



Trial Court of the Commonwealth

Boston Municipal Court Department

District Court Department

Joint Standing Order No. 1-04

CIVIL CASE MANAGEMENT

Effective August 31, 2004

I. PURPOSE AND APPLICABILITY

The purpose of this Joint Order is to establish case management procedures that will facilitate the prompt and efficient disposition of civil cases and reduce the expense and delay of civil litigation in the Boston Municipal Court Department and the District Court Department.

This Order applies to all tort and contract actions in which money damages are sought (“civil actions”) and which have been commenced in the Boston Municipal Court Department and the District Court Department on or after August 31, 2004. In the District Court Department, this Order shall also apply to all civil actions previously governed by District Court Standing Order 1-98 regarding any procedures occurring on or after that date. Sections VI (Motion Practice) and VII (Continuances) of this Order also apply to all civil actions pending in the divisions of the Boston Municipal Court Department and in the divisions of the District Court Department in Plymouth, Suffolk and Worcester Counties, regardless of the date of commencement of such actions.

This Order supersedes Boston Municipal Court Department Standing Order 1-88 and District Court Department Standing Orders 1-88 and 1-98 with respect to all civil actions and all procedures to which this Order applies.

II. GENERAL PRETRIAL SCHEDULE

It shall be the responsibility of counsel to complete the preparation of his or her case by the date of the pretrial conference as scheduled in accordance with Section IV A, unless the court orders otherwise. Discovery and pretrial motions, including motions pursuant to Mass. R. Civ. P. 12, 15, 19, 20 and 56, and such other motions as may be prescribed by the court, shall be filed, marked and caused to be heard by such

date unless the court permits otherwise for good cause shown.

III. CASE MANAGEMENT CONFERENCE

A. Scheduling. Upon the filing of an answer by any defendant, the court shall immediately give notice to all parties in the action of a Case Management Conference pursuant to Mass. R. Civ. P. 16 to be held on a date certain within four months of the date of filing of such answer, or sooner if directed by the court or jointly requested by all parties. Such notice shall inform the parties of the purposes of the conference and the desirability of addressing any discovery issues prior to the conference. Counsel or pro se litigants shall appear in person at the Case Management Conference. The court may impose sanctions, including dismissal, default and assessment of costs, for failure to attend the conference without good cause.

B. Purpose. The purpose of the Case Management Conference shall be to (1) discuss settlement progress and opportunities for settlement, and offer early intervention alternative dispute resolution; (2) consider case management orders proposed by any party, or by the court, regarding limitation or sequencing of discovery events, disclosure or limitation of expert witnesses, motion briefing, and other matters that would reduce expense and delay of litigation, and enter appropriate orders; (3) enter judgment for relief or dismissal, and schedule hearing for assessment of damages if necessary; and (4) assign a firm date for pretrial conference for all cases which are not yet ready for trial; (5) assess the trial-readiness of cases; (6) assign a firm trial date for cases that are ready for trial.

Among the orders that a Judge may impose at the Case Management Conference under item (2), above, is an “Order for Early Disclosure,” requiring compliance with the terms set forth in Section III D.

Notice of the date of trial or Pretrial Conference shall be given to the parties at the Case Management Conference after consultation with counsel.

In all cases scheduled for trial, the person conducting the Case Management Conference shall prepare a Pretrial Conference report. In all cases scheduled for Pretrial Conference, the person conducting the Case Management Conference shall prepare a Case Management Conference report summarizing the results of the conference.

C. Judicial officer. The Case Management Conference shall be conducted by a Judge or, if a Judge is unavailable, by a Clerk-Magistrate or Assistant Clerk-Magistrate designated by the Chief Justice of the Boston Municipal Court Department or the Chief Justice of the District Court Department in accordance with G.L. § 221, § 62C and Trial Court Rule II(3)(a) to conduct such conferences. Only a Judge may issue or approve any orders arising from the Case Management Conference.

D. Mandatory Early Disclosure. If ordered by the court at the Case Management Conference as provided above in section III B, each party shall provide the discovery specified below without a request by any opposing party. Unless otherwise agreed by the parties or ordered by the court, such disclosure shall be completed no later than 90 days after completion of the Case Management Conference.

1. Actions Involving Tort Claims.

(a) Plaintiff. A party asserting a tort claim shall provide to all other parties copies of medical bills and medical records in its possession, custody, or control, or provide written authorizations signed by the patient to permit opposing counsel to obtain such documents; all accident reports, sketches and photographs of the accident scene; property damage or injury reports; an itemized list of special damages and non-medical damages known to counsel; admissions by the opposing party; names and addresses of witnesses; reports of all government agencies or officials which investigated the event giving rise to the claim; personal injury protection (PIP) applications and documents; the identity of any person, firm or entity who may be responsible for the plaintiff's injury; and any documents that counsel agree to disclose without formal discovery.

(b) Defendant. A party defending against a tort claim shall provide to all other parties copies of all primary and excess insurance policies that may be available to satisfy a judgment; copies of all documents reserving an insurer's right to deny coverage; all accident reports, sketches and photographs of the accident scene; property damage or injury reports; medical examination reports of the plaintiff (which the defendant intends to introduce as evidence at trial); admissions by the opposing party; names and addresses of witnesses; reports of government agencies or officials which investigated the event giving rise to the claim; and any documents that counsel agree to disclose without formal discovery.

2. Actions Involving Contract Claims.

(a) Plaintiff. A party asserting a contract claim shall provide to all other parties copies of the contracts or written agreements that give rise to the claim, including warranties, notes, and guaranties; names and addresses of witnesses; an itemized list of special damages; admissions by the opposing party; and any documents that counsel agree to disclose without formal discovery.

(b) Defendant. A party defending a contract claim shall provide to all other parties copies of all primary and excess insurance policies that may be available to satisfy a judgment; copies of all documents reserving an insurer's right to deny coverage; any contracts or written agreements that give rise to the claim, including warranties, notes and guaranties; names and addresses of witnesses; admissions by the opposing party; and any documents that counsel agree to disclose without formal discovery.

3. Expert Witnesses.

A party shall identify any person who may be used as an expert witness at trial in advance of the pretrial hearing date. Except as otherwise stipulated or directed by the court, this disclosure shall be accompanied by a written report prepared by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding five years; the compensation to be paid for the study and testimony; and a listing of any cases in which the witness has testified as a witness at trial or by deposition within the preceding three years.

4. Contested Discovery.

Before filing any discovery motion, including any motion for sanctions or for a protective order, counsel for each of the parties shall confer in good faith to narrow the areas of disagreement to the greatest possible extent. It shall be the responsibility of counsel for the moving party to arrange for the conference. Any motion to compel discovery shall include a certificate of counsel filed by the moving party certifying that he has conferred with opposing counsel as required by this section.

IV. PRETRIAL CONFERENCE

A. Scheduling and pretrial memorandum. All cases not disposed or assigned a trial date at the Case Management Conference shall be assigned a firm date for Pretrial Conference when they are expected to be ready for trial, such date to be not later than the end of the tenth month after the month in which the action was filed, or such later date as the court may order for good cause shown. Upon scheduling an action for Pretrial Conference, the court shall issue a notice of Pretrial Conference requiring the parties to prepare a joint pretrial memorandum for use at the Pretrial Conference. Failure of any party to attend the Pretrial Conference or prepare a joint pretrial memorandum may result in sanctions, including dismissal, default and assessment of costs.

B. Agenda, report and Trial Order. The purpose of the Pretrial Conference is to discuss settlement opportunities and to achieve settlement or, for cases which do not settle, to assign a firm trial date. The person conducting the Pretrial Conference shall thereafter prepare a pretrial conference report. For actions requiring a trial date, notice of such date shall be given to all parties at the Pretrial Conference after consultation with counsel. Upon scheduling a case for trial, the court shall issue a Trial Order requiring the parties to prepare for trial. Failure of any party to prepare for trial as required by such order may result in preclusion of evidence or other sanctions in the discretion of the trial judge.

C. Judicial officer. The Pretrial Conference shall be conducted by a Judge or, if a Judge is unavailable, by a Clerk-Magistrate or Assistant Clerk-Magistrate who has been designated by the Chief Justice of the Boston Municipal Court Department or the Chief Justice of the District Court Department in accordance with G.L. c. 221, § 62C and Trial Court Rule II(3)(a) to conduct such conferences, or by alternative dispute resolution personnel approved by the court. Only a Judge may issue or approve any orders arising from the Pretrial Conference.

V. DISMISSAL FOR LACK OF SERVICE OR FAILURE TO ACT ON DEFAULT

All actions in which there is no timely service of the complaint or no timely action upon default shall be dismissed as follows:

A. Dismissal for lack of service. After commencement of each action, the Clerk-Magistrate shall review the docket to determine whether the plaintiff has complied with the time limits for service pursuant to Mass. R. Civ. P. 4(j), together with any extensions allowed by the court pursuant to Mass. R. Civ. P. 6. Upon determining noncompliance, the Clerk-Magistrate shall issue notice of dismissal of the action as provided by Rule 4(j).

B. Dismissal nisi for failure to act on default. Where an action has remained on the docket for eight months without an answer or defensive motion having been filed by any defendant, the Clerk-Magistrate shall enter an Order Nisi for Dismissal advising the plaintiff that a Judgment of Dismissal will be entered 30 days from the date of the Order unless the plaintiff either (1) requests entry of default and moves for default judgment in accordance with Mass. R. Civ. P. 55, or (2) reports in writing that the case is active and requests that it not be dismissed.

VI. MOTION PRACTICE

A. General. Pursuant to Mass. R. Civ. P. 6 and 78, all motions shall be accompanied by an affidavit of notice setting forth the date and time of hearing on the motion. All motions shall be scheduled by counsel for the moving party on the court's usual civil motion hearing day as published by the court, or on the date the case is scheduled for Case Management Conference or Pretrial Conference, or as otherwise ordered by the court.

B. Agreed Upon Motions. Motions filed by the parties jointly or where the moving party avers that all other parties agree with the outcome sought by the motion may be submitted for a ruling on the papers without the presence of the parties. Such motions shall be accompanied by an express request that the court rule without a hearing. This procedure shall be available only in cases where all parties are represented by counsel.

C. Discovery and summary judgment motions. All discovery motions filed pursuant to Mass. R. Civ. P. 26 or 37 shall include copies of the discovery requests and responses which are the subject of the motion. Motions for summary judgment which rely on any pleading or discovery shall include copies of such pleadings or discovery with the motion. Any discovery or summary judgment motions which do not include such copies may be denied without prejudice.

D. Opposition procedure. In actions where all parties are represented by counsel, motions may be acted upon by the court without a hearing in the following manner.

1. **Designation by moving party.** A moving party who chooses to use this procedure shall state on the caption of the motion and on the affidavit of notice, "SUBJECT TO OPPOSITION PROCEDURE," and file and serve such motion at least 14 days before the motion hearing date. If no other party timely files and serves an "OPPOSITION TO MOTION" as described below, the motion will be considered by the court without a hearing or the attendance of any counsel.

2. **Opposition by other party.** If any other party opposes the motion or otherwise seeks to be heard, such party shall file and serve a document captioned "OPPOSITION TO MOTION" at least five days before the motion hearing date. If any party timely files and serves such an "OPPOSITION TO MOTION," all counsel shall be required to attend the scheduled hearing, unless in such "OPPOSITION TO MOTION" the party expressly waives the right to such hearing, in which case the motion will be considered by the court without a hearing or the attendance of any counsel.

3. **Exempted motions.** This opposition procedure shall not apply to the following motions: motions to continue Case Management Conference, Pretrial Conference or trial; ex parte motions; petitions for approval of settlement by a minor; motions seeking sanctions of any kind; motions for preliminary and permanent injunction; motions for a receiver; motions to vacate a default judgment; motions for relief from judgment; motions for a new trial; motions for reconsideration; and any motion ordered by a Judge to be decided after hearing.

4. **Notice of decision.** When a motion is considered under the opposition procedure, the court shall act upon, and send written notice of such action to all parties, within 14 days after the hearing date.

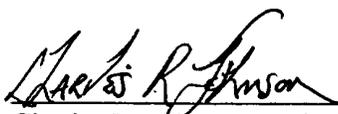
VII. CONTINUANCES

A. General. Continuances of Case Management Conferences, Pretrial Conferences and trials shall be disfavored because of the advance notice to, and the participation of counsel in, the scheduling of these events. Continuances of these events will be allowed for good cause only, and any continuance shall be to a date and event certain. No action shall be “continued generally” or taken off the schedule for any reason.

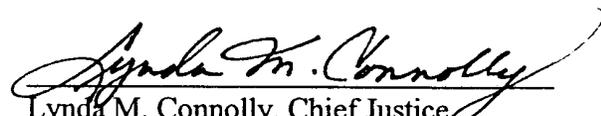
B. Form of motions. Requests for continuances shall be made only by written motion supported by an affidavit of counsel, and counsel shall send a copy of the continuance request to his or her client(s) by first-class mail. All motions for continuance shall include a list of any days within the next 30 days that counsel for any party is unavailable for the continued event.

C. Joint requests to continue case management conference or pretrial conference. The Clerk-Magistrate or an Assistant Clerk designated by the Clerk-Magistrate may allow a joint request to continue a Case Management Conference or Pretrial Conference after review of the motion without hearing, provided that the event shall be continued not more than once and for not more than 30 days.

D. Trial continuances, opposed continuances and repeat continuances. Motions to continue a trial, whether or not agreed to by the parties, may be allowed only by a Judge assigned to the civil trial session or, in the absence or unavailability of such Judge, by the Presiding Justice or other Judge designated by the Presiding Justice. Motions to continue a Case Management Conference or Pretrial Conference which are opposed by any party, as well as motions to continue an event previously continued pursuant to Section VII C above, shall be marked and heard as motions before a Judge. Counsel and pro se litigants shall not be excused from attending the scheduled event unless notified by the court that the event has been continued. No employee or officer of the court shall be authorized to allow continuances of trials or conferences, except as provided in this section.



Charles R. Jenkinson, Chief Justice
Boston Municipal Court Department



Lynda M. Connolly, Chief Justice
District Court Department



Trial Court of the Commonwealth

Boston Municipal Court Department

District Court Department

Joint Standing Order No. 2-04

(as amended for cases filed on and after January 1, 2008)

TIME STANDARDS FOR CIVIL CASES

I. INTRODUCTION

These time standards are promulgated to provide judges and clerk-magistrates with specific maximum time periods within which civil cases (1) should progress between court events and (2) should be disposed. The purpose of these time standards is to promote timely disposition of civil cases and to provide a basis for assessing the movement of civil cases from commencement to disposition in each division of the two departments in which they apply.

The time standards are divided into three categories, each comprised of specific types of civil actions (“casetypes”) and each governed by a specific standard for a maximum time to disposition.

In general, these three time standard categories reflect the complexity (or potential complexity) of the casetypes each includes, with the least complex in Category A, the more complex in Category B, and the most complex (or potentially complex) in Category C.

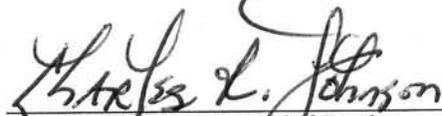
The casetypes in Category A consist mainly of actions that by law must be disposed well within the two-month maximum. For these cases the time standard will provide a basis for periodically confirming that no cases are unaccounted for or overlooked.

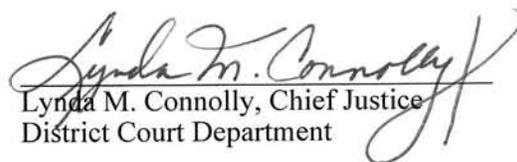
Two casetypes in Category B, summary process and small claims, have “staircased” time standards to reflect the fact that significant numbers of these cases should be disposed well before their overall maximum time to disposition.

Category C, which consists of tort and contract actions, also has “staircased” time standards to reflect the fact that most of these cases should be disposed well before the overall maximum time limit.

II. THE TIME STANDARDS

<p>CATEGORY A - Time to Disposition: Upon Filing or <u>Not more than 2 months</u> from commencement</p> <ul style="list-style-type: none"> • Abuse Restraining Orders (c.209A) • Landlord Failures to Provide Utilities (c.186 §14) • Landlord Interference with Quiet Enjoyment (c.186 §14) • Landlord Unlawfully Entering/Repossessing Land (c.184 §18) • Lead Poisoning Prevention Actions (c.111 §198) • License Suspension for Chemical Test Refusal Appeals (c.90 §24[1][g]) • Marriage Age Waivers (c.207 §25) • Marriage Waiting Period Waivers (c.207 §30) • Mental Health Proceedings (c.123) • Sanitary Code Enforcement Actions (c.111 §127C) 	
<p>CATEGORY B - Time to Disposition: <u>Not more than 4 months</u> from commencement</p> <ul style="list-style-type: none"> • Summary Process: 50% NMT 1 month; 90% NMT 2 months; 100% NMT 4 months • Small Claims: 75% NMT 2 months; 100% NMT 4 months (5 months if de novo appeal claimed) • Civil Motor Vehicle Infractions (5 months if de novo appeal claimed) • Non-Motor Vehicle Civil Infractions (5 months if de novo appeal claimed) (see attached list) • Supplementary Process • Judicial Review of Administrative Decisions (see attached list) • Other Specialized Civil Actions (see attached list) 	
<p>CATEGORY C - Tort and Contract Actions</p>	
<p>C-1 75% of Total Dispositions</p>	<p>Time to Disposition: <u>Not more than 6 months</u> from commencement</p> <ul style="list-style-type: none"> • Cases dismissed for plaintiff's failure to make timely service • Cases disposed by default judgment • Cases disposed by voluntary dismissal, agreement for judgment or other consensual disposition
<p>C-2 20% of Total Dispositions</p>	<p>Time to Disposition: <u>Not more than 12 months</u> from commencement</p> <ul style="list-style-type: none"> • Cases disposed by bench trial • Cases disposed by voluntary dismissal, agreement for judgment or other consensual disposition • Cases dismissed for plaintiff's failure to seek default judgment
<p>C-3 5% of Total Dispositions</p>	<p>Time to Disposition: <u>Not more than 18 months</u> from commencement</p> <ul style="list-style-type: none"> • Cases disposed by jury trial • Cases disposed by bench trial after having been scheduled for jury trial • Cases disposed by voluntary dismissal, agreement for judgment or other consensual disposition after having been scheduled for trial
<p>Maximum Intervals Between Court Events:</p> <ul style="list-style-type: none"> • From Answer to Case Management Conference Date: Not More Than 4 Months • From Case Management Conference to Pretrial Conference Date: Not More Than 7 Months • From Pretrial Conference to Trial: Not More Than 3 Months 	


 Charles R. Johnson, Chief Justice
 Boston Municipal Court Department


 Lynda M. Connolly, Chief Justice
 District Court Department

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 Amended: July 1, 2008 for cases filed on and after January 1, 2008

APPENDIX

Non-Motor Vehicle Civil Infractions (Category B) include:

- Bicycle Civil Infractions (c.85 §11C)
- Dog Control Civil Infractions (c.140 §173A)
- Environmental Civil Infractions (c.21A §§10G-10H)
- MBTA Smoking Civil Infractions (c.161A §42)
- Motorboat Civil Infractions (c.90B §14[a])
- Municipal Ordinance/Bylaw Civil Infractions (c.40 §21D)
- Pedestrian Civil Infractions (c.90 §18A)
- Rubbish Disposal Civil Infractions (c.270 §16A)
- State Building Code or Fire Code Civil Infractions (c.148A)
- State Park / Forest / Recreation Area Civil Infractions (c.132A § 7A)

Judicial Review of Administrative Decisions (Category B) includes:

- Abandoned Property Appeals (c.200A §10[d])
- Ammunition Dealer License Appeals (c.140 §122B)
- County Employee Discharge Appeals (c.35 §51)
- Dog Order Appeals (c.140, § 157)
- Farm Nuisance Abatement Order Appeals (c.111 §125A)
- Fence Viewer Certiorari Actions (c.249 §4)
- Firearms Identification Card Appeals (c.140 §129B[5])
- Firearms License Appeals (c.140 §131[h])
- Funeral Director License Appeals (c.112 §84A)
- Historic District Commission Appeals
- Home Improvement Contractor Arbitration Appeals (c.142A §4[e])
- MCAD Housing Discrimination Award Appeals (c.151B §5)
- Raffle/Bazaar Permit Appeals (c.271 §7A)
- Retirement Board/PERA Appeals (c.32 §16[c][3][a])
- Unemployment Compensation Appeals (c.151A §42)
- Used Car Lemon Law Arbitration Appeals (c.90 §7N¼)
- Victim of Violent Crime Compensation Appeals (c.258C §9)
- Zoning Appeals (c.40A §17)

Other Specialized Civil Actions (Category B) include:

- Auto/Boat Forfeiture Actions based on Fourth or Subsequent OUI (c.90 §24W)
- Beach Free Passage Actions (St.1991 c.176 §4)
- Child Labor Citation Enforcement Actions (c.149 §78A[d])
- Condominium Conversion Violation Actions (St.1983 c.527 §5 & St.1989, c.709 §20)
- Discovery in Foreign Proceeding (c.223A §11)
- Election Violation Inquest (c.55 §35)
- Explosives/Inflammables Forfeiture Actions (c.148 §§50-51)
- Forfeiture of Property Seized in Criminal Offense (c.257 §§2-7)
- Juror Wage Denial Actions (c.234A §60)
- Lien Enforcement Actions (c.254 §5; 255 §26)
- Livestock Disease Control Actions (c.129 §37)
- Medical Provider Overpayment Recovery Actions (c.118E §38)
- Municipal Tax Collection Proceedings (c.60 §29)
- Replevin (c.247)
- Repossession of Secured Goods (c.255 §13J; c.255B §20B; c.255D §22)
- Security Actions for Impounded Animal (c.272 §104[c])
- Settlement Approval for Personal Injury to Minor/Incompetent (c.231 §140C½)
- State Fire Marshal Investigations (c.148 §3)
- Structured Settlement Transfer Approvals (c.231C §2)
- Tenant Illegal Activity Declaratory Judgments (c.139 §19)
- Tuberculosis Commitments/Discharges (c.111, §§ 94C or 94G)
- Unemployment Compensation Actions against Employer by DET (c.151A §15)



Trial Court of the Commonwealth

Boston Municipal Court Department

District Court Department

Joint Standing Order No. 3-04

TIME STANDARDS FOR CRIMINAL CASES

1. AUTHORITY

This Standing Order is jointly promulgated by the Chief Justice of the Boston Municipal Court Department and the Chief Justice of the District Court Department pursuant to their statutory responsibility for case management under G.L. c. 211B, §10 and uniform practices under G.L. c. 218, § 43A.

2. PURPOSE

These time standards are intended to reaffirm the goals of “simplicity in procedure, fairness in administration, and the elimination of expense and delay,” as provided by Mass. R. Crim. P. 2(a). Recognizing that excessive delay can undermine public confidence in the delivery of justice in our courts, the following time standards have been established to advance the expeditious and just disposition of all criminal matters.

3. TME STANDARDS

There shall be two track designations for criminal cases commenced within the final jurisdiction of the Boston Municipal and District Court Ddepartments. Track A shall include all criminal offenses which provide a maximum period of incarceration of six months or less, including all criminal offenses which carry no term of imprisonment and are punishable only by fine. Track B shall include all criminal offenses punishable by a period of incarceration longer than six months.

The maximum time to disposition for Track A cases shall be five months. The maximum time to disposition for Track B cases shall be twelve months. If a defendant is charged with one or more Track A and Track B offenses in a single complaint, the case shall be treated as Track B for all purposes. Cases may be transferred from Track A to Track B, or the maximum time period allowable between court events may be extended, only by a judge for demonstrated good cause stated on the record. Requests to alter the track designation of cases or to extend a maximum

time period within a track shall be evaluated consistent with the purposes of this Order set forth in paragraph 2. Nothing in this Order shall be construed to deter resolution of cases prior to the maximum time limits standards set forth herein.

Consistent with the applicable provisions of the Mass. R. Crim. P. and the Dist./Mun. Cts. R. Crim. P., the time between court events in criminal cases shall be as follows:

Track A:

- From Arraignment to Pretrial Hearing date: Not more than 45 days;
- From Pretrial Hearing to Motion/Compliance/Election date: Not more than 45 days;
- From Motion/Compliance/Election date to Trial date: Not more than 45 days.

Track B:

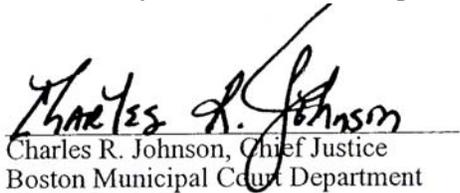
- From Arraignment to Pretrial Hearing date: Not more than 45 days;
- From Pretrial Hearing to Motion/Compliance/Election date: Not more than 60 days;
- From Motion/Compliance/Election to Trial date: Not more than 90 days.

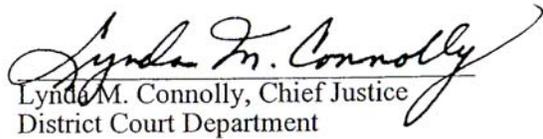
4. CRIMINAL CASE MANAGEMENT

Performance goals for criminal case management in the Boston Municipal Court Department shall be determined by the Chief Justice of the Boston Municipal Court Department.

Criminal case management in the District Court Department shall be assessed in accordance with District Court Standing Order No. 4-04, Performance Goals for Criminal Case Management.

Computation of the time periods set forth above shall exclude any time during which the defendant is legally unavailable to proceed with the criminal case, e.g., time during which the defendant is in default and periods of time during which the defendant is under a term of involuntary civil commitment pursuant to the provisions of G.L. c. 123.


Charles R. Johnson, Chief Justice
Boston Municipal Court Department


Lynda M. Connolly, Chief Justice
District Court Department

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