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The Commonwealth of Massachusetts
BERKSHIRE DISTRICT ATTORNEY



ANDREA HARRINGTON
DISTRICT ATTORNEY

Honorable Paula M. Carey
Chief Justice of the Trial Court

Jonathan S. Williams
Court Administrator

Executive Office of the Trial Court
1 Pemberton Square
Boston, MA 02108

Via first class and electronic mail

November 18, 2020

Dear Honorable Carey and Administrator Williams,

I am writing to express concern about the Trial Court's planning for the resumption of criminal jury trials in Berkshire County. While I commend the Trial Court for protecting the health of jurors, justice system actors, and the larger community, we are eight months into the pandemic without the Trial Court administration identifying a single suitable location in which to hold jury trials in Berkshire County. This is alarming.

The Executive Office of the Trial Court identified Berkshire Superior Court as the only courtroom in the County that is suitable for trials. District Court Standing Order 11-20 ordered that Phase 1 trials were to commence in the Superior Courtroom on November 10th, however, your office indefinitely postponed that trial due to unsuitable ventilation in the courthouse. To my knowledge, your office has neither made any plans to find an alternate location or to address the ventilation issues. It is not realistic to expect this county to fulfill constitutionally mandated speedy trial obligations utilizing one courtroom for Berkshire Superior Court, three District Courts, and Juvenile Court in addition to holding grand jury.

Up until this week, Berkshire County has had the lowest risk of Covid-19 transmission rates in the Commonwealth and grand jurors are enthusiastically reporting for duty. Pittsfield has just moved into the red category but is taking the necessary steps to reduce transmission rates. My office has been fully staffed since July 6th and we made a significant investment into audio/video equipment to display evidence at trial that will limit the transmission of germs. The Commonwealth is ready for trial. Further, we are making every effort to reduce the backlog of cases by resolving matters short of trial. Despite our best efforts, Defendants, by and large, have calculated that the Trial Court administration's lack of

planning will ultimately lead to dismissal due to the courts' inability to provide an appropriate venue for constitutionally mandated jury trials.

The failure of the Trial Court administration to articulate a plan to resume jury trials in Berkshire County undermines the public's confidence in the courts and the justice system at a time when people are relying on justice actors to uphold the rule of law. Defendants, victims, and the citizens of Berkshire County deserve a system of justice that serves them. Courts all over the country are facing the same circumstances we face here in Massachusetts; however, other jurisdictions are meeting this challenge. Courts in Texas, Washington, California, Kansas, Michigan, and New Jersey (among others) are holding jury trials both in person and virtually. Organizations like NITA are offering guidance for safely resuming jury trials during the pandemic. My office stands ready to provide leadership and assistance in this endeavor but as it is your office with authority over the necessary resources and court structures, we are powerless to take the steps required to safely conduct criminal jury trials.

I am urgently requesting that the Trial Court Department identify locations and a reasonable timetable for the resumption of in-person jury trials in Berkshire County.

Very truly yours,



Andrea Harrington
Berkshire District Attorney

cc: Governor Charles D. Baker
Senate President Karen E. Spilka
Speaker Robert A. DeLeo
Justice Elspeth B. Cypher
Justice Scott L. Kafker
Justice Barbara A. Lenk
Justice Kimberly S. Budd
Justice Frank A. Gaziano
Justice David A. Lowy
Judge Judith Fabricant
Judge Amy L. Nechtum
Chief Counsel Anthony Benedetti
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