

IN THE SUPREME COURT OF PENNSYLVANIA

Docket No. 21 EM 2020

In Re: Philadelphia Municipal Court's Request Pursuant to Pa.R.J.A. 1952(B)(2)(m) and (s) for an Emergency Order Authorizing the President Judge of the Philadelphia Municipal Court to Suspend the Operation of Pa.Rs.Crim.P. 600 and 1013 and any rule restricting the Use of Advanced Communication Technology

Patrick F. Dugan, President Judge of the Philadelphia Municipal Court, hereby requests the Supreme Court to enter an emergency order authorizing the President Judge of the Philadelphia Municipal Court to suspend the operation of Pa.Rules.Crim.P. 600 and 1013 and any rule restricting the Use of Advanced Communication Technology, and represents as follows:

1. The First Judicial District took extraordinary steps, from the onset of the pandemic, to ensure that criminal proceedings were held as safely and timely as possible. Municipal Court maintained ongoing contact and interaction with its justice partners which include the Defender Association, the District Attorney's Office, the private Bar, the Sheriff's Office, the Philadelphia Police Department, the City of Philadelphia's Managing Director's Office and the Department of Public Property (as well as its building management subcontractor) and the Philadelphia Department of Prisons. Safety concerns related to COVID-19 required modifications to court procedures and case scheduling, with increased video hearings and, eventually, a limited number of in-person proceedings scheduled hourly throughout the day.
2. With closures effectuated in March 2020, Municipal Court pivoted from in-person proceedings to conducting as many proceedings as possible through the use of Advanced Communication Technology (ACT). This required the FJD and stakeholders to create and acclimate to a new way of scheduling and holding hearings in a pandemic. Throughout the pandemic, Municipal Court's criminal division NEVER closed.
 - From the onset of the pandemic, preliminary arraignment court continued to operate 24/7. While arrests initially slowed, there was a steady increase to criminal filings, particularly for violent crimes. From March 20, 2020 through July 2021, Municipal Court conducted over 34,000 preliminary arraignments for new felony and misdemeanor cases.
 - The FJD used ACT to conduct emergent motion hearings remotely for approximately 1,000 custody inmates. Commencing March 20, 2020, the presiding judge and court staff were present in the courtroom, with defendants confined in the Philadelphia Prison System and attorneys participating remotely from various locations.

- Early Bail Review, Crash Court and Bench Warrant Court remained operational since emergency closures were implemented in March 2020. From January through August 23, 2021, ACT allowed the court to process over 6,000 hearings with the presiding judge and court staff present in the courtroom from the onset of the pandemic. As an alternative to conducting in-person proceedings, the continued use of ACT is necessary for the referenced court lists with defendants confined in local custody. This measure allows Municipal Court to continue limiting the number of people in the courtroom, thereby preventing the spread of COVID-19. Presiding judges and court staff will continue to be present in the courtroom, and attorneys may opt to participate via video. Time schedules have been secured with the Philadelphia Department of Prisons for incarcerated defendant participation.
 - On August 31, 2020, Municipal Court reopened for in-person hearings starting with homicides and non-fatal shooting preliminary hearings. By September 8, 2020, 7 of our 13 courtrooms were operating in-person, and by November 2020, 16 courtrooms were safely reopened in the Stout Center for Criminal Justice, along with a new courtroom in the Philadelphia Department of Prison's Detention Center (March 2021). Courtrooms proceedings were a mix of in-person only and ACT proceedings. Status listings in courtrooms commenced in May 2020. Additional rooms opened with a focus on the adjudication of pretrial, felony custody matters. From August through December 2020, we scheduled approximately 4,400 felony preliminary hearings. Municipal Court scheduled an additional 32,805 felony preliminary hearings January through August 2021.
 - In the last half of 2020, 21,750 cases were scheduled for status via ACT including bail motions. While increasing the number of cases scheduled before judges, in compliance with CDC guidelines for public health safety measures, we organized off site locations for the remote testimony of police and civilian witnesses to further decrease the number of people coming into the main courthouse building.
3. Recognizing the First Judicial District's March 17, 2020 declaration of Judicial Emergency, the resulting suspension of time calculations for the purposes of time computations relevant to court cases and time deadlines, and the subsequent orders extending same, the Supreme Court approved, by order dated July 2, 2021, the First Judicial District's request "to continue suspending Rules of Criminal Procedure 600 and 1013, as well as any procedural rules related to the use of advanced communication technology (ACT) in court proceedings, through August 31, 2021."¹
 4. Since that Order was entered, the surge in COVID-19 cases has increased substantially, and there has been an increase in exposure to the highly contagious Covid-19 variants. The 7-day case averaged 47 new cases per day on July 2, 2021 and increased to a 7-day average of 281 new cases per day as of August 19, 2021, a 600% increase in just over a month. The CDC has classified Philadelphia County as a "high" to the Pennsylvania Department of Health, Philadelphia County has the second

¹ A copy of the July 2, 2021 Order is attached

lowest vaccination rate per 100,000 residents of any County in the Commonwealth. In the past month, The City of Philadelphia reinstated the indoor mask mandate. The First Judicial District implemented the same policy, mandating mask wearing regardless of vaccination status at all court facilities. Court leadership receives daily and weekly updates on the number of employees who test positive for COVID-19. Although there were weeks of zero, there has recently been a clear uptick in the number of employee cases. There is no indication that the present rate of increase in cases will abate in the near term.

5. In light of the recent substantial and high rates of community transmission levels as noted above, the Philadelphia Municipal Court requests the Court to further extend the suspension of Rules of Criminal Procedure 600 and 1013, as well as any procedural rules related to the use of advanced communication technology (ACT) in order to dispose of its current inventory and new cases.
6. Although Municipal Court judges assigned to criminal matters are working from the Courthouse, and most proceedings are currently being conducted in-person, we continue to maintain the option to conduct preliminary hearings and other Municipal Court hearings and trials remotely. The Philadelphia Department of Prisons is experiencing overcrowding conditions which have now been exacerbated by increasing COVID-19 cases and the accompanying need to quarantine prisoners who have tested positive or are suspected positive cases. Currently, approximately 385 of the department's prisoner population are quarantined as positive or suspected COVID-19 cases. All quarantined inmates are unavailable for court.
7. Due to the above circumstances, both transporting defendants in custody for in-person proceedings and conducting trials and other in-person proceedings present a potential threat to prison and court staff, witnesses, parties, and counsel by exposing all such individuals to multiple prolonged enclosed contacts with defendants who may have been exposed to COVID-19 and others who are not members of the same household. In March 2021, with the use of ACT, Municipal Court opened a Courtroom at the Detention Center to alleviate the Sheriff's transportation limitations at the Stout Center. To date, we have scheduled over 1400 custody felony preliminary hearings to the Detention Center Courtroom.
8. Because in-person court proceedings for any COVID-19 positive or suspected positive defendant cannot be held and must be continued, placing further strain on the court's efficiency and its ability to timely dispose of the increased inventory as provided in Pa.R.Crim.P. 600 and 1013, the Court's authorization to suspend the application of Rules 600 and 1013 will continue to assist the Philadelphia Municipal Court to manage criminal matters in a manner that both maximized the safety of all participants and moved cases toward trial as soon as practicable without undue concern that the timeframes set forth by said rule would be compromised.

Therefore, the current increase in exposure to Covid-19 and its variants requires the continuation of remote hearings and suspension of the rules as noted above and the

undersigned respectfully requests that the Court enter an order authorizing the undersigned to continue to temporarily suspend, as necessary, the operation of Pa.R.Crim.P. 600, 1013 and any rule restricting the Use of Advanced Communication Technology through December 31, 2021 or for such other time as the Court deems appropriate.

Date: August 24, 2021



Honorable Patrick F. Dugan
President Judge, Philadelphia Municipal Court
First Judicial District of Pennsylvania

**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

IN RE: FIRST JUDICIAL DISTRICT OF : No. 21 EM 2020
PENNSYLVANIA : :
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ORDER

PER CURIAM

AND NOW, this 2nd day of July, 2021, the Request Pursuant to Pa.R.J.A. 1952(B)(2)(m) is GRANTED. With respect to President Judge Idee C. Fox’s request to suspend, through August 31, 2021, Rule of Criminal Procedure 1013, we observe that on March 17, 2020, President Judge Fox issued Administrative Order No. 10 of 2020, which declared that “[t]ime calculations for the purposes of time computation relevant to court cases or other judicial business, as well as time deadlines, are suspended pursuant to Pennsylvania Rule of Judicial Administration 1952(B).” Administrative Order No. 10, 3/17/2020 at ¶1. Based on this authority, and the subsequent orders extending it, we grant the President Judge’s request to continue suspending Rules of Criminal Procedure 600 and 1013, as well as any procedural rules related to the use of advanced communication technology (ACT) in court proceedings, through August 31, 2021. Judges shall be present in the courthouse, judicial center, or other court facility whenever a proceeding is being conducted by ACT, except for extraordinary circumstances, such as when court properties have been closed due to inclement weather or other emergency under Pa.R.J.A. Nos. 1950-1954, or when a proceeding is not being conducted during normal business hours.

Justice Donohue notes her dissent.