders. One exhibit came in later and it was put on the Elmo to view but there were not enough monitors for everyone to see it clearly. This would not be a problem if we had a smart courtroom or multiple monitors. Also, jurors had a little bit of difficulty hearing the lawyers because with the masks on.

Plymouth Trial Court: Able to create sufficient space to keep the jurors apart from other participants, however, more jurors or participants would prove challenging the adjustment of shades was needed as the sunlight reflected off plexiglass.

Salem Trial Court: Presence of plexiglass caused some awkwardness. 14-person jury box fit 6 jurors well. Difficult to position parties so that attorney able to have a front angle to all participants (lectern in fixed location due to FTR connection). Generally good, but sight lines not ideal due to health and safety precautions.

Worcester Trial Court: Plexiglass is good for safety, not as good for sightlines. Lawyer said difficult to see witness sometimes through all the plexiglass. I could not see at least one juror well due to plexiglass. Lawyers had to stay near microphones so as to be heard through masks and multiple layers of plexiglass, which they reported, and I observed, was a challenge. We made multiple adjustments before and during trial to accomplish best scenario.

6. Juror Lunch

Average Score: - **High Score:** - **Low Score:** -

Noteworthy Remarks:

No numeric score received for this question.

Worcester Trial Court: They were in a large deliberation room where we had set up tables and chairs apart from each other and put plexiglass up and air purifier in room. Overall, I was not thrilled with this arrangement because they were eating and drinking in a room that was not huge with each other. Health experts discourage us from eating and drinking with people who are not in our households, so this does not seem good to me. Next time, we should find a bigger space for lunch, which involves possibly another courtroom?

7. COVID-19 Specific Trial Procedures

Average Score: 9.6 **High Score:** 10 **Low Score:** 9

Noteworthy Remarks:

Salem Trial Court: the process of delivering exhibits to jurors a bit awkward.

Worcester Trial Court: While not an issue in this case, communication between defense counsel and defendant will be issue going forward. Even if defense counsel and defendant don't mind huddling together to talk, this does not appear to be safe and does not look good for jurors. We put plexiglass between counsel and defendant, so not sure they could really hear each other through that. During voir dire, side bar was a problem. Despite our efforts, lawyers and I had a hard time hearing each other at side bar through tiny hole in plexiglass which resulted in us having to be too close together. This was not a huge issue in this case as there were not many contested issues at all, but in a contested case it could be big problem. We are exploring alternatives for side bar conferences.

8. Public Access

Average Score: 9.75

High Score: 10

Low Score: 9

Noteworthy Remarks:

Plymouth Trial Court: The courtroom ran a zoom and public access line for public observation.

9. Model Voir Dire and Jury Instructions, if Available

Average Score: 9.6

High Score: 10

Low Score: 9

Noteworthy Remarks:

Salem Trial Court: Several individuals viewed via zoom. Due to the fixed location of the camera, the zoom view was of the bench; preferably it would provide a view of the witness stand.

10. Jury Deliberations

Average Score: 8.8

High Score: 10

Low Score: 6

Noteworthy Remarks:

Middlesex Superior Court: Jurors commented that it was a bit difficult to hear each other but they understood why they had to be so far apart and they were able to make due.

Salem Trial Court: Jurors reported that they were comfortable with the set-up.

Details and impressions about the conduct of the trial and the experience of the participants:

Noteworthy Remarks:

Lowell Justice Center: Attorneys felt there was a cumbersome number of court officers during in impanement and trial. They also felt the jury pool was skewed and was not representative of a typical low jury pool, judge agrees. Overall attorneys felt not ready for trial as the pool is skewed in overall atmosphere of courtroom.

Plymouth Trial Court: The size and layout of the building was crucial, even with that said, a six-person jury trial is about all that could be accommodate. Larger juries in more complex trials would be extremely difficult to manage safely.

Salem Trial Court: Although not ideal conditions, all involved court staff indicated that they feel ready and able to conduct jury trials at the Salem District Court, and that our missteps would be resolved after a few trials. It remains to be seen how the process will work with a more complex case with physical evidence, multiple witnesses, or a defendant in custody.

Worcester Trial Court: The court officers are due a lot of credit for working well with jurors and being very flexible and responsive. We tried to make it safe for jurors, but there is a limit to what a courthouse can do in terms of cleanliness. More work needs to be done on side bars. Maybe technology can help. During this nasty peak of the pandemic, where so many members of our community are sick and contagious, I do not think we should be doing it right now.

Overall Questionnaire Results At-A-Glance

Question	Court					Average
	Lowell	Middlesex	Plymouth	Salem	Worcester	
1. Overall Compliance w/Risk Reduction Protocols	10	10	9	9	9	9.4
2. Juror Movement within the Courthouse	10	10	9	9	9	9.4
3. Juror Impanelemnt Procedure	10	8	10	9	6	8.6
4. Courtroom and Courthouse Cleaning	10	10	8	9	7	8.8
5. Courtroom Set-Up	10	7	8	7	7	7.8
6. Juror Lunch	n/a	n/a	-	n/a	-	-
7. COVID-19 Specific Trial Procedures	10	10	-	9	-	9.6
8. Public Access	10	10	-	9	10	9.75
9. Model Voir Dire and Jury Instructions	10	10	n/a	n/a	9	9.6
10. Jury Deliberations	6	9	10	9	10	8.8

“-“ indicates no response received.

Complete questionnaires including individual scores and detailed comments are attached.



Lowell Justice Center Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

Name of Judge: John F. Coffey/Stacey Fortes

Jury Service Date: January 12, 2021

All scores are rated on a scale from 1-10 with 1 being Least Effective/Successful and 10 being Most Effective/Successful.

1. Overall Compliance with Risk Reduction Protocols

Score: 10

Comment: Facilities and court officers did fantastic job with protocols; all participants complied. Mask compliance was excellent. Masks were made available, but not needed. One witness case-the witness was allowed to remove her mask and replace with transparent face mask prior to testimony. testimony was behind plexiglass. Cleaners and sanitizers were readily available. Air purifier was under witness box.

2. Juror Movement within the Courthouse

Score: 10

Comment: Jurors were told to maintain 6 feet of distance as they entered the courthouse. They were notified that they could enter the building as early as 7:30. Approximately 11 court officers participated at various stages of trial. Court officers did an excellent job directing staff. We had 37 jurors and split them into two separate jury pool rooms based on max capacity and allowing seats for press/spectators.

3. Juror Impanelment Procedure

Score: 10

Comment: Half of the jury impanelment was conducted in jury pool room. After statutory questions jurors went upstairs to wait outside courtroom by two's and were then directed into courtroom for individual voirdire.

4. Courtroom and Courthouse Cleaning

Score: 10

Comment: Facilities did an excellent job cleaning during the proceeding. Facilities personnel were present in jury pool rooms and present during trial. Cleaning occurred before and after witness.

5. Courtroom Set-Up

Score: 10

Comment: Jurors mentioned courtroom jury box could use more plexiglass. Seven jurors were seated in 12-person jury box. Sightline needs to be adjusted so defendant has better view of witness stand. Sufficient space was created to keep jurors apart.

6. Juror Lunch

Score: N/A

Comment: No juror lunch was provided. We did not break for lunch.



Lowell Justice Center Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

7. COVID-19 Specific Trial Procedures

Score: 10

Comment: Plexiglass at sidebar and sufficient room to maintain social distancing. counsel made oral objections . Electronic equipment was used for exhibit. Jurors did not take notes

8. Public Access

Score: 10

Comment: Public had available seats in courtroom and public access line.

9. Model Voir Dire and Jury Instructions, if Available

Score: 10

Comment: Used model questions, then used specific COVID-19 questions submitted by defense counsel.

10. Jury Deliberations

Score: 6

Comment: Jury deliberated in probate court training room. Jurors and foreperson were given instructions to wear mask and distance. Exhibit was left on table in middle of room with instructions on distancing to handle.

Please share details and impressions about the conduct of the trial and the experience of the participants.

The Jury Commissioner should ask COVID-19 questions to pre-screen jurors as suggested in JMAC report. We had 2 jurors with medical issues report to courthouse that might not have if screened.



Middlesex Superior Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

Name of Judge: Helene Kazanjian

Jury Service Date: January 25 – 27, 2021

All scores are rated on a scale from 1-10 with 1 being Least Effective/Successful and 10 being Most Effective/Successful.

1. Overall Compliance with Risk Reduction Protocols

Score: 10

Comment: We had a few individuals (one lawyer, one court staff) who struggled with keeping their masks on over their nose but that was addressed.

2. Juror Movement within the Courthouse

Score: 10

Comment: The court officers did an outstanding job of making sure that everyone moved through the courthouse in a safe manor. They managed both the jury room and an overflow room for empanelment.

3. Juror Impanelment Procedure

Score: 8

Comment: This mostly went without any issue. We did need a juror overflow room because more than 30 jurors appeared and it put us over our maximum capacity. The jurors in the overflow room were able to view the main room via video and participate in answering questions. However, the lower number jurors were not in the main room. I worry that in another case the lawyers might object to this procedure. It would be better if we had a system that put the higher numbers in the overflow room. That way we would only have to question the jurors in the overflow room if we didn't get a jury from the first 30.

4. Courtroom and Courthouse Cleaning

Score: 10

Comment: We had one of the courthouse cleaners clean the witness stand in between jurors and witnesses. This made everyone feel more comfortable.

5. Courtroom Set-Up

Score: 7

Comment: We could use more monitors to deal with exhibits. It was not a huge issue in this case because but one of the exhibits were agreed upon and in binders. Each juror had his or her own binder and we had a separate binder for plaintiff's and defendant's witnesses. One exhibit came in later and it was put on the Elmo to view but there were not enough monitors for everyone to see it clearly. This would not be a problem if we had a smart courtroom or multiple monitors.

Also, jurors had a little bit of difficulty hearing the lawyers because with the masks on. Lawyers should be reminded to speak up and we can probably turn up the volume in the courtroom.



Middlesex Superior Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

The lawyers had sight line issues with one juror, which was fixed during trial by moving a monitor. The lawyers did not like doing their opening and closings from the podium because of where it was located in the courtroom. We can add a second podium for that purpose.

6. Juror Lunch

Score: N/A

Comment: N/A While we ordered lunch, the verdict came before lunches arrived. The jurors took the lunches with them. We had arranged for jurors to spread out in different rooms to eat and they were told that they could not deliberate during lunch.

7. COVID-19 Specific Trial Procedures

Score: 10

Comment: None

8. Public Access

Score: 10

Comment: None

9. Model Voir Dire and Jury Instructions, if Available

Score: 10

Comment: None

10. Jury Deliberations

Score: 9

Comment: Jurors commented that it was a bit difficult to hear each other but they understood why they had to be so far apart and they were able to make due.

Please share details and impressions about the conduct of the trial and the experience of the participants.

Overall I thought it went well and everyone worked together to make things safe. It was a lot of work and a lot of coordination but the court staff all seemed to be on the same page.

We did learn that 4 days after the trial, one of the individuals in the courtroom during trial tested positive for COVID-19.



Plymouth Trial Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

Name of Judge: Judge James Sullivan

Jury Service Date: January 12, 2021

All scores are rated on a scale from 1-10 with 1 being Least Effective/Successful and 10 being Most Effective/Successful.

1. Overall Compliance with Risk Reduction Protocols

Score: 9

Comment: Mass compliance was excellent across the board. We had masks available, but they were not needed. Witnesses were surrounded by plexiglass in mask removal was not permitted. Jurors had individual copies of pre-marked exhibits. Attorneys were receptive and appreciative of safety precautions. Cleaners and hand sanitizers were readily available.

2. Juror Movement within the Courthouse

Score: 9

Comment: Juror entrance was staggered. distance was not a problem. We had more jurors (47) than we expected. (30) Would likely be ideal. Juror movement was not problematic they were effectively directed by the court officers. By impaneling in the jury pool room, it kept number of people in the courtroom to what was necessary. There were no issues with juror movement.

3. Juror Impanelment Procedure

Score: 10

Comment: There were no space issues with the juror check-in process we did not ask any COVID-19 questions individual voir doir was conducted in a hallway adjacent to the pool room and a partitioned section inside of the pool room. FTR Rover and zoom recorder used for Impanelment virtual impediment would be ineffective. Surplus jurors could wait in their cars.

4. Courtroom and Courthouse Cleaning

Score: 8

Comment: Facilities did a fine job of cleaning during the proceedings. Impaneling of more complex case utilizing multiple jurors and witnesses would be best served by having several cleaners assigned to facilitate a quick transition from one person or group to another.

5. Courtroom Set-Up

Score: 8

Comment: We used the large courtroom and a minimal number of jurors it worked well but we utilized part of the public gallery and sat 4 jurors in a box designated for 12. We were able to create sufficient space to keep the jurors apart from 1 other participants. More jurors or participants would prove challenging. We did have to adjust the shades as the sunlight reflected off plexiglass. The slight lines and acoustics were good.



Plymouth Trial Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

6. Juror Lunch

Score: N/A

Comment: We did not break for lunch or order lunch for the jurors.

7. COVID-19 Specific Trial Procedures

Score: no response

Comment: We had sufficient room at sidebar to conduct them normally. Counsel made oral objections. We did not have the attorneys approach the witnesses. Evidence was pre marked in individual copies were provided to the jurors. Anything needed for the witness was provided to the clerk who provided it to the judge who provided it to the witness. The defendant sat with his attorney at counsel table. The jurors did not take notes.

8. Public Access

Score: no response

Comment: The defendant's wife and one observer were present in the courtroom during the trial. We could have accommodated more people. The court ran a zoom and public access line as well.

9. Model Voir Dire and Jury Instructions, if Available

Score: no response

Comment: We did not use any COVID-19 questions with the jury. I believe the room set up in safety precautions spoke for themselves. I think allowing jurors to opt out due to COVID-19 concerns is very effective. All the jurors we utilized were very willing to serve.

10. Jury Deliberations

Score: 10

Comment: Our jury deliberation room is immediately adjacent to the jury box in the courtroom. It is rated for 11 people. It is equipped with two bathrooms as well as the kitchen sink there was a hand sanitizer dispenser in the room. The room is on the third floor with two walls of glass which overlooks the country farm. It may be the nicest one in the Commonwealth. Deliberations and the return of the verdict was flawless.



Plymouth Trial Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

Please share details and impressions about the conduct of the trial and the experience of the participants.

On its face the trial went remarkably smoothly. This was possible in large part due to the extensive preparations by facilities, security, court staff, the Jury Commissioner's Office, and the trial participants. Communication was excellent and potential problems were identified in corrected promptly. All involved were encouraged to make suggestions or raise concerns if any issue arose that compromise safety of anyone involved, we were prepared to abandon the proceedings immediately. Even with all the dedication and hard work that went into this trial it would not have been possible without the exceptional physical plant at the Plymouth court complex. The size and layout of the building was crucial but even with that said a six-person jury trial is about all that could be accommodated. Larger juries and more complex trials would be extremely difficult to manage safely.



Salem District Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

Name of Judge: Robert Brennan

Jury Service Date: 1/19/2021

All scores are rated on a scale from 1-10 with 1 being Least Effective/Successful and 10 being Most Effective/Successful.

1. Overall Compliance with Risk Reduction Protocols

Score: 9

Comment: After consultation with the parties, witnesses removed masks during testimony (jurors reported no health/safety concerns and agreed it was important to credibility assessment. Court forgot to have witness stand cleaned between first and second witnesses. No hand sanitizer on bench or counsel tables.

2. Juror Movement within the Courthouse

Score: 9

Comment: Jurors moved easily between pool room, initial courtroom for general questions to venire, and trial courtroom (where jurors also deliberated). The coordination among court officers was exceptional.

3. Juror Impanelment Procedure

Score: 9

Comment: Initial questions asked of venire in one courtroom and individual voir dire conducted in an adjacent (trial) courtroom. Zoom sound muted for individual voir dire, attorneys required to challenge or accept juror after individual voir dire (attorneys also permitted to question juror at that time), and jurors excused or, if seated, returned to original location until full jury seated. No alternate juror impaneled. Diverse pool (and seated jury) - racially, ethnically, and socio-economically. 1 juror excused for cause, and 2 jurors peremptorily challenged.

4. Courtroom and Courthouse Cleaning

Score: 9

Comment: Did not clean witness stand between first and second witness.

5. Courtroom Set-Up

Score: 7

Comment: Presence of plexiglass caused some awkwardness. 14 person jury box fit 6 jurors well. Difficult to position parties so that attorney able to have a front angle to all participants (lectern in fixed location due to FTR connection). Generally good, but sight lines not ideal due to health and safety precautions.

6. Juror Lunch

Score: N/A

Comment: Verdict before noon - not applicable.



Salem District Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

7. COVID-19 Specific Trial Procedures

Score: 9

Comment: Witnesses unmasked for testimony, otherwise all masked for entire proceeding. Social distancing of juror/counsel seating reasonably effective. 2 exhibits, both documents, were copied so that each juror had his/her own; however, process of delivering exhibits to jurors a bit awkward. COVID-19 instructions to jurors straightforward and simple - model jury pool address for district court very helpful.

8. Public Access

Score: 9

Comment: Courthouse and courtroom open to public. One member of the public in courtroom for part of the trial, two witnesses came into the courtroom for closing arguments. The trial was also available on zoom - several lawyers apparently watched/listened. Due to the fixed location of the camera, the zoom view was of the bench; preferably it would provide a view of the witness stand.

9. Model Voir Dire and Jury Instructions, if Available

Score: N/A

Comment: Did not use a model voir dire nor jury instructions (other than standard district court model jury instructions).

10. Jury Deliberations

Score: 9

Comment: Jurors deliberated in courtroom. The public was asked to leave, the record was turned off, and the doors were locked. A court officer was located outside the door on the interior side of the courtroom. After the verdict, one juror commented that it would be preferable to have a large table around which all jurors could sit, but he understood why that was likely not feasible. Otherwise, jurors reported that they were comfortable with the set-up.

Please share details and impressions about the conduct of the trial and the experience of the participants.

Overall, the trial went smoothly. It was a very simple, straightforward case with experienced and low-maintenance attorneys. The court staff - clerks, court officers, and facilities - was terrific and should receive a tremendous credit for their efforts and the result. The attorneys reported positive experiences. Other than the suggestion noted above, the jurors indicated that they found the process smooth and relatively easy. Two jurors specifically expressed that they found it to be a surprisingly valuable experience. All jurors reported that it was their first time sitting on a jury. We were fortunate to have the cooperation of the housing court, who switched courtrooms with us so that we could take advantage of their 14 person jury box. Although not ideal conditions, all involved court staff indicated that they feel ready and able to conduct jury trials at the Salem District Court, and that our missteps would be resolved after a few trials. It remains to be seen how the process will work with a more complex case with physical evidence, multiple witnesses, or a defendant in custody. There was minor confusion as a result of communication



Salem District Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

from JMAC that jurors would be notified for 9 AM, which the jury pool officer put on the recording, versus juror summonses that required jurors to appear at 8 AM. In addition, 39 jurors appeared - many apparently did not receive the communication that they were not needed - which was far more than was necessary. After our jury pool room filled (capacity 25), the remaining jurors were checked in and directed to an empty courtroom. I excused them after addressing the jury pool at approximately 9:20 AM.



Worcester Trial Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

Name of Judge: Jennifer Ginsburg

Jury Service Date: January 19, 2021

All scores are rated on a scale from 1-10 with 1 being Least Effective/Successful and 10 being Most Effective/Successful.

1. Overall Compliance with Risk Reduction Protocols

Score: 9

Comment: All jurors appeared with masks. During empanelment, a few jurors needed to be reminded to keep mask over nose. After that, ok. I reminded all participants of mask requirement in preliminary instructions and in final instructions. Maintenance department installed hand sanitizer at jury box and entrance to courtroom.

2. Juror Movement within the Courthouse

Score: 9

Comment: Court officers at courthouse door sought out jurors and brought them inside asap. All jurors used stairways, not elevators. Court officers report that while moving jurors between jury pool room and courtroom difficult to keep jurors in a line (as they report it often is) since people move at different speeds, but 6 feet distance ok. It was suggested that the jurors be lined up in order outside the courtroom so they do not have to pass by each other to get up to side bar for questioning. Total of 4 court offices used--1 in jury pool room, 1 in overflow room used for unconfirmed jurors who showed up, 2 in courtroom. That seemed sufficient for way we conducted voir dire, but would need more if voir dire modified as suggested below. Also, other supervising court officers working behind the scenes to address questions that came up. Court officer staffing raised by court officers as potential issue going forward. Court officers did excellent job escorting jurors in and out of room. Occupancy limits in courtroom limited number of jurors we could use for panel to 14. We did need to use a second panel of jurors to seat jury, which could repeat itself so we should anticipate needing to do that in future. Juror movement during this worked well. Seated jurors put in large deliberation room to wait.

3. Juror Impanelment Procedure

Score: 6

Comment: We did not use staggered schedule for juror check in as it did not seem necessary for empaneling 1 jury of 6. Jury pool room has occupancy limit of 30 (?) and we used an overflow room for 18 unconfirmed walk-ins. We anticipated walk-ins (based on grand jury empanelment here and other recent impanelments) and had large courtroom available for overflow. While anticipated, this was challenge for court officers. Also, there was a push by court officers to rush it and use unconfirmed jurors before later arriving confirmed jurors. In the end, we only needed to use confirmed jurors. It was helpful to be on look out for this as obviously preferable to be dealing with jurors who have had some level of screening by OJC. Juror check in was fine. After questioning the entire panel with general voir dire questions and a few case-specific (OUI) questions, I called each juror to side bar and asked, "Do you have any COVID-19 related concerns about sitting as a juror in this case?" All jurors except one said no to that question.



Worcester Trial Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

One (OJC pre-screened) juror who had NOT raised her hand to any group question including, "Is there any reason for example personal concerns.....physical or medical concerns ...which might make it difficult for you to be a juror?" did respond to my question saying basically, "I want to do my duty but I would rather not because I care for my elderly mother-in-law who was just released yesterday from hospital after having a stroke." She was excused. So, I think question worked well and should be asked individually. In terms of voir dire procedure, we spent HOURS more like DAYS going over and over best process including input from many sources, trying to accommodate juror privacy, court officer resources, recording, and public access. In the end, we decided to do individual voir dire questioning at side bar with plexiglass with hole near recording microphone, with markings on floor indicating where lawyers/juror should stand for 6 feet distancing. I had attorneys exercise peremptory challenges as jurors were addressed individually to limit time we were huddled together and lawyers agreed to it. Although our practice rounds went ok, during real trial many jurors had a hard time hearing me through hole and lawyers struggled to hear also. As a result, I had to get very close to hole in plexiglass and so did juror and lawyers. That did NOT feel good. In debrief after trial, we have discussed other options. Although it would require use of more court officers and additional courtrooms, I think best way is to have individual questioning of jurors while juror at microphone at bar, while other jurors are in separate room. Some have suggested individual check-in could be skipped if no hand raised to questions to the group, but I disagree with that, as we know that individual check-in results in discovering significant issues with jurors, such as covid-related concern that had not been discovered and also we uncovered a juror at side bar who had comprehension issues that prevented him from sitting as a juror that we never would have known about. Lawyers participating in this trial are not interested in doing virtual empanelment. They both felt they wanted to see potential juror in person to be able to assess.

4. Courtroom and Courthouse Cleaning

Score: 7

Comment: Upon request, facilities department did some cleaning of the courtroom prior to trial day. Lawyers commented that some areas of courtroom such as desks and podium were very dusty and were cleaned by lawyers before trial. The Worcester courthouse is big and there are many high touch areas throughout building. It seems unlikely if not impossible that with the number of people employed here in building who have as part of their job description cleaning (my understanding is not many) high touch areas are consistently cleaned. During this trial, a facilities worker came and cleaned the witness stand with a disinfectant wipe after one witness testified. That was done in front of jury and I think it was good. No cleaning of juror seats but we only put jurors in box once they were selected so only one person sat in chair during day. We also asked jurors to pick one seat in deliberation room and stick to it throughout the day. Hand sanitizer dispensers were installed outside of courtroom and next to jury box which were and looked good.



Worcester Trial Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

5. Courtroom Set-Up

Score: 7

Comment: Jurors were seated in jury box that was designed for 12 member jury and we removed seats so 6 seats in jury box and one seat to side for alternate. We have two rows with 3 seats in each row. There was 6 feet of distance between jurors side to side, but not between the rows front to back, so we have plexiglass between the two rows. We did not seat alternate as we anticipated one day trial and worried about sight line for juror seated in extra seat to side. Plexiglass is good for safety, not as good for sightlines. Lawyer said difficult to see witness sometimes through all the plexiglass. I could not see at least one juror well due to plexiglass. Lawyers had to stay near microphones so as to be heard through masks and multiple layers of plexiglass, which they reported, and I observed, was a challenge. We made multiple adjustments before and during trial to accomplish best scenario.

6. Juror Lunch

Score: no response

Comment: We had court officers take lunch orders from jurors as soon as they were seated. Evidence, arguments and instructions were done at 1:00 so we had jury eat lunch first, then deliberate with masks on. They were in a large deliberation room where we had set up tables and chairs apart from each other and put plexiglass up and air purifier in room. Overall, I was not thrilled with this arrangement because they were eating and drinking in a room that was not huge with each other. Health experts discourage us from eating and drinking with people who are not in our households so this does not seem good to me. Next time, we should find a bigger space for lunch, which involves possibly another courtroom?

7. COVID-19 Specific Trial Procedures

Score: no response

Comment: I had witness and defendant briefly remove mask during beginning of empanelment when they were introduced so jury panel could see them, making sure they remained 6 feet away from everyone at that time. Witness removed mask during testimony and wore a face shield and was behind plexiglass. All worked fine. While not an issue in this case, communication between defense counsel and defendant will be issue going forward. Even if defense counsel and defendant don't mind huddling together to talk, this does not appear to be safe and does not look good for jurors. We put plexiglass between counsel and defendant, so not sure they could really hear each other through that. I told defense counsel to ask for break if he wanted to talk to his client at length. Also, as mentioned above during voir dire, side bar was a problem here. Despite our efforts, lawyers and I had a hard time hearing each other at side bar through tiny hole in plexiglass which resulted in us having to be too close together. This was not a huge issue in this case as there were not many contested issues at all, but in a contested case it could be big problem. We are exploring alternatives for side bar conferences. We put cut out in plexiglass surrounding witness box so lawyer could show witness document if necessary. That did not happen in this case. Lawyers reported they were worried about how it would work if they needed to confront a witness with document, especially since there is no microphone near witness stand to pick up lawyer and also, lawyer would be too close to jury box if he/she stayed in that area. We did not send any physical evidence to jury. Stipulation and video stayed in



Worcester Trial Court

Phase 1 Jury Trial COVID-19 Judicial Questionnaire

courtroom during deliberations. We put verdict slip in plastic covering and tried to avoid passing it back in forth in front of jury.

8. Public Access

Score: 10

Comment: We put a lot of time into considering public access, and then to our surprise nobody in the public appeared to be interested! Defendant's family chose to stay home for safety reasons. No press appeared or any curious spectators. Trial was on zoom audio and video and information was posted on District Court website. Door to room was open. Court officers were aware of occupancy limit in room and were ready to let anybody in until we got to that number. Only time when courtroom full to capacity was during beginning of empanelment. I put on record all we had done to assure access in case anybody wanted to come in.

9. Model Voir Dire and Jury Instructions, if Available

Score: 9

Comment: District Court Criminal committee has a draft a model welcome for jury pool that is very similar to one issued by Superior Court model. I used that as a base for my welcome and it was helpful.

10. Jury Deliberations

Score: 10

Comment: Jury deliberated in large Superior Court deliberation room where we had moved furniture spacing out chairs and desks with plexiglass down middle of tables. This worked well for 6 people.

Please share details and impressions about the conduct of the trial and the experience of the participants.

Overall, with lots of work done by lots of people, the trial went smoothly. The court officers reported that the jurors seemed happy. The seated jurors did not appear reluctant to be here. The lawyers, both very experienced trial lawyers, were satisfied, but both said that was due in large part to the relatively simple straightforward nature of the case--one witness Operating Under the Influence case. The court officers are due a lot of credit for working well with jurors, and being very flexible and responsive. We tried to make it safe for jurors, but there is a limit to what a courthouse can do in terms of cleanliness. This is not a hospital. This was a good experiment for future planning. It is hard to imagine how this is going to work for jury of 12 and/or more complicated case with incarcerated defendant. The trial participants, myself included, greatly enjoyed the experiment. More work needs to be done on side bars. Maybe technology can help. During this nasty peak of the pandemic, where so many members of our community are sick and contagious, I do not think we should be doing it right now.

Appendix 2



Office of Jury Commissioner
for the Commonwealth

Essex, Middlesex, Plymouth,
& Worcester Counties

Demographic Survey - Calendar Year 2019, All COVID-19, and Early Phase 1

Demographic Category	Federal Census 2010		Trial/Grand Jurors Who Appeared for Juror Service: CY19		Trial/Grand Jurors Who Appeared for Juror Service: COVID-19 3/16/20-1/25/21		Trial/Grand Jurors Who Appeared for Juror Service: Early Phase 1 1/12/21-1/25/21	
	Population	%	Population	%	Population	%	Population	%
Black/African American	120,096	4.4%	3,857	3.4%	35	4.9%	9	5.1%
White	2,303,888	84.1%	86,437	88.0%	615	85.4%	150	84.3%
Native Hawaiian/Pacific Islander	894	0.0%	67	0.0%	0	0.0%	0	0.0%
Asian*	151,326	5.5%	4,037	3.1%	30	4.2%	8	4.5%
American Indian/Alaskan Native	6,024	0.2%	107	0.1%	1	0.1%	0	0.0%
Other	158,253	5.8%	6,430	5.3%	39	5.4%	11	6.2%
TOTALS	2,740,481	100.0%	15,541	100.0%	720	100.0%	178	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 3/16/20-1/25/21		Trial/Grand Jurors Who Appeared for Juror Service: Early Phase 1 1/12/21-1/25/21	
	Population	%	Population	%	Population	%	Population	%
Yes, Hispanic/Latino*	206,551	7.5%	5,811	5.3%	39	5.5%	10	5.5%
No, Not Hispanic/Latino	2,533,930	92.5%	94,323	93.6%	662	92.8%	173	94.5%
No Response His./Lat.	0	0.0%	970	1.0%	12	1.7%	0	0.0%

*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.

Appendix 3



Office of Jury Commissioner
for the Commonwealth

Essex, Middlesex, Plymouth, &
Worcester Counties

Demographic Survey Results - Early Phase 1, Confirmed v. Walk-Ins

Demographic Category	Federal Census 2010		ALL Jurors Who Appeared for Juror Service: Early Phase 1 1/12/21-1/25/21		CONFIRMED Jurors Who Appeared for Service: Early Phase 1 1/12/21-1/25/21		WALK-IN Jurors Who Appeared for Service: Early Phase 1 1/12/21-1/25/21	
	Population	%	Population	%	Population	%	Population	%
Black/African American	120,096	4.4%	9	5.1%	4	3.1%	5	10.0%
White	2,303,888	84.1%	150	84.3%	108	84.4%	42	84.0%
Native Hawaiian/Pacific Islander	894	0.0%	0	0.0%	0	0.0%	0	0.0%
Asian*	151,326	5.5%	8	4.5%	8	6.3%	0	0.0%
American Indian/Alaskan Native	6,024	0.2%	0	0.0%	0	0.0%	0	0.0%
Other	158,253	5.8%	11	6.2%	8	6.3%	3	6.0%
TOTALS	2,740,481	100.0%	178	100.0%	128	100.0%	50	100.0%

Demographic Category	Federal Census 2010		ALL Jurors Who Appeared for Juror Service: Early Phase 1 1/12/21-1/25/21		CONFIRMED Jurors Who Appeared for Service: Early Phase 1 1/12/21-1/25/21		WALK-IN Jurors Who Appeared for Service: Early Phase 1 1/12/21-1/25/21	
	Population	%	Population	%	Population	%	Population	%
Yes, Hispanic/Latino*	206,551	7.5%	10	5.5%	5	3.8%	5	10.0%
No, Not Hispanic/Latino	2,533,930	92.5%	173	94.5%	128	96.2%	45	90.0%
No Response His./Lat.	0	0.0%	0	0.0%	0	0.0%	0	0.0%

*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.

Appendix 4

OFFICE OF JURY COMMISSIONER

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Remote Impanelment/Jury Considerations February 2, 2021

The Jury Management Advisory Committee (JMAC) is investigating the logistics of conducting remote jury trial impanelments, and possibly voluntary civil jury trials with six or twelve jurors.¹ Members of the JMAC and the Office of Jury Commissioner (OJC) have studied the experiences of several other jurisdictions that have conducted remote impanelments or trials, including a Zoom meeting with two judges from Washington State who had conducted a number of remote impanelments and one civil jury trial at the time of the meeting.

One factor being examined is the impact of remote impanelments/trials on the resources of the OJC, which is typically charged with communicating with prospective jurors prior to their service and resolving their issues to enable them to serve. During the pandemic, the OJC has had to develop new procedures to enable it to determine who will actually appear, creating and assigning small groups of prospective jurors to appear throughout the day to comply with room and building occupancy limits and allowing for appropriate social distancing. These procedures have increased the workload of the OJC staff to the point that additional staff who are proficient with the jury management software have been recruited to assist, including retirees and former OJC staff who have taken jobs in other court departments. As the courts move to Phase 2 of the resumption of jury trials, the demands of these necessary pandemic procedures currently limit the OJC to providing only 150 jury pools per month, although the OJC continues to explore ways to automate processes in order to increase this number.² Adding remote impanelments to the existing workload has the potential to reduce the number of in-person jury pools the OJC can provide.

The Administrative Office of the District Court is developing a pilot program on remote impanelments, led by Judges Ellis and Mazanec of the JMAC and supported by an OJC team led by Deputy Jury Commissioner John Cavanaugh. The current plan is to conduct two remote impanelments at the end of Phase 1, one in the Greenfield District Court (led by Judge Mazanec) and one in the Plymouth District Court (led by Judge Vitale).³ The thought is that if remote impanelments prove to be successful, juries of

¹ The JMAC has concluded that there are too many issues to consider criminal matters for remote jury trials, including constitutional and case law rights to confront witnesses.

² "Jury pool" is defined as the jurors who appear at a single courthouse on a single day (e.g., jurors appearing in Worcester Trial Court Monday to Thursday in the first week of the month, two different times per day, equals four jury pools).

³ The impetus for the remote impanelment project, aside from exploring options to increase jury trials generally while minimizing risk to the public, is a concern that the District Court will be unable to conduct jury trials in Phase 2 as the priority shifts to juries of 12 and more serious cases. However, the SJC has authorized courts with sufficient capacity – primarily multi-use courthouses – to conduct up to two jury trials simultaneously (one jury of 12 and one jury of six). With large jury pools summoned four days per week in these courthouses, the District Court should be able to impanel juries of six in those courts with jurors not utilized by the Superior Court, as was regularly done prior to the pandemic.

six impaneled in this way could be directed to appear the next day at courthouses that can support a six-person jury trial, but not a full jury pool.

The JMAC and OJC have determined that the OJC should manage the initial communications with people summoned for jury service, in order to assist them with questions and preserve the necessary elements of their responses – email and other communications, proof of disqualification, etc. Once the pool of prospective remote potential jurors is established, their names and contact information will be turned over to a “Technical Clerk” from the District Court for further communications and assistance regarding the remote impanelment itself. Potential jurors who do not wish to participate remotely, or lack the required technology, skills, or environment to do so, will be allowed to appear at the courthouse for impanelment (or postpone their service, if they prefer).

The remote impanelment pilot (and ongoing program, if it is adopted) requires the OJC to undertake a separate set of procedures, in addition to the specialized procedures that have been developed to manage in-person jury pools during the pandemic. First, after sending the summons, the OJC must notify all summoned persons of the option of participating in a remote impanelment or trial. The OJC must solicit, record, and track responses from the potential jurors as to whether they possess the necessary internet service, equipment, and access to a private space to participate remotely. They also must be informed that if they wish to participate but lacked the technology or private space, they can report in person at the courthouse to use Trial Court equipment. Their responses to this option must also be recorded and tracked.

There are three possible responses (in addition to no response). First, those who respond affirmatively are eligible for remote service. Second, those who do not have the technology and private space but are willing to come to court are also eligible to serve, but not remotely (unless in a court “Zoom room”). Third, the court must decide how to handle those who are not willing to come to court: the current practice is to postpone anyone who does not wish to serve.⁴ Those unwilling to come to the courthouse could potentially be “cancelled,” and eligible to be summoned again in the following year, but the OJC would have to research whether there might be statutory implications to being summoned for service that would require them to respond by serving, postponing, transferring or disqualifying.

The JMAC has considered whether it would be possible to limit the OJC’s involvement to communicating the technology requirements to the jurors, recording responses, and providing that information to Trial Court personnel, who would take over responsibility for creating the jury pools and managing the jurors. This approach has been rejected, for two reasons. First, the OJC is responsible for tracking the service history of persons summoned for jury service, and prior to the pandemic only those who appeared at the courthouse and made themselves available to participate in an impanelment were credited with “service.”⁵ Those who are canceled, or fail to appear when scheduled, are not deemed to have “served.” Failure to complete jury service is a violation of c.234A, with criminal penalties. Maintaining the jurors’ records requires access to and experience with the NextGen Jury+ software. Therefore,

⁴ The OJC is tracking the demographics of those who serve versus those who postpone to evaluate the potential impact, if any, on the representativeness and diversity of the jury pool.

⁵ By letter dated January 24, 2021, the SJC has approved the JMAC’s request to consider participation in a remote impanelment to constitute “appearing for service.”

whoever takes on responsibility for managing the jurors must communicate the outcome to the OJC so the jurors' legal status is accurately recorded in their files.

Second, persons routinely contact the OJC for assistance after receiving a standard summons. The OJC should retain responsibility for responding to initial inquiries, which will certainly increase as people attempt to determine whether they meet the requirements for remote impanelments and whether they are willing and able to serve in this way. (These inquiries may include technical questions that are beyond the expertise of the OJC staff who take juror inquiries, such as whether the caller's devices or internet setup meet court requirements. This will require coordination between the OJC and the Technical Clerk.) The OJC is currently handling the inquiries that are coming in from the few persons invited to participate in the pilot program, but if the program expands substantially the increased volume of responses will add to the OJC's already expanded responsibilities and workload brought on by the procedures implemented to provide conventional jury pools in a pandemic. This is an issue that will bear close attention through the pilot and any potential expansion.

If workload were not an issue, it would be far preferable to have the OJC manage the persons summoned for remote impanelments. Assisting persons summoned for jury service, providing accurate information (including alternative responses and legal consequences), and managing jury pools assigned to report to specific courts on specific days, are all fundamental elements of the OJC's core mission. It is also imperative that juror records are properly maintained, for obvious reasons: criminal penalties can attach for failure to complete juror service properly, OJC records document the diversity and representativeness of jury pools and specific jury composition, and OJC data is used by the court to monitor juror utilization, impanelment rates, and other court metrics. Parceling this responsibility out to non-OJC trial court personnel, who will doubtless have varying levels of skill and understanding of the new processes if and when the program expands, would inevitably compromise the integrity and accountability of the court's management of jurors and juries.

During the pilot phase, the workload has proved manageable by the small team of OJC staff that are managing the process. The OJC also continues to look for ways to automate processes and increase the number of jury pools that can be managed, and is gathering valuable information and experience through the Phase 1 jury trials. From the OJC's perspective, the main objective is to support as many jury pools as possible, both traditional and remote, while maintaining accurate juror and court records and providing diverse and representative jury pools. Phase 1 and the remote impanelment project are providing critical information on how to best achieve these goals, but the real test will be whether the successes realized during these programs can be scaled up in Phase 2 and Phase 3. The JMAC and the OJC will continue to study and balance the complementary goals of access to justice, diverse and representative jury pools, maintaining accurate records, and minimizing risk to potential jurors, courts staff, and trial participants.

Appendix 5

Juror Yield and Utilization: Early Phase 1 Compared to 2015-2019 Averages

Location	Date	Summoned (Pre-COVID-19 No.)	Pre-COVID-19 Target	Phase 1 Reconfirmed	Phase 1 Cancelled	Phase 1 Reporting	Phase 1 Appeared	Phase 1 Seated	Phase 1 Utilized	2015-2019 Avg Utilized
Lowell	1/12/2021	210	80	32	0	32	41	7	17	12.5
Plymouth	1/12/2021	129	64	32	0	32	40	6	16	14.7
Salem	1/19/2021	198	80	45	59	30	38	6	11	13.3
Worcester	1/19/2021	213	96	45	56	30	36	6	15	12.8
Middlesex Sup/ Woburn	1/25/2021	357	144	98	112	30	39	8	15	NA

LEGEND

Summoned (Pre-C-19 No.): The number of summonses issued for the date. OJC is currently summoning at pre-COVID-19 levels for all courts. The number is calculated using historical summons yields and accounts for jurors postponed and/or transferred to this date and location.

Pre-C-19 Target: The number of jurors expected to appear pre-COVID-19 in these locations; a number that would be sufficient to impanel one or more Superior Court juries and meet the needs of District, Juvenile, and Housing courts. (E.g., pre-COVID-19, 129 summonses issued for Plymouth would yield a pool of 64 jurors; in Phase 1 it yielded a pool of 32 Reconfirmers, with 8 walk-ins.)

Phase 1 Reconfirmed: Number of jurors that responded to a post-summons letter or email indicating their intention to appear.

Phase 1 Cancelled: The number of jurors cancelled by the JPO (includes jurors that did not reconfirm).

Phase 1 Reporting: The number of Confirmed jurors instructed to appear by email and phone message the day before their appearance date.

Phase 1 Appeared: The number of jurors that appeared and were given credit for service in NextGen, including walk-ins. (Note: all courts are experiencing an unusually high percentage of walk-ins in Phase 1.)

Phase 1 Seated: The number of jurors selected during voir dire to hear the case.

Phase 1 Utilized: The number of jurors excused, challenged or seated during voir dire.

2015-2019 Average Utilized: The average number of jurors utilized during all District Court impanelments in that location during the time period 2015-2019. Superior Court historical data is not relevant for comparison in Woburn because only a six person jury was sought.

Appendix 6

Jury Service Survey - Juror Feedback

Jury Service Start Comment

Lowell Justice Center

- 1/12/2021 My experience was A+ . I was concerned about covid safety and it was superb
- 1/12/2021 Juror pool offices were great!!
- 1/12/2021 Officers were courteous and thoughtful, and took every precaution to maintain safety
- 1/12/2021 There were staggered arrival times of jurors due to COVID restrictions. The jurors impaneled were chosen from an early arriving pool. Those with later arrival times did not have the opportunity to serve on a jury. Also, my group was sent to the jury room to watch the introductory film. The film was stopped when the judge arrived and then we were dismissed. We were not able to watch the remainder of the film. The facilities were very clean and great effort was made to keep jurors separated.
- 1/12/2021 Felt very safe and well organized
- 1/12/2021 Thus was my second time being picked and this was a wonderful experience. In a time with Covid running rampid your court personnel did an unbelievable job with making sure everyone felt comfortable and was at ease being there. Unbelievable job. Thank you!
- 1/12/2021 Very welcoming court officers!
- 1/12/2021 Great experience, felt very safe considering Covid going on

Middlesex Superior Courthouse

- 1/25/2021 I found it to be an enlightening experience
- 1/25/2021 The personnel were incredibly polite and welcoming to the whole process - made us feel that we were performing an important role.
- 1/25/2021 We were the first jury in almost a year, and I was very comfortable with the excellent COVID protocols in place. Nice job by everyone involved!

Plymouth Trial Court

- 1/12/2021 From my understanding, I was on the first jury panel since the Plymouth courthouse was closed. I found everything to go very smoothly. CDC guidelines were met both in the waiting room and in the court room.
- 1/12/2021 The guards were all extremely friendly and appreciative of our service.
- 1/12/2021 I kept receiving messages to confirm my service several times after I had already confirmed. It made me concerned I hadn't properly confirmed.
- 1/12/2021 Most impressed by the Covid protocol and protection. All very organized. We were very well informed

Salem Trial Court

- 1/19/2021 I hope to serve on a jury one day. Hate taking the day off work to be released at 1030am. Seems like a waste of time. Less people should be summoned in the future.
- 1/19/2021 Given the COVID 19 pandemic I was hesitated and hoping my called to jury duty would cancel but it's not the case and to find out the next day that one of the individual was in the courthouse on the same day has tested positive for COVID 19.

Salem Trial Court

1/19/2021 I was surprised to have jury duty given the grim picture that our governor has painted regarding the pandemic. I still showed up and lo and behold, we found out the next day that someone in the courthouse tested positive for Covid. The courthouse which has only been open for a short time has been shutdown again as a result. Calling jury duty during these times was clearly reckless by the courthouses own admission.

Worcester Trial Court

1/19/2021 It was an honor to serve and I appreciate all the effort that went into the day to keep everyone safe from Covid. God Bless

1/19/2021 It would have been good if the court reimbursed for parking. There was no available free street parking and the two lots used for the trial court house cost \$15/\$20.

1/19/2021 Maybe hearing assistance when one on one with Judge Wudgy!

1/19/2021 Not sure if the court officers were new, but they seemed disorganized. It took them over an hour to figure out that a few people had showed up that didn't call the day prior to listen to the message letting them know their duty was cancelled. Although we were told where the bathrooms etc were, we weren't told what we were waiting for, how long it might be, why we were in one room while others were in another, or what to expect that day.

1/19/2021 There was some confusion when I arrived. I was told that I didn't reconfirm (I did - and had the email), even though my card was there. We were kept in a separate room, and were told that we weren't needed, so I never met a judge. Otherwise - everyone I interacted with was kind.

1/19/2021 There were no signs directing jurors to the jury pool upstairs. The tables weren't clean either. Given the pandemic, I would have expected the tables and chairs to be thoroughly cleaned, or at least wiped down, but there were crumbs and smudges on most of them. 6ft of space between seats was a joke. The officers also weren't super great at giving clear instructions. E.g. When we went into the courtroom, they sort of just gestured around like we'd know where to sit, so there was some confusion.

1/19/2021 We weren't told about facilities because of COVID, so that was fine. The parking situation would be easier if you included an address for the parking garage. I don't know Worcester well and nowadays most people use a GPS, so an address instead of a map would be more useful. Otherwise everyone there was very helpful and polite.

1/19/2021 I called the phone line the day before and the recording said to report at 8 AM. I also got an email that said to arrive at 9 AM. Which one was correct? Everyone in the jury pool room was masked so I was comfortable with that, but we were allowed to have food and drink with us. I did NOT feel comfortable with people around being able to unmask to consume food and drink. They should have been directed to the break area at the back of the room to do that. COVID-19 is way too hot right now.

Appendix 7

Massachusetts COVID-19 Cases Reported March 2020-January 2021

Date	9-Mar	10-Mar	11-Mar	12-Mar	13-Mar	14-Mar	15-Mar	AVERAGE	% Change
New Cases	1	1	6	6	18	19	45	14	
Date	16-Mar	17-Mar	18-Mar	19-Mar	20-Mar	21-Mar	22-Mar	AVERAGE	% Change
New Cases	101	21	38	72	85	112	121	79	473%
Date	23-Mar	24-Mar	25-Mar	26-Mar	27-Mar	28-Mar	29-Mar	AVERAGE	% Change
New Cases	131	382	679	579	823	1017	698	616	683%
Date	30-Mar	31-Mar	1-Apr	2-Apr	3-Apr	4-Apr	5-Apr	AVERAGE	% Change
New Cases	797	868	1118	1228	1436	1334	764	1078	75%
Date	6-Apr	7-Apr	8-Apr	9-Apr	10-Apr	11-Apr	12-Apr	AVERAGE	% Change
New Cases	1337	1365	1588	2151	2033	1886	2615	1854	72%
Date	13-Apr	14-Apr	15-Apr	16-Apr	17-Apr	18-Apr	19-Apr	AVERAGE	% Change
New Cases	1392	1296	1755	2263	2221	1970	1705	1800	-3%
Date	20-Apr	21-Apr	22-Apr	23-Apr	24-Apr	25-Apr	26-Apr	AVERAGE	% Change
New Cases	1566	1556	1745	3079	4946	2379	1590	2409	34%
Date	27-Apr	28-Apr	29-Apr	30-Apr	1-May	2-May	3-May	AVERAGE	% Change
New Cases	1524	1840	1963	1940	2106	1952	1824	1878	-22%
Date	4-May	5-May	6-May	7-May	8-May	9-May	10-May	AVERAGE	% Change
New Cases	1000	1184	1754	1696	1612	1410	1050	1387	-26%
Date	11-May	12-May	13-May	14-May	15-May	16-May	17-May	AVERAGE	% Change
New Cases	669	870	1165	1685	1239	1512	1077	1174	-15%
Date	18-May	19-May	20-May	21-May	22-May	23-May	24-May	AVERAGE	% Change
New Cases	1042	873	1045	1114	805	773	1013	952	-19%
Date	25-May	26-May	27-May	28-May	29-May	30-May	31-May	AVERAGE	% Change
New Cases	596	422	527	675	617	789	664	613	-36%
Date	1-Jun	2-Jun	3-Jun	4-Jun	5-Jun	6-Jun	7-Jun	AVERAGE	% Change
New Cases	326	358	429	471	494	575	304	422	-31%
Date	8-Jun	9-Jun	10-Jun	11-Jun	12-Jun	13-Jun	14-Jun	AVERAGE	% Change
New Cases	193	263	267	519	392	336	208	311	-26%
Date	15-Jun	16-Jun	17-Jun	18-Jun	19-Jun	20-Jun	21-Jun	AVERAGE	% Change
New Cases	87	195	266	271	228	286	125	208	-33%
Date	22-Jun	23-Jun	24-Jun	25-Jun	26-Jun	27-Jun	28-Jun	AVERAGE	% Change
New Cases	149	229	172	226	233	373	224	229	10%
Date	29-Jun	30-Jun	1-Jul	2-Jul	3-Jul	4-Jul	5-Jul	AVERAGE	% Change
New Cases	101	114	261	195	290	210	136	187	-19%
Date	6-Jul	7-Jul	8-Jul	9-Jul	10-Jul	11-Jul	12-Jul	AVERAGE	% Change
New Cases	157	140	162	177	152	167	172	161	-14%
Date	13-Jul	14-Jul	15-Jul	16-Jul	17-Jul	18-Jul	19-Jul	AVERAGE	% Change
New Cases	154	203	142	143	216	177	218	179	11%
Date	20-Jul	21-Jul	22-Jul	23-Jul	24-Jul	25-Jul	26-Jul	AVERAGE	% Change
New Cases	174	165	192	270	214	210	273	214	20%
Date	27-Jul	28-Jul	29-Jul	30-Jul	31-Jul	1-Aug	2-Aug	AVERAGE	% Change
New Cases	182	178	356	304	387	290	353	293	37%
Date	3-Aug	4-Aug	5-Aug	6-Aug	7-Aug	8-Aug	9-Aug	AVERAGE	% Change
New Cases	165	438	338	162	320	320	286	290	-1%
Date	10-Aug	11-Aug	12-Aug	13-Aug	14-Aug	15-Aug	16-Aug	AVERAGE	% Change
New Cases	214	296	229	319	212	366	303	277	-4%

*

Date	17-Aug	18-Aug	19-Aug	20-Aug	21-Aug	22-Aug	23-Aug	AVERAGE	% Change
New Cases	213	175	262	262	431	190	190	246	-11%
Date	24-Aug	25-Aug	26-Aug	27-Aug	28-Aug	29-Aug	30-Aug	AVERAGE	% Change
New Cases	190	349	315	365	438	421	174	322	31%
Date	31-Aug	1-Sep	2-Sep	3-Sep	4-Sep	5-Sep	6-Sep	AVERAGE	% Change
New Cases	301	354	288	393	219	416	370	334	4%
Date	7-Sep	8-Sep	9-Sep	10-Sep	11-Sep	12-Sep	13-Sep	AVERAGE	% Change
New Cases	222	168	182	363	443	435	267	297	-11%
Date	14-Sep	15-Sep	16-Sep	17-Sep	18-Sep	19-Sep	20-Sep	AVERAGE	% Change
New Cases	235	286	295	419	431	569	340	368	24%
Date	21-Sep	22-Sep	23-Sep	24-Sep	25-Sep	26-Sep	27-Sep	AVERAGE	% Change
New Cases	244	143	542	455	454	515	594	421	14%
Date	28-Sep	29-Sep	30-Sep	1-Oct	2-Oct	3-Oct	4-Oct	AVERAGE	% Change
New Cases	367	450	510	708	753	600	626	573	36%
Date	5-Oct	6-Oct	7-Oct	8-Oct	9-Oct	10-Oct	11-Oct	AVERAGE	% Change
New Cases	465	454	509	409	734	587	570	533	-7%
Date	12-Oct	13-Oct	14-Oct	15-Oct	16-Oct	17-Oct	18-Oct	AVERAGE	% Change
New Cases	765	632	518	568	702	550	744	640	20%
Date	19-Oct	20-Oct	21-Oct	22-Oct	23-Oct	24-Oct	25-Oct	AVERAGE	% Change
New Cases	827	821	646	986	968	1,128	1,097	925	45%
Date	26-Oct	27-Oct	28-Oct	29-Oct	30-Oct	31-Oct	1-Nov	AVERAGE	% Change
New Cases	1,216	1,025	1,137	1,243	1,488	1,292	1,139	1220	32%
Date	2-Nov	3-Nov	4-Nov	5-Nov	6-Nov	7-Nov	8-Nov	AVERAGE	% Change
New Cases	725	923	1,629	1,761	2,038	2,200	1,809	1584	30%
Date	9-Nov	10-Nov	11-Nov	12-Nov	13-Nov	14-Nov	15-Nov	AVERAGE	% Change
New Cases	1,184	2,047	2,495	2,482	2,674	2,841	2,076	2257	43%
Date	16-Nov	17-Nov	18-Nov	19-Nov	20-Nov	21-Nov	22-Nov	AVERAGE	% Change
New Cases	1,967	2,263	2,744	2,532	2,288	2,991	2,721	2501	11%
Date	23-Nov	24-Nov	25-Nov	26-Nov	27-Nov	28-Nov	29-Nov	AVERAGE	% Change
New Cases	1,785	2,225	3,224	2,232	2,232	2,914	2,501	2445	-2%
Date	30-Nov	1-Dec	2-Dec	3-Dec	4-Dec	5-Dec	6-Dec	AVERAGE	% Change
New Cases	1,166	2,845	4,613	6,447	5,192	5,356	4,747	4338	77%
Date	7-Dec	8-Dec	9-Dec	10-Dec	11-Dec	12-Dec	13-Dec	AVERAGE	% Change
New Cases	2,463	3,627	5,675	5,130	5,475	4,968	4,677	4574	5%
Date	14-Dec	15-Dec	16-Dec	17-Dec	18-Dec	19-Dec	20-Dec	AVERAGE	% Change
New Cases	3,572	3,720	5,450	4,985	5,632	3,995	4,162	4502	-2%
Date	21-Dec	22-Dec	23-Dec	24-Dec	25-Dec	26-Dec	27-Dec	AVERAGE	% Change
New Cases	3,760	3,293	4,509	5,655	3,712	3,712	2,973	3945	-12%
Date	28-Dec	29-Dec	30-Dec	31-Dec	1-Jan	2-Jan	3-Jan	AVERAGE	% Change
New Cases	4,060	3,659	6,135	6,887	4,271	4,271	3,110	4628	17%
Date	4-Jan	5-Jan	6-Jan	7-Jan	8-Jan	9-Jan	10-Jan	AVERAGE	% Change
New Cases	4,358	4,178	6,419	7,136	7,635	7,110	5,396	6033	30%
Date	11-Jan	12-Jan	13-Jan	14-Jan	15-Jan	16-Jan	17-Jan	AVERAGE	% Change
New Cases	4,239	4,906	5,278	5,545	5,074	5,657	4,283	4997	-17%
Date	18-Jan	19-Jan	20-Jan	21-Jan	22-Jan	23-Jan	24-Jan	AVERAGE	% Change
New Cases	3,224	2,567	3,987	4,821	4,935	4,330	3,750	3945	-21%
Date	25-Jan	26-Jan	27-Jan	28-Jan	29-Jan	30-Jan	31-Jan	AVERAGE	% Change
New Cases	3,477	2,215	3,022	4,222	2,781	3,957	2,546	3174	-20%