

First Session Protocol – Middlesex Superior Court, Woburn

Revised March 17, 2016

A. General Overview

1. All cases will be arraigned in the Magistrate's Session and will be assigned to the A, B or C track per Superior Court Standing Order 2-86. In addition to the track designation, the Magistrate shall assign dates for the following at arraignment:
 - a. Pre-trial conference in the Magistrate's Session, to be held approximately 21 days after arraignment. The Pre-trial Conference Report shall be completed and filed at that time.
 - b. Scheduling conference/pre-trial hearing date in the First Session, Courtroom 430, to be held no later than 90 days of arraignment for "A" track cases; 135 days of arraignment for "B" track cases; and 180 days of arraignment for "C" track cases, per Standing Order 2-86.
 - c. Filing and hearing dates for non-evidentiary motions to dismiss, and filing dates for motions to suppress.
 - d. Firm dates for trial and final pre-trial conference. The trial date will be set at least thirty (30) days prior to the expiration of the case track. The final pre-trial conference date will be set approximately seven (7) to ten (10) days prior to the trial date. Trial dates will be staggered throughout the week.
2. All mandatory discovery under Rule 14 is to be provided at arraignment or at the earliest possible opportunity thereafter, but in any event no later than the pre-trial conference.
3. The scheduling conference/pre-trial hearing shall take place in the First Session under the supervision of the First Session judge, and will include the following:
 - a. The judge will review, amend as necessary, and approve the Pre-trial Conference Report and the tracking order form.
 - b. The parties will report regarding any discovery that remains outstanding, the reason therefore, and when it will be provided. A compliance date will be established when necessary. If discovery is not complete, a further pre-trial hearing will be held following compliance. Upon completion of discovery, the prosecutor will file a certificate of compliance and final notice of discovery listing all items provided.

- c. Discovery motions, including Rule 17 motions, if any, will be filed and reviewed by the First Session judge and a date will be scheduled for hearing in the First Session.
 - d. The parties will report as to whether any evidentiary motions will be filed. Evidentiary motions will not be scheduled for hearing until filed so that the court can properly evaluate the time needed for hearing. Accordingly, the evidentiary motion filing date will be a mandatory in-court appearance date for all counsel.
 - e. The parties will review and confirm the trial date and the final pre-trial conference date in consultation with the First Session judge and clerk.
 - f. The parties will report on the possibility of a change of plea, and a date will be scheduled for dispositional conference with the First Session judge if requested by any party.
4. All cases will report to the First Session at least once every 30 to 45 days until disposition or trial.
5. The First Session will be capped at a fixed number of regularly scheduled cases per day (to be determined by the First Session judge and clerk), which cases shall be called between 9:00 a.m. and 1:00 p.m. Each afternoon, the First Session judge will handle bail reviews at 2:00 p.m. in the Magistrate's Session, followed by VOP hearings at 2:30 p.m. in the First Session. Motions to dismiss, dispositional conferences and pleas will be scheduled throughout the day.
6. The First Session judge will handle all matters relating to the Grand Jury unless otherwise directed by the Criminal Regional Administrative Justice.
7. The First Session judge and clerk will maintain an electronic master calendar for trials and motions to suppress, which will include the following information:
 - a. Custody status of defendant;
 - b. Expected length of trial/motion;
 - c. Need for an interpreter; and
 - d. Whether out-of-state witnesses, expert witnesses, child witnesses or other witnesses with special scheduling or other needs are involved.
8. Attorneys may contact the First Session clerk regarding scheduling at: Middlesex.1stsession@jud.state.ma.us.

B. Evidentiary and Non-Evidentiary Motions to Suppress

1. The First Session judge and clerk will schedule motions to suppress for hearing on Monday, Tuesday, Wednesday and Thursday afternoons at 2:00 p.m. Motions which are expected to take more than two hours may be scheduled for two consecutive afternoons, or for mornings or full days on Mondays or Fridays, at the discretion of the First Session judge. A maximum of eight evidentiary suppression hearings will be scheduled per week.
2. On the hearing date, the First Session judge and clerk will assign each suppression hearing to an available trial session. The First Session clerk will notify the parties and the session as soon as the assignment is made. When possible, assignments will be made in advance of the scheduled hearing date.

C. Final Pre-Trials and Trial Assignment

1. On the date scheduled for the final pre-trial conference, the parties shall report to the First Session, and shall submit their Joint Pre-Trial Memorandum, in accordance with Standing Order 2-86, and all motions *in limine*. Requests for juror *voir dire*, if any, shall be served and filed in advance of the final pre-trial conference in accordance with Standing Order 1-15.
2. Each Thursday at 8:30 a.m., the First Session judge and clerk will meet with representatives of the D.A.'s Office, CPCS, Bar Advocates, and any private counsel who wish to participate, in order to review, prioritize and assign to a session all trials scheduled for the following week.
3. The First Session clerk will notify the clerk in each trial session of the cases assigned to that session. The clerk in the assigned trial session will notify the parties to report at a specified time in advance of trial to address motions *in limine* and juror *voir dire* requests with the trial judge.
4. Trials expected to last more than one week or involving complex motions in limine may, in the discretion of the Criminal Regional Administrative Justice or the First Session judge, be assigned to a trial session in advance of the Thursday meeting.

D. Operation of the Trial Sessions

1. Trials will be conducted daily from 9:00 a.m. to 1:00 p.m. Afternoons will be reserved for matters referred from the First Session, including motions to suppress, matters scheduled in the discretion of the trial session judge, or matters relating to the case on trial.

2. After consultation with the Regional Administrative Justice and/or the First Session Judge, a trial session judge may extend a trial into the afternoon session when necessary for scheduling purposes.
3. When a session is not engaged on trial, the First Session may refer matters (lobby conferences, pleas, motions to dismiss, etc.) to that session in the discretion of the First Session judge and clerk. Responsibility for quarterly Grand Jury empanelment will rotate among the trial sessions in the discretion of the Criminal Regional Administrative Justice.

A handwritten signature in black ink, appearing to read "Kimberly S. Budd". The signature is written in a cursive, flowing style.

Kimberly S. Budd
Regional Administrative Justice, Criminal
Middlesex County