

THE

WISCONSIN JURY

HANDBOOK

The material in this handbook is general information only. Instructions will be given to you by the judge in each case and are controlling and must be followed. This handbook is made available by the Director of State Courts and maintained by the Office of Court Operations. We hope it will assist prospective jurors in performing their duty and promote a better understanding of the Wisconsin jury system for the public.

INTRODUCTION

You have been summoned to serve as a juror in the circuit courts of the State of Wisconsin. This handbook will generally explain your function as a juror and help you understand how trials are conducted.

As a juror, you are performing one of the highest duties in our democratic system of government. You may experience problems and have questions, but there will always be people to assist you. Your service will be educational and should bring you a sense of great satisfaction and a feeling that you have contributed to our society.

Unless you have a very serious conflict, you will be expected to serve as a juror. Each citizen has a stake in the court system. Someday you may be involved in a court case and you will want people like you to act as jurors in your case.

Please note: If you have a disability that requires an accommodation by the court to allow you to serve as a juror, please contact either the clerk of circuit court or the Americans with Disabilities Act Coordinator in the county where you are called to serve, as soon as possible.

LENGTH OF SERVICE

Under Wisconsin law, jurors are eligible for up to five (5) days of service within a one month period or until the case they are serving on is over. You may only be required to serve as a juror for one month in a four year period.

Some counties, however, have adopted a system known as "one day/one trial". Under this system a juror may only be asked to serve one day or until the case they are serving on is over. A citizen will be eligible to serve again after four years.

A "day of service" means a day of attendance, not necessarily of actual service on a jury panel. Often the days will not be in succession. If you are selected for a jury panel, you will serve until that case is done. If you are not selected, you are usually excused within one to two hours and will probably be asked to return on another day. Most trials last only one day. When a trial does last longer, the judge usually adjourns so that you can return home each day at a reasonable hour.

In many counties you will not be summoned to a specific case, but will be asked to appear as part of a larger jury pool. You may be assigned to participate in voir dire (pronounced vwor deer) for one case before one judge, and, if not selected, assigned to another case before a different judge.

Once summoned to serve as a potential juror you will receive more detailed information regarding parking, time to appear, and maybe additional information regarding how to find out whether you should report as summoned.

DELAYS

Resolving legal disputes is complex and can be unpredictable. Often, cases are settled at the very last minute. When the jury is ready to hear the case the parties often work out a last minute compromise, called a "settlement", rather than gamble on what the jury will decide. If a case settles, usually you will not be told what the settlement is, as you may have to hear a similar case later and should not be influenced by what was worked out in a different case. These settlements may seem very inconvenient to you, especially if you are at the

5 DAYS

ONE DAY/ONE TRIAL

***Underlined words are explained further in the Definitions section.**

DAY OF SERVICE

COUNTY-SPECIFIC INFORMATION

courthouse waiting, but settlements usually save your time, that of the trial participants, and taxpayer money.

DELAYS CAN SAVE TIME AND MONEY

There may also be delays during the trial: witnesses may not have arrived; the judge may have to answer a legal question, which if heard by the jury might influence their decision; discussions about what testimony may be presented to the jury; or there may just need to be a break by all the participants from the intense concentration required during the trial. Whatever the reason, delays sometimes save time. Rest assured, the judge understands the inconvenience and annoyance caused by long delays and will try to keep these to a minimum.

TYPES OF CASES

There are basically two types of cases - criminal and civil. In a criminal case the plaintiff seeks to convict a party accused of committing a crime, violating a state statute, or violating a county, city or village ordinance. The party accused of committing the crime is called a defendant. In a criminal case where the party is accused of violating a state statute, the plaintiff is the State of Wisconsin and is represented by the district attorney or by an assistant district attorney. In a case involving a violation of a county, city, or village ordinance, the plaintiff may be represented by the district attorney, assistant district attorney, or another attorney hired by the government.

CRIMINAL CASES

The jury in a criminal case decides if the defendant is guilty or not guilty as to each charge or count against the defendant. The penalty, if any, is the sole responsibility of the judge and should not concern you as a juror.

In a criminal case, the defendant is presumed innocent unless proven guilty "beyond a reasonable doubt." If the charge has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If the charge has been adequately proven then you should find the defendant guilty.

INNOCENT UNLESS PROVEN GUILTY

Traffic offenses and ordinance violations may also be presented to a jury. In all of these trials, the jury also decides whether the defendant is guilty or not guilty of each charge.

Civil cases result from disagreements between two or more

TRAFFIC AND ORDINANCE OFFENSES

parties and may include actions relating to marriage, real estate, contracts, injuries, and money. The plaintiff is the party who starts the lawsuit by filing a complaint. The defendant is the party being sued by the plaintiff. The defendant files an answer if the defendant denies any part of the plaintiff's claim, and sometimes the defendant files a counterclaim, which is a claim directed back against the plaintiff.

CIVIL CASES

Your duty in a civil case is to decide what actually happened, since the parties do not agree with each other on the facts. The judge gives you the legal rules and you apply those rules to the evidence to reach a conclusion. The jury will be asked to draw conclusions from the evidence and often to say how much money will compensate a party for a wrong or injury.

A party may choose to present their complaint to a jury without attorney assistance. Even if one party is represented by an attorney and one party is not, a potential juror must not make assumptions about the credibility of the facts in the case, or of the parties.

NOT ALL PARTIES HAVE AN ATTORNEY

PROCEDURE OF A JURY TRIAL

The rules for jury trials come from the law, tradition, and experience. In summary, the steps are as follows:

Jury Selection

1. Jurors are sworn to answer truthfully all questions about their qualifications for the case.
2. The judge and parties ask questions of the prospective jurors (voir dire).
3. The judge excuses a limited number of jurors which, each lawyer has a right to ask be excused without giving a reason (peremptory challenges); the lawyer may also excuse additional jurors who the lawyer may think may not be impartial in the case (challenges for cause).
4. The final jury panel is then selected and sworn to fairly and impartially decide the case.

THE JURY IS SELECTED

The Trial

1. The parties say what they think they will prove (opening statements).
2. Evidence is presented.
3. The parties summarize what they think the evidence has shown and try to persuade the jury (closing statements or arguments).
4. The judge instructs the jury on the law that applies to the case.

BOTH SIDES PRESENT THEIR CASE

Jury Deliberation

1. The jury selects a foreperson.
2. The evidence and instructions are discussed and the jurors try to reach agreement.
3. The verdict is agreed upon.
4. The verdict is presented to the judge in the courtroom.
5. The jury is excused.

THE JURY MAKES A DECISION

JURY SELECTION

You are one of a group of eligible citizens chosen at random by the clerk of circuit court, who are called upon to be available to form a jury.

After you have reported to a courtroom, you will remain on the benches in the back of the courtroom until you are called to be seated in the jury box or until you are excused by the judge. All potential jurors are sworn to answer questions honestly about their qualifications to serve. This process of questioning is called voir dire and means literally "to speak the truth." The purpose is to determine whether anything might influence your judgment toward or against any of the parties in the trial.

The judge will acquaint you with the parties, the circumstances

of the case, and possibly some of the witnesses. The judge will ask the jurors some questions to learn whether there are legal reasons to excuse a particular person from service as a juror. Some questions might be: Do you know any of the parties involved in the case?; Do you know anything about this case from personal observation or by reading about the case in the newspaper or by hearing about it on television or radio?; Do you know of any reasons why you would not be an impartial juror?; and Is there any reason you could not serve for the whole trial? The judge may decide whether it is absolutely necessary to excuse any jurors who are not, or who appear not to be, impartial (challenge for cause).

TO SPEAK THE TRUTH

Next the parties have the chance to question individual jurors. These questions may inquire into your background, experiences, and beliefs. Sometimes it may seem that these questions are very personal. You should not be embarrassed or offended. An attorney has a duty to ask questions to learn which jurors will provide their clients with the fairest decision. You should answer all questions honestly. In some specific cases prospective jurors may be sent a separate, very detailed questionnaire prior to the actual voir dire. The parties will ask for clarification of any of your responses that they think may affect your ability to decide the issues of the case in an impartial manner. The judge will ensure that the parties ask only questions that are appropriate and necessary.

THE JUDGE QUESTIONS THE JURY

A party may ask that a juror be excused for cause and the judge will then determine whether the reason is sufficient. There is no limit on the number of these challenges. A party may also ask to excuse a limited number of jurors without stating any reason, which is called a peremptory challenge. The party or lawyer may wish to have a jury with particular characteristics, education, or occupational experiences.

THE PARTIES QUESTION THE JURY

If you are excused you should not be offended. No reflection on integrity or ability is intended. The right to challenge potential jurors is simply a part of our justice system that allows the parties some control over the jurors that will decide their case.

JURORS CAN BE EXCUSED WITHOUT A REASON

When the required number of jurors has been chosen the jury panel is sworn to fairly and impartially decide the case at issue.

THE TRIAL

After the jury has been sworn in the judge will determine if you may take notes during the proceedings. If you are permitted to take notes they should not interfere with your concentration or observation of court proceedings. When you are reviewing your notes remember that they are not evidence. They should be used only to help you remember your interpretation of facts presented during the trial. All notes will be collected and destroyed at the trial's conclusion.

All trials follow a general order of events, and the jury's role is similar in all trials. First, the parties or attorneys will usually describe in some detail the evidence they will offer. These descriptions are called opening statements. Usually, the plaintiff goes first and the defendant second. You should remember that these statements are not evidence, but are only explanations of what each side claims.

Perhaps the most technical aspect of the jury trial is the presentation of evidence. While this is a complicated issue, essentially anything that tends to prove or disprove a claim about the facts is called relevant evidence. Evidence may be an exhibit (something in writing, or a photograph, or an object such as a weapon) or testimony (the verbal answers to questions or other sworn statements of witnesses).

The rules of evidence permit the jury to consider only information that is directly applicable to the issues in the case. The jury will see and hear many things that are *not* evidence (opening statements and lawyer's objections, for example). The judge will make sure that the jury knows what the evidence is in a particular case and will permit only proper questions, actions, and statements to be presented to the jury. Sometimes the judge may strike part of the testimony, meaning that you should not consider that part of the testimony in any way when making your decision.

Once the actual trial begins the plaintiff or plaintiff's attorney normally calls witnesses first and asks questions to prove the facts from the plaintiff's point of view. The defendant or defendant's attorney may also

THE FINAL JURY PANEL IS SELECTED

NOTE-TAKING

OPENING STATEMENTS

EVIDENCE

question the plaintiff's witnesses to test the truth and accuracy of the witnesses' earlier testimony. This process of questioning by the opposing party is called cross-examination.

Occasionally, one party may object to an action or question by the opposing party or to a statement made by the witness. A party has the right to object to any presentation they believe is not proper. The judge determines whether the objection has merit. If the judge agrees that the action, question, or statement is not proper, the objection is sustained; if the judge does not agree, then the objection is overruled. Objections by the parties or the judge's ruling should not cause you to be swayed for or against either side. The judge will give you instructions, if necessary, whether information presented should be considered in making the jury's decision.

THE QUESTIONING OF WITNESSES

It is common during a trial for the parties to present motions or hold conferences with the judge out of the jury's hearing. These discussions are usually legal arguments that might confuse or wrongly influence your decision. By excusing the jury or by holding the conference at the bench or in chambers, the judge is making sure you consider only information that it is appropriate for you to consider. Whatever the reason for these apparent delays, the judge understands the inconvenience and annoyance caused by long delays and will try to keep these to a minimum.

When the plaintiff has completed the presentation of their evidence, the defendant may also call and question witnesses. These witnesses may also be cross-examined by the plaintiff. The judge may permit the plaintiff to present additional evidence afterwards in rebuttal to disprove new information presented by the defendant.

After both sides have finished presenting their cases, each side will make a closing statement or closing argument, where they review and analyze the evidence and give their reasons why the facts support their viewpoint. Again, the closing statements are not evidence but are merely the viewpoints and opinions of the parties involved.

The judge will explain to you the rules of law that apply to the case and explain the decisions you must make. These written instructions are based upon years of judicial experience and

many past cases throughout Wisconsin. You must accept and follow the rules of law as given to you by the judge. You may disagree about the facts presented during the trial, but you may not allow any personal disagreement with the law to influence your decision.

JURY DELIBERATION

You and your fellow jurors will then be escorted to the jury room to discuss the case. First, you will select a foreperson, who acts as the moderator and discussion leader. The free and full exchange of opinions and information should be encouraged. Such discussion should be sensible and orderly. As a member of the jury, the foreperson has the same opportunity to express opinions as any other juror, but the foreperson's opinion should not be given any greater weight. The foreperson will also communicate any requests or questions on behalf of the jury in writing to the judge and will report the final verdict to the court.

You should fully and frankly give your views and listen carefully to the comments of your fellow jurors. The deliberations should consider all evidence received in court and the instructions given to you by the judge. You are not to rely upon any private sources of information, although it is assumed that you will use your own experiences, knowledge, and common sense in reaching your conclusions. Jury deliberation is not the place for emotions, prejudice, or sympathy, but rather for the calm review of the facts and the applicable law.

If you need further clarification about the instructions the foreperson should ask the judge in a written note to provide further assistance. The judge will evaluate the question and determine if there is a need for clarification. Occasionally, the jury will be brought back to the courtroom to receive the explanation or to hear the re-reading of testimony or instructions.

You should not hesitate to change your opinion if your reasoning and judgment have changed, but no juror is required to vote against personal conscience. The jury should work together to reach a verdict.

CLOSING STATEMENTS

JURY INSTRUCTIONS

ACCEPT THE LAW

THE FOREPERSON

SPEAK FREELY BUT LISTEN TO OTHERS

Each question on the verdict must be answered separately and independently. You should not speculate on the legal results of any item. The verdict is your final decision.

The foreperson will then present the verdict to the court. The parties have the right to ask you individually if you agree or disagree with the verdict reported to the court. This is called polling the jury.

Now that you have completed your responsibilities, the judge will discharge you. Then and only then may you discuss the case with other people. However, unless there was a polling of the jury, you have no obligation to reveal your vote or your justification for that decision. In cases that have received extensive public attention you may be approached by members of the news media with questions about the case and jury deliberations. Unless there is a specific prohibition given to you by the judge, you may respond to these questions, but you are under no obligation to do so. You should be careful, however, not to disclose the names or opinions of other jurors and respect their own desire for privacy.

**THE VERDICT IS
PRESENTED**

After you have completely finished jury duty, you may be asked to fill out an exit questionnaire. This is an opportunity for you to express your opinions about your jury experience and how the system might be improved. Your cooperation and input are invaluable to the judicial system and your honest evaluation is appreciated.

**THE JURY IS
DISCHARGED**

YOUR DUTY AS A JUROR

As a juror you are in a position of responsibility and expected to conduct yourself in such a way that no one may question your impartiality and integrity. From the time you are summoned as a juror until the time you are discharged by the judge there are some basic rules to follow:

**RESPECT THE PRIVACY
OF OTHER JURORS**

1. LISTEN CAREFULLY AND OBSERVE: You will base your decision on the evidence presented to you.
2. KEEP AN OPEN MIND: Do not form hasty conclusions or opinions. Each party has spent considerable time and money in preparing the case presented to you. You would want others to allow you to fully explain your arguments on a subject; allow the

parties that same courtesy.

3. CONTROL YOUR EMOTIONS: You may be confronted with exhibits or testimony which makes you uncomfortable. You should not show any visual or audible expressions that you have been affected.
4. DO NOT DISCUSS THE CASE: During the trial, you should not talk about the case to anyone, including other jurors. Outside discussions could cause you to form conclusions before all the evidence has been presented.
5. DO NOT READ, VIEW OR LISTEN TO MEDIA ACCOUNTS: Newspaper, radio, television, internet, or social media reporting may present a biased or unbalanced view of the case. Such accounts might then influence your future evaluation of the facts of the case.
6. DO NOT TALK WITH ANYONE RELATED TO THE CASE: You should not talk at all to the lawyers, parties, witnesses, or anyone connected to the case. This might be perceived as an attempt to influence your verdict.
7. DO NOT INVESTIGATE THE CASE ON YOUR OWN: If the judge determines that an inspection of the scene or premises involved in a case is appropriate, the judge will arrange for the jury as a whole to make this inspection, accompanied by the court officials and parties involved.
8. REPORT ANY PROBLEMS TO THE COURT: If you become aware of anything that causes you concern, whether inside or outside the courtroom, make the judge aware of it. Report your concern to the bailiff or court clerk outside of the hearing of other jurors. Do not discuss the matter with other jurors, so that the minds of other jurors will not be influenced if the problem is significant.
9. REPORT EMERGENCIES TO THE COURT: If an emergency or illness affects your jury service during a

TEN RULES FOR A JUROR

trial, inform the bailiff or court clerk.

10. BE ON TIME FOR COURT: Since each juror must hear all the evidence, tardiness causes delay and wastes the time of all involved

The most important qualifications of a juror are fairness and impartiality. You must lay aside all bias and prejudice. You are the foundation of our judicial system and your actions and decision should reflect this important role.

DEFINITIONS

<u>answer:</u>	The legal document filed by the defendant in response to a plaintiff's lawsuit.
<u>bench:</u>	The desk in the courtroom occupied by the judge; more broadly, the court itself.
<u>challenge for cause:</u>	Excuse or discharge of a juror by the judge for a reason required or permitted by law.
<u>charge or count:</u>	Each specific accusation against the defendant.
<u>civil case:</u>	The lawsuit among private parties for determination, enforcement, and/or protection of a right, or for the correction and/or prevention of a wrong.
<u>closing statement or closing argument:</u>	The summary of the facts and their interpretation of the law by the opposing parties at the end of the trial for purpose of persuading the jury to their point of view.
<u>complaint or suit:</u>	The legal document filed by the plaintiff to start a lawsuit and make a claim against the defendant in a civil action or to specify each accusation against a defendant in a criminal action.
<u>counterclaim:</u>	The legal document filed by the defendant to make a claim against the plaintiff in a civil action.
<u>criminal case:</u>	The action or suit by a government to penalize a violation of the criminal laws.
<u>cross-examination:</u>	The questioning of a witness in a trial by a party who did not call the witness to testify.
<u>defendant:</u>	The person or organization that has a lawsuit brought against it or who has been charged with a violation of the criminal laws.
<u>evidence:</u>	The proof presented in the form of sworn testimony and exhibits.
<u>exhibit:</u>	A paper, document, or other object presented during the trial.
<u>exit questionnaire:</u>	A written questionnaire to obtain information from the juror for a juror to complete after jury duty is over.
<u>foreperson:</u>	The juror selected by the jurors to organize and lead their discussion.

<u>chambers:</u>	The private office of the judge.
<u>jury box:</u>	The seats in the courtroom where the jury sits during a trial.
<u>jury panel:</u>	The group of people participating as jurors in the trial of a case.
<u>jury room:</u>	The room where jurors may assemble and where the panel deliberates at the end of the presentation of evidence.
<u>jury trials:</u>	A trial where a jury listens to conflicting evidence and makes the final decision using rules given by the judge.
<u>motion:</u>	A request to the judge to order something.
<u>object:</u>	To oppose a statement or procedure in court.
<u>one day/one trial:</u>	A jury service system where a prospective juror is required to be available to serve one day or the full length of a trial, whichever is longer.
<u>opening statements:</u>	The presentation by each party of the facts they expect to present.
<u>overruled:</u>	To decide against the objection of a party.
<u>parties:</u>	The plaintiff and defendant in a case.
<u>peremptory challenge:</u>	The right of the parties to excuse a limited number of prospective jurors without giving a reason.
<u>plaintiff:</u>	The person or organization who starts a lawsuit in a civil case or brings charges of criminal violations.
<u>poll the jury:</u>	When the jurors are asked individually whether they agree with the verdict presented to the court.
<u>rebuttal:</u>	The presentation of additional evidence to show the testimony of a witness is not true.
<u>strike testimony:</u>	The elimination of testimony that is not to be considered by the court or jury in making a decision.
<u>summoned:</u>	To receive an official letter or notice that citizens are required to make themselves available for jury service for a specific period of time.
<u>sustained:</u>	To decide in favor of an objection of a party.

testimony: Statements given by a witness, under oath, to be distinguished from exhibits.

verdict: The jury's final decision.

voir dire: Literally, "to speak the truth;" the questioning of prospective jurors to determine if they are qualified to serve on the jury.

witnesses: Persons who testify to what they have seen, heard, or know firsthand.