

Jury Duty and Selection

Introduction

That unwelcome letter arrives in the mail... jury duty. Many famous trial attorneys have described jurors as a group of individuals who didn't have a good enough reason to avoid jury duty. Jury service is a burden, interrupting your personal and business lives, disrupting employment for little pay. However, it is a unique privilege we enjoy as citizens of a democratic system of government. Jury service is not only a responsibility, but also your opportunity to participate in the American Justice system.

Juror Responsibilities

Being a juror does not require any particular education, skills or expertise. The jury's job is to evaluate the evidence presented and determine the truth to the best of their ability. Every juror is entitled to treatment with respect and courtesy, express complaints to court personnel, have questions answered plainly and clearly, and remained informed about the trial schedule. Along with this responsibility, jurors have a number of additional responsibilities during their service. Jurors may not discuss the case with anyone during the course of the trial – this includes discussions with fellow jurors or attorneys until such time as jury deliberations commence. When the trial has concluded, the juror may discuss it with others or may remain silent.

If a juror accidentally hears something about the trial outside of the courtroom, or if someone contacts a juror about the trial while it is still in progress, the juror should ask the court clerk or officer to tell the judge immediately what has happened. Under NO circumstances should the juror tell anyone about the incident except the court clerk, officer or the judge.

Jurors are not allowed to read, watch or listen to media stories relating to the trial to which they are assigned. At the discretion of the judge, jurors may take notes. Jurors are given lunch breaks and may be given other brief breaks during a trial. If a juror need a break for some other reason, he or she should inform the judge, court clerk or court officer. These requests should only be made if they are absolutely essential, so as not to disrupt the proceedings.

It is important that jurors report when they are required to and are promptly on time. Absences may delay or even jeopardize trials. If jurors are faced with an emergency, they should follow the instructions that they were given by the court. If they are unable to do so, they should telephone the Commissioner of Jurors' Office.

Jury Selection

The vast majority of time you will spend as a prospective juror will be spent WAITING. As with all court proceedings, you are going to wait. And wait. Most courts have short orientation videos introducing prospective jurors to the jury system. You'll probably read a pamphlet similar to this packet to pass the time. Do not expect to be in and out in an hour – you will wait. It is recommended to bring something to read or otherwise occupy the time you wait.

The first phase of a jury trial involves the selection of particular jurors – a screening process known as voir dire. In a criminal trial involving a felony offense, 12 jurors and up to six alternate jurors may be chosen; if the charge is a misdemeanor, a jury of six is necessary. In a case involving a civil matter, a jury will comprise six jurors and usually one or two alternates.

In a criminal case, a judge will always be present during jury selection to explain the principles or law, to read the accusatory instrument, and question prospective jurors. In a civil case, the judge will normally commence the voir dire and generally oversee the entire selection process.

The court and the attorneys for the parties may question the jurors to determine their fitness to serve in a particular case. Such questions are intended to identify whether an individual may have certain biases or personal knowledge that could influence his or her ability to judge a case objectively. In order to screen out those jurors who they believe would be inappropriate for a particular case, the attorneys have the right to excuse a prospective juror from serving on the panel if they offer a justifiable reason. The process is referred to as a "challenge for cause." There is no limit to the number of times that this challenge may be exercised.

The attorneys also have a fixed number of challenges for which a reason does NOT have to given – these challenges are known as "peremptory." A peremptory challenge is a privilege of trial counsel exercised arbitrarily and without explanation. However, the number of peremptory challenges that may be used is limited by law and varies according to the nature of the case. This challenge may never be exercised in violation of discrimination laws.

The questioning process continues until the attorneys for all parties are satisfied with the composition of the jury or has exhausted all challenges permitted by law. Alternate jurors are necessary to ensure a sufficient number of jurors for deliberation. Throughout the trial, all jurors will sit together and pay careful attention to the evidence. The judge will decide when to excuse alternate jurors.

The policy of New York State courts is that jurors selected for juries serve as promptly as possible. Normally, a trial will start within 24 hours of the completion of jury selection.

Oath and Preliminary Instructions

Once the screening and selection process results in a sufficient number of jurors and alternate jurors, and oath is administered to the jurors who have been selected. The oath is a pledge that the juror will act fairly and impartially in the role as a judge of all questions of fact. This oath obligates the juror to put aside individual emotions or opinions and to use logic and objectivity throughout the trial and the deliberations.

Following the oath, the judge will provide preliminary instructions that set out the basic responsibilities that a juror must observe during trial. These directives include and admonitions not to read or listen to news accounts of the trial, visit the scene of the alleged offense, or discuss the case with outsiders or with fellow jurors.

Trial – Criminal

A criminal trial is a process for establishing whether an individual is legally guilty of a criminal offense. If a trial results in a guilty verdict for a felony offense charge, the possible punishment may include

imprisonment of more than one year and in certain extremely serious cases may range in severity to include the death penalty. A trial may also be held on the basis of a misdemeanor offense charge that covers acts where the maximum punishment is no more than one-year imprisonment or a fine.

After the judge delivers the preliminary instructions, the prosecutor (usually an assistant district attorney) will make an opening statement to the jury outlining the charges and the evidence that will be offered to sustain the case. It is important to note that a criminal charge is only an accusatory instrument; the burden of proving the defendant guilty rests with the prosecution. The attorney for the defendant is also permitted to give an opening statement, but there is no obligation to do so. The defendant may choose not to speak in his or her defense at all – and that choice cannot be considered evidence.

The prosecutor will then present evidence (proof) in the form of testimony, physical evidence and documents. During testimony the prosecutor will ask questions, and then the defense attorney may cross-examine the witness. When the prosecutor has concluded the presentation of evidence, the prosecution rests its case.

The defense case may involve many witnesses, possibly the defendant, or there may be no witnesses at all. This phase of the trial may also involve a sequence of questioning by defense counsel, and then the prosecutor will have an opportunity to cross-examine witness. After the defense has completed questioning of its witnesses, the defense will rest its case.

After opposing sides have rested, the defense attorney will generally deliver a summation argument and may attack the testimony or credibility of witnesses or the prosecution's evidence or lack of evidence. The prosecutor's summation offers reasons why the evidence sustains the defendant's guilt beyond a reasonable doubt.

At the conclusion of the summation arguments, the judge will charge the jury, or describe to the jury the law that is applicable and the elements of the crime charged. The judge will also explain legal concepts such as the "presumption of innocence" and "beyond a reasonable doubt." After the judge gives these instructions, the prosecutor and the defense attorney may ask for additional instructions.

Trial – Civil Litigation

A civil trial is conducted as a way to enforce or protect personal rights. A civil case may be disposed of through a variety of means, including a jury trial. There are several outcomes that may be reached through a civil trial. A trial court may reach a verdict and impose monetary damages on a party to compensate for loss and, on occasion, punish a party for wrongdoing. The party who brought the case to court is called the plaintiff; the party being sued is the defendant.

Similar to criminal trials, civil trials commence with the delivery of opening statements by the attorneys for the plaintiff and the defendant. Both explain their client's position and outline the evidence that they expect to present to support their claims and defenses. These statements are not evidence and should not be considered as such.

After opening statements, the plaintiff calls witnesses and introduces evidence. The plaintiff's attorney will question each witness, and the defense attorney may cross-examine the witnesses. Once all of the plaintiff's witnesses are called, the attorney for the plaintiff will rest their case.

The defendant then has the right to call witnesses and to present evidence to support its contentions. The defendant's attorney will question the witnesses, and the plaintiff has the right to cross-examine them. Once this process is completed, the defense will rest its case, at which time the plaintiff may be permitted to offer testimony to reply to or rebut any new matter raised by the witnesses for the defense.

Once the defense rests, the attorneys are entitled to make closing statements that describe what the lawyers assert the evidence proves and why their client should win. The judge will then give instructions to the jury by identifying the issues to consider and the laws that are applicable to the case. The jury is also informed about the possible verdicts that may be reached, and that the verdict may be based upon a "preponderance of evidence."

Jury Deliberations

When the judge has completed delivering the instructions to the jury, the jurors will leave the courtroom and go to a jury room to begin deliberations – the process that jury must engage in to arrive at a verdict. If questions or personal needs arise during this time, a court officer is nearby to provide assistance.

The foreperson has the ceremonial duty of acting as the jury's spokesperson. A foreperson has the same status as any other juror and is not required to serve as a moderator during deliberations. In criminal trials, the court designates the first selected juror as the foreperson. In civil trials, the court adheres to the same custom, or the jury may elect its foreperson.

The jury reviews the evidence that was presented in a case and discusses the jurors' views on the information. During the deliberations, jurors should keep an open mind, listen carefully to everyone and be prepared to tell the others what they think and why. Generally, it is easier to reach a swift and sound verdict when jurors remain courteous to and patient with one another and listen openly to the views of others. It is important to remember that if questions arise during deliberations, or if there is a need for further instructions or need to have testimony re-read, the foreperson may send a written request to the judge through the court officer. Upon the judge's approval, all parties may be asked to return to the courtroom to address an issue.

The Verdict

In a criminal case, the deliberations must result in a jury's finding by a unanimous vote that the defendant is guilty or not guilty. If a jury reaches a guilty verdict in a criminal case, the judge will determine the punishment or sentence in accordance with the law. Unlike criminal cases, in civil trials a verdict does not have to be unanimous; agreement by either five or six jurors is sufficient. In addition to deciding upon a verdict, a civil trial jury may also be asked to determine whether there should be an award of damages for certain parties, and if so, how much money should be awarded.

Once the jury has reached its verdict, the foreperson should notify the attending court officer. The officer will advise the judge who will then call everyone, including the jury, back to the courtroom. When everyone is present, the clerk will ask the foreperson for the jury's verdict. In some cases, the entire jury may be polled – where each juror will be asked if he or she agrees with the verdict.

In a criminal trial, sentencing normally takes place several weeks after the verdict is rendered. Jurors are not required to return to the court for sentencing proceedings.

Frequently Asked Questions

How are people chosen for jury duty?

The New York State court system obtains the names of state residents who are included on certain lists – registered voters, state taxpayers, licensed drivers, recipients of public assistance benefits, and recipients of state unemployment compensation. It is possible to volunteer for jury duty. You may contact the local Commissioner or Jurors or call 1-800-NYJUROR.

How long does a juror serve?

In most counties, jurors not involved in a voir dire or trial are excused after one entire working day. Those who are selected for trial are required to serve on only one trial. On average, the length of a criminal trial is from five to ten days, for civil trial three to five days. Some trials last more than ten days. The judge or attorneys will inform the prospective jurors of the expected length of the trial.

What is a sequestered jury?

There are occasions where the court is required to sequester a jury on a criminal case during deliberations. In extremely rare instances (People v. O.J. Simpson) a jury may be sequestered during the trial itself. Sequestering means that jurors do not go home at the end of the day, but stay in a motel where their access to other people and to radio and television news or newspapers is limited. The judge or clerk will inform you in advance if there is a possibility that the jury may be sequestered. All expenses are paid by the state during sequestration.

Are jurors paid?

Yes. A whopping \$40.00 per day. There are exceptions, check your local court clerk for details.

If I serve, how long am I ineligible?

If you are called for jury duty, you are automatically exempt for a minimum of four years. This varies by the size of the jury pool – some counties provide exemptions for seven years and greater.

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