



STATE BAR *of* TEXAS

JURY SERVICE TOOLKIT

A public education resource guide for lawyers

Welcome to the State Bar of Texas Jury Service Toolkit!

The U.S. and Texas Constitutions both guarantee the right to an impartial trial by a jury of one's peers. We cannot understate the importance of this fundamental right to the preservation of our civil liberties. In our democratic society, the jury system puts justice in the hands of the people. Juries determine the fate of persons who have been accused of committing a crime against their fellow citizens — a fact of which many of us lawyers are all too keenly aware.

Many of our fellow citizens, however, may not realize how important their role in serving on a jury truly is. For many people, jury service is looked upon as an onerous duty — something to avoid. There are some common fears, as well — possibly losing one's job, insufficient compensation for serving, lack of transportation to and from the courthouse, and so on. Even the trial process, for all its seeming familiarity thanks to TV legal dramas, can be intimidating. So too is the responsibility for deciding a person's fate.

Our duty as lawyers is to help educate the public about jury service, ease their concerns, and provide resources to better prepare potential jurors. There are numerous ways you can help. And the State Bar of Texas will help you by providing the tools you need. This toolkit contains fact sheets on jury service that you can distribute, talking points and online resources, and a list of frequently asked questions — and sample answers.

Visit your local civic organizations or churches and initiate discussion about the importance of jury service to our communities, our state, and our country. Or take the discussion into schools to help inspire future jurors who will be better informed and more enthusiastic about having an opportunity to serve their country and fellow citizens.

QUALIFICATIONS FOR JURY SERVICE

You must have the following qualifications:

- Be at least 18 years of age.
- Be a citizen of the United States and of this state.
- Reside in the county of jury service.
- Be qualified to vote in the county of jury service.
- Be able to read and write.
- Be of sound mind and good moral character.

You cannot serve on a jury if:

- You have served as a juror for six days during the preceding three months in county court or during the preceding six months in district court.
- You have been convicted of a felony or of any type of theft (unless rights have been restored).
- You are on probation or deferred adjudication for a felony or any type of theft.
- You are under indictment for a felony or are under criminal charges for any type of theft.

EXEMPTIONS FOR JURY SERVICE

You may be excused from jury service if:

- You are more than 70 years of age.
- You have legal custody of a child under 10 years of age and jury service would leave the child unsupervised.
- You are a student in class.
- You are the caretaker of a person who is an invalid.
- You can show a physical or mental impairment or an inability to comprehend or communicate in English.
- You are required to appear in court on a religious holy day; you can contact the court to reschedule.

PENALTIES FOR FAILING TO ANSWER A JURY SUMMONS

- If you fail to answer a jury summons, you are subject to a contempt action punishable by a fine of between \$100 and \$1,000.
- If you are picked for jury service but fail to attend court without a reasonable excuse or file a false exemption claim, you are subject to a fine of between \$10 and \$100.

WHAT TO EXPECT YOUR FIRST DAY

- Arrive on time and bring your jury summons with you. Instructions included with your summons will provide information about the courthouse and where to report. If you have any questions, contact the judge, the district clerk's office, or the court's website for more information.
- Dress respectfully as befits the court. Keep in mind that some judges may restrict certain attire, such as shorts, cutoffs, sleeveless shirts, and sandals. Because some courtrooms may be chilly, you might bring a light jacket or sweater.
- Use any free parking provided for prospective jurors, otherwise you may have to pay to park. Try to avoid parking in metered spots as you do not know how long you will be in jury service.
- Upon entering the courthouse, expect to pass through a metal detector. Trying to enter a courthouse with a prohibited weapon is against the law, and anything that can be considered a weapon, even such items as pocket knives and knitting needles, will be confiscated.
- Though the county or courthouse may reimburse parking costs, bring some cash with you in case you have to pay up front to park. You also may wish to buy snacks during breaks or use a pay phone.
- You may bring a book with you for downtime, however, cell phones and pagers must be turned off. Check with your courthouse regarding Internet access and laptop stations.
- You should receive a brief orientation in the courtroom or jury assembly room regarding jury service. Be sure to pay attention to instructions given by court personnel or the judge.
- Don't worry! Court personnel will be available to assist you and answer any questions.

JURY SERVICE: THE TRIAL PROCESS

Congratulations! You have been selected to serve on a jury. You should have received instructions from the judge regarding when to arrive, the schedule for the day, and the rules of juror conduct, such as not discussing the case with anyone, etc.*

But what should you expect during the trial? Here is a basic outline of the trial process.

1. **Opening Statements** — Both civil and criminal cases begin with opening statements in which the attorneys for each side outline the case, discuss the evidence they will present, and pinpoint the issues the jury will be deciding.
2. **Presenting the Evidence** — This is the meat of the trial, and it is important that you pay close attention to the proceedings. The attorneys will present any physical evidence and call witnesses to testify in support of their case. The jury will have the opportunity to examine any exhibits presented to the court, and, depending on the judge's instructions, you may be able to take notes during the trial.
3. **Rulings by the Judge** — The judge may need to rule on questions of law as the trial progresses. In that event, jurors will be asked to exit the courtroom until any rulings are decided.
4. **Instructions to the Jury** — Once all of the evidence has been presented, the judge will provide jurors with the Charge of the Court, which includes the questions regarding the key issues of the trial that the jurors must answer in their deliberations.
5. **Closing Arguments** — While the closing arguments are a chance for the attorneys for each side to summarize their case and to try and persuade the jury in their favor, these statements are not evidence and should not be treated as such. Jurors should not make up their minds until they undergo thorough deliberations regarding the facts of the case.
6. **Jury Deliberations and Verdict** — The jury will be sent to the jury room to consider the questions the judge presented and to decide a final verdict.

* The Texas Supreme Court Rule of Civil Procedure 226a, regarding juror conduct, is available at <http://www.courts.state.tx.us/tjc/juryinfo/rules.asp>.

FREQUENTLY ASKED QUESTIONS

Why is jury service important?

It is an essential responsibility of citizenship and is a way for each citizen to participate in upholding the rule of law. Jury duty can also be an educational experience as jurors learn more about the legal process.

What is my duty as a juror?

It is imperative that you remain fair and impartial when being presented with the facts of a case and then weigh the evidence with your fellow jurors to arrive at a verdict.

Is a person guaranteed the right to a trial by jury in every case?

No, there is no right to a trial by jury in every case. Certain civil cases, such as matters where a plaintiff seeks an equitable remedy for a loss or injury, are not usually afforded a jury trial. However, in criminal cases, the Sixth Amendment to the U.S. Constitution provides the right to a trial by a public jury. All parties are considered equal before the law and are entitled to a fair and impartial trial.

What is a juror's role in a criminal case?

In a criminal case, the state, represented by the district or county attorney, presents evidence at trial to prove that the defendant, or person accused of committing a crime, has committed the charges against him or her "beyond a reasonable doubt." Jurors must consider all of the evidence presented at trial to determine whether the defendant is guilty. For a valid verdict, jurors must reach a unanimous decision.

What is a juror's role in a civil case?

Civil cases usually involve disputes between two or more parties regarding money or property. Based on the testimony and evidence, jurors must evaluate the questions surrounding the disputed facts of the case to arrive at a verdict.

In civil trials, an agreement of five-sixths of the jurors is needed for a valid verdict.

What are the types of courts in Texas?

Texas has six types of trial courts: justice of the peace courts, municipal courts, statutory probate courts, constitutional county courts, statutory county courts, and district courts. As all of these courts permit jury trials, you could be summoned to serve in any of these courts.

Justice of the peace and municipal courts are at the local or city level. Justice of the peace courts handle small claims, Class C (less serious) criminal misdemeanors, and magistrate functions. Municipal courts oversee fine-only criminal misdemeanors and municipal ordinance criminal cases.

County-level courts include the constitutional county courts, statutory county courts, and statutory probate courts. The constitutional county courts handle various cases, including civil actions between \$200 and \$10,000, juvenile matters, misdemeanors, and some probate. Statutory county courts also handle various cases, including civil cases up to \$200,000 and appellate actions from municipal or justice of the peace courts. Probate courts are limited primarily to probate matters.

The state district courts handle civil and criminal matters, though certain district courts may specialize in civil, criminal, juvenile, or family law cases.

I received a jury summons. What do I do now?

You may receive a summons if you are registered to vote or have a valid Texas driver's license or Texas personal identification card. Depending on which county you live in, you may receive a questionnaire prior to receiving your official summons. The questionnaire is to help determine your eligibility.

FREQUENTLY ASKED QUESTIONS

You may be asked to either mail the questionnaire or bring it with you when you report for jury duty.

Can I go online to answer my jury summons?

Some counties do allow you to respond to your summons via the Internet. Information to that effect should be included with your summons.

How are juries selected?

Receiving a jury summons does not automatically mean you will serve on a jury. If you are summoned, you will become part of the jury pool — a large group of prospective jurors. From this group, you will be assigned to a jury panel and will be questioned by the lawyers for both sides. This is called “voir dire” or “to speak the truth.” After voir dire, if you are picked to serve, you will be placed on a jury.

How much time off from work will I miss if I am selected?

It depends. The jury selection process can take only a few hours up to a full day. If you do get selected, a trial can last from a few days to several months, but, in most cases, you can expect a trial to last about one week.

Does my employer have to pay me while I’m serving jury duty?

No, your employer is not required to pay you for the days you serve on a jury. However, your employer cannot fire you while you are serving.

What kind of compensation do I get for serving on a jury?

You will be paid by the county an amount not less than \$6.00 and not more than \$50.00 per day or fraction of a day served.

What if I have an emergency or special need after I have been selected?

Tell the bailiff of the court if you have an emergency or special need arise.

How is the jury foreman chosen?

You and your fellow jurors will select the man or woman to serve as foreman.

Is it okay to discuss the case after the trial is over?

After you are discharged from jury service, you are no longer bound by the obligation of secrecy. You are then free to discuss the case, if you wish.

IDEAS FOR SPEAKING TO CIVIC ORGANIZATIONS

Jury duty is considered by many people to be a burden and something to get out of doing. Talk about the apprehensions and misunderstandings people may have about jury service. Do people have to know anything about the judicial system or legal process?

Ask who has served on a jury and find out their opinions of the process: What did they like or dislike about serving? How did jury duty improve their understanding of the justice system? What advice do they have for those who have never served?

Next to voting, jury service is our most important civic duty. Juries potentially hold the power to decide the fate of a person's life. Talk about the responsibility jury service entails and how potential jurors can better educate themselves about the judicial system.

Talk about why providing your fellow citizens with a jury of one's peers is so important. Pose the question: Wouldn't you want someone like you on the jury if you were on trial?

Walk people through the jury selection process: What do you do when you receive a jury summons? Are juries always 12 people? What is voir dire? Are there differences in jury service for civil and criminal cases? (*See the FAQ in this toolkit for more discussion ideas.*)

Provide a "day in the life" look at jury service. Discuss juror conduct and court procedures.

Is there such a thing as an ideal juror? Talk about what lawyers look for in potential jurors.

IDEAS FOR SPEAKING TO CLASSROOMS OR YOUTH GROUPS

Most people's perceptions of trials and juries come from TV and movies. Pick a popular legal television show or movie and discuss how a trial is portrayed. Is it more fact or fiction?

Discuss what a "jury of one's peers" means. Have juries always been a true representation of "one's peers" and why would that be important to the person on trial?

Stage a mock voir dire, where student "lawyers" can pick a jury based on the particulars of their "case" and on the various "juror" profiles.

Talk about the "due process of law" and a jury's role in it.

Hold a mock jury deliberation. Present case facts from both sides, then ask a student "jury" to weigh the evidence and arrive at a verdict. Discuss why they made the decision they did.

SAMPLE LETTER TO THE EDITOR

Use this sample letter to the editor to craft your own letter regarding the importance of jury service and submit it to your local paper. Think about these questions: How would you address people's concerns about serving? What key points would you want to make regarding the jury process?

EDUCATING JURORS

To the editor:

Jury duty in Texas does not enjoy a very good reputation. Turnout by those summoned remains low. And there are several reasons for this. While pay for the second and subsequent days has increased, the first day remains at \$6. The wait can be long during the selection process, especially for those ultimately not chosen. And the legal process itself can be intimidating.

A juror is called upon to listen objectively, analyze the facts of the case, and determine a just verdict that will directly impact the life of a fellow citizen. This is a major responsibility, but it's one all of us as Texans and Americans should be proud to undertake. Other than voting, jury service is our most important civic duty. Remember, the U.S. and Texas Constitutions both guarantee the right to an impartial trial by jury. You help make the system work.

As a lawyer, I understand the concerns potential jurors have. In fact, we lawyers probably represent one of the more intimidating facets of the process. Better juror education is central to combating the misconceptions or concerns people may have about serving.

Resources are available — and they don't cost a thing except a little time. The State Bar of Texas offers a pamphlet, *Texas Uniform Jury Handbook*, available at texasbar.com. The Texas Young Lawyers Association has an information-packed website called the American Juror (americanjuror.org), and Texas Courts Online provides comprehensive information not only on jury service but also on the entire Texas courts system (courts.state.tx.us/tjc/jury-home.asp).

If you don't have online access at home, visit your local library for access or to obtain information about your local courts. The *(can insert your local bar association name here)* is also available to help. You can contact us at *(provide local bar contact information)*.

Sincerely,

(Name)

If a member of a local bar association, you can add:

President/Officer/Member

_____ Bar Association

SAMPLE SPEECH OR OP-ED

Using the text below as a starting point, develop your own thoughts about the importance of jury service in our society to prepare your own speech or op-ed piece. Incorporate your legal knowledge to provide your audience with a greater understanding of the process.

“I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution.”

—Thomas Jefferson

You receive a jury summons in the mail. What’s your initial reaction? Be honest. Are you annoyed? Are you thinking ‘I don’t have time for this’? Are you hoping you won’t be chosen? I think that reaction is fairly normal, but should it be?

Shouldn’t our reaction be one of excitement, even anticipation? Next to voting, jury service is one of our most important civic duties. This is your opportunity to actively participate in the American judicial system — an opportunity that should not be taken for granted. We are fortunate that both our national and state Constitutions guarantee each citizen the right to an impartial trial by a jury of our peers. Many places in this world are still not afforded such a right. And, not so long ago, not all citizens of this country were afforded that basic right.

Jury service has evolved over the centuries, with its beginnings dating back as far as ancient Greece and Egypt. But our present jury system derives from the writing of the Magna Carta in England in 1215. That important document included the following statement: “No freeman shall be taken or imprisoned ... unless by the lawful judgment of his peers, or by the law of the land.” This concept of a trial by jury took root in England and was transferred here with the establishment of the American colonies.

Of course, we must remember that a trial by jury at the time extended only so far, so a true “jury of one’s peers” didn’t apply to certain segments of our society until fairly recently. Even with the end of slavery, African-Americans

did not regularly serve on juries until after the Civil Rights Act. Similarly with women. Even though women gained the right to vote in 1920, women were not regularly seen on juries until the 1960s. Persons with disabilities also face challenges to their ability to participate in the jury process. And the process — and those participating in the justice system — must continue to evolve to allow full participation of all citizens.

Our justice system is not perfect. Regardless, it is looked upon as an ideal by many parts of the world. We, the people, in a true expression of democracy, have the opportunity to impart justice on our fellow citizens. We, the people, act as a check on our justice system by ensuring a fair trial. The verdict doesn’t rest with a solitary judge, a tribunal, or a military junta.

But for our system to work, we must participate. That means, when you receive that jury summons, fill out the questionnaire and go to the courthouse for the selection process. Put aside the annoyance of having to rearrange your schedule for a few days and participate in this important civic process. Granted, there are those who face legitimate barriers to serving, but the court does provide certain remedies and exemptions for these instances.

In the end, jurors who serve end up, if not enjoying the experience, gaining an appreciation for the American justice system and their role in it. So, when you receive your call to serve, do so with pride knowing your participation in the justice system *does* count.

GENERAL

State Bar of Texas Let's Do Justice for Texas

Public education initiative

www.texasbar.com/justicefortexas

TYLA's American Juror: The Decision is Yours

www.americanjuror.org

The Texas Young Lawyers Association has created an excellent reference for first-time jurors. The site includes a juror Q&A video, a glossary of legal terminology, and a fact vs. fiction segment for jurors.

Texas Courts Online — Juror Information

www.courts.state.tx.us/tjc/jury-home.asp

A useful and informative resource for all prospective jurors in Texas.

Commission on the American Jury Project

www.abanet.org/jury/home.html

Part of the American Bar Association website, this page provides jury resource links and downloads.

American Judicature Society — Edmund N. "Ned" Carpenter II Jury Center

www.ajs.org/jc

Includes a video of a juror orientation and a "Juries In-depth" portal.

STUDENTS

Texas Law-Related Education, Inc.

"The Jury System"

www.texaslre.org/jury_game/jurygame_intro.html

A great overview of the jury system. Also includes the interactive "Pick Twelve Game," in which students can select a jury.

"All Rise! Comprehending the Texas Court System"

www.texaslre.org/allrise_intro.html

Judges interested in visiting classrooms to speak to students about the judicial system can find the resources they need here. Also includes the "All Rise Game," in which students can learn more about the different courts.

Constitutional Rights Foundation:

Bill of Rights in Action

www.crf-usa.org/bill-of-rights-in-action/bria-11-1-a.html

This site includes three articles on the impact the media has had on criminal trials. Includes discussion questions and other student activities.