

Handbook for Jurors

Trial by jury has been a cornerstone of freedom and justice for centuries. The Oregon and United States Constitutions protect the right of citizens to a jury trial as vital to the administration of justice. Your public service as a juror is one of the most important functions of our democracy. The proper and efficient functioning of the justice system requires jurors to exercise intelligence, integrity, sound judgment and complete impartiality.

This handbook has been written to help you better understand jury service in state courts. It will supplement the juror orientation process used in your judicial district.

A Summons for Jury Service

Why did I receive a summons for jury service?

The clerk of the court in your county or judicial district compiles an annual master list of potential jurors. This list draws upon lists of registered voters, licensed drivers and other approved sources. At least 2% of the county's population is on the master list. Names are then drawn randomly from the list, and those people are summoned for jury service. If the master list has been exhausted (a rare circumstance) and an immediate need exists, the court may order that jurors be summoned from any source – even from people walking down a public street.

What happens if someone ignores a summons for jury service?

The court may issue an order requiring that person to appear in court. If the person ignores the summons, the court may hold the person in contempt. Similarly, a person who fails to complete jury service without first getting permission from the court may be punished for contempt. If you receive a summons but cannot comply with the summons, you must follow the procedures to be "excused" by the court.

How do people get excused from jury service?

Only a judge or the clerk of the court may excuse a person from jury service. If you are over age 70 your request will be automatically granted. If you are under age 70 an excuse will be granted only when you show "undue hardship" or "extreme inconvenience." The judge or court clerk will "carefully consider and weigh both the public need for juries which are representative of the full community and the individual circumstances offered as a justification for excuse from jury service." Active members of the military are exempt from jury service.

May jury service be postponed?

Yes. If "good cause" is shown the clerk may defer your jury service to any other term beginning within one year after the end of the term for which you were originally summoned.

Employment Protection

Can I lose my job for reporting to jury service?

No. Under Oregon law, your employer may not discharge you because of jury service. An employer also may not threaten to dis-

charge, intimidate or coerce an employee because of jury service. The court may take action against an employer who violates these laws.

Will my employer pay me while I am on jury service?

Your employer's personnel policies, or the specific employment agreement between you and your employer, will determine whether any compensation is payable to you during jury service. There is no statutory requirement that an employer pay salary or wages during an employee's jury service.

Compensation of Jurors

Do jurors get paid for jury service?

Yes. Juror fees are fixed by the legislature. In a circuit court, a juror is entitled to \$10 per day for the first and second day of service, then \$25 for the third and subsequent days of service. Mileage reimbursement is \$.20 per mile to travel to jury service in the circuit court. Juror pay is subject to income tax but need not be reported for social security purposes. A juror is entitled to receive payment for a full day when called to court, even if that person does not actually participate in trial or is excused immediately after answering the roll call. If necessary during the course of jury deliberations, the judge may order that food, drink, lodging or transportation be provided to a jury depending upon the circumstances of the case.

Juror fees are obviously not intended to replace regular working income. The daily rate and mileage are merely intended to cover basic out-of-pocket expenses.

Qualifications for Jury Service

Who is eligible for jury service?

Generally, any person who is (1) at least 18 years old (2) a U.S. citizen and (3) resides in the county when summoned. Many counties or judicial districts use a written form to determine in advance a person's eligibility to serve as a juror.

Oregon law provides that "the opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation or any other factor that discriminates against a cognizable group in this state."

If you need special assistance with a speech or hearing disability, you should submit a written request to the court. If the court finds that you require the services of a qualified interpreter or the use of an assistive communication device to perform the functions of a juror, the necessary services will be provided at the court's expense.

Who is not eligible for jury service?

Anyone who has served on jury duty in a state or federal court in Oregon within the last 24 months is not eligible. A person is also not eligible if he or she has been convicted of a felony and is in state prison, or has received a suspended sentence conditioned on service of county jail time or has had his or her probation revoked and must serve any portion of a suspended sentence. In criminal cases, no person may serve on a jury who has been convicted of a felony or served a felony sentence within the prior 15 years. Further, no person convicted of a misdemeanor involving violence or dishonesty or having served a sentence for such a crime within the previous five years is eligible to serve as a juror on a criminal case.

May a person request jury service?

No. Special placement as a juror

is at odds with the goal of random jury selection. It is illegal for any person to procure or offer to procure jury service for a person. A person may be fined for requesting or procuring jury service.

Length of Service

How many days will jury service last?

Each county sets a different amount of time for the juror's term of service. Some counties ask you to serve for one trial only. In other counties you may serve for several trials during a two-week term. Some counties require you to telephone the clerk's office during a 30-day term to determine the days when attendance is needed. No trial juror can be required to serve more than 10 days unless necessary to complete a trial in progress.

Jury Selection

How are jurors selected for a particular trial?

First, the court clerk selects anywhere from 15 to 35 prospective jurors at random from the larger jury pool. This smaller group of potential jurors is seated in a courtroom. Then the judge's clerk or bailiff places each person's name on a separate slip of paper. All of these slips are then placed in a box. The clerk shakes the box vigorously to ensure a completely random selection of names. After the slips are mixed the clerk begins drawing names one at a time from the box. When an appropriate number of names have been drawn and called, those potential jurors take an oath. This begins the most important step in jury selection, which is called "voir dire."

What is "voir dire"?

"Voir dire" is a French term that means "to speak the truth." In jury selection, voir dire refers to the procedure for selecting a panel of jurors by asking them questions.

Voir dire usually begins when the judge or the lawyers briefly explain the general nature of the case to be tried, along with the names of the lawyers and parties involved in the case. The prospective jurors are then given an oath to truthfully answer any questions they may be asked. The judge may start by asking a few general questions. The judge usually asks whether anyone is acquainted with any of the people involved in the lawsuit and whether anyone has any knowledge of the lawsuit. The lawyers for the parties then take turns asking questions.

What type of questions will be asked by the lawyers during voir dire?

The lawyers will ask a variety of questions to help them learn about the prospective jurors' backgrounds, attitudes and general beliefs. Although such questions may seem intrusive, they are both proper and necessary. The parties and their lawyers have a legitimate concern in knowing as much as they can about the people who will decide their case.

Withholding information or failing to answer questions would be a serious breach of the juror's oath. If a person forgets and later remembers information concerning a question in jury selection, he or she should bring this immediately to the attention of the trial judge. Failure to bring new or newly remembered information to the judge's attention may cause the trial to be restarted at considerable expense to the parties.

Juror Challenges

What does it mean when a juror is "challenged"?

During questioning, if a prospective juror indicates that he or she is not legally qualified to act as a juror in the particular case, the lawyer will then say, "I challenge the juror for cause." If the judge is satisfied that the reason given for the challenge is sufficient, the juror

will be excused. After all the jurors have been questioned and there are no longer any challenges “for cause,” the lawyers on each side may exercise a certain number of “peremptory challenges.”

Why would a juror be challenged “for cause?”

In Oregon, a juror can be disqualified “for cause” for any of the following reasons:

- (1) A juror is not eligible to serve.
- (2) A juror has a mental or physical condition that would render the juror incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of a party.
- (3) A juror is related by blood or marriage within the fourth degree to any party (or to the person alleged to have been injured by an alleged crime).
- (4) A juror has an existing relation with a party (or alleged crime victim) such as physician and patient, landlord and tenant, attorney and client, or debtor and creditor.
- (5) A juror is a partner in business with a party, or is in an employment relation with any party.
- (6) A juror has served as a juror on a previous trial in the same action, or in another action between the same parties for the same action, or in a case involving substantially the same facts or transaction.
- (7) A juror has an interest in the outcome of the action, or the principal question involved.
- (8) A juror has “actual bias.”

What does “actual bias” mean? Can’t a juror have any opinions?

The term “actual bias” means the juror has a state of mind that would interfere with his or her ability to try the issue impartially and without prejudice to the substantial rights of a party. The state of mind may exist concerning the action, a party to the action, the sex of a party, the party’s attorney, a victim, a witness or a racial or ethnic group. Where a juror has an opinion upon the merits of the case, perhaps from what he or she may

have heard or read, that opinion will constitute “actual bias” only when all of the circumstances indicate that the juror cannot disregard his or her own opinion and try the issue impartially.

What is a “peremptory” challenge?

Each party may excuse a certain number of jurors without giving a reason. These are called “peremptory” challenges. There may be many different reasons why a lawyer for a party would challenge a juror without a stated cause. For example, in a criminal case a lawyer or party might want to excuse persons who have close friends or family in law enforcement. Although no reason need be given for a peremptory challenge, it is improper under Oregon law to exercise a peremptory challenge on the basis of race, ethnicity or sex.

Empanelling a Jury

After both sides have completed their challenges and any excused panelists have been replaced, the remaining jurors in the box are “empanelled.” A second oath is administered to the trial jury that they “will well and truly try the matter in issue between the plaintiff and defendant, and a true verdict given according to the law and evidence as given them on the trial.” If a person is unwilling to “swear” to an oath because of personal or religious beliefs, he or she will be allowed instead to “affirm.” When a person affirms he or she promises “under the pains and penalties of perjury” to carry out the functions undertaken as a juror.

Why do some juries have different numbers of jurors?

Time limitations, strategy, the nature of the crime charged and the amount at stake will determine the size of the jury. The “importance” of a case does not determine the size of the jury — a case on which six jurors sit may be more important than a case in which twelve are selected. In some

cases, alternate jurors may be selected to hear the evidence also. This is done in case the court needs to replace an empanelled juror due to illness or some other emergency. If none of the jurors are replaced, the alternates are excused when the jury retires to deliberate.

Who’s Who in the Courtroom

What are “parties” to a case?

The term “parties” means the plaintiff (the person who starts the case) and the defendant (the person against whom the case is brought). In criminal cases the plaintiff is usually the State of Oregon.

What is the jury’s role?

The jury evaluates the evidence, determining how reliable it is and deciding what to believe. The jury decides what the facts are and then applies those facts to the law. The law will be contained in the instructions of the trial judge.

What does the judge do?

The trial judge presides over the trial and decides what laws apply. The judge then instructs the jury as to the correct law in each case. Although some people may claim that a jury can “nullify” the law, this view is legally incorrect and severely prejudices the administration of justice. Jurors who disregard the trial judge’s instructions have violated their oath.

The Trial Process

After the jury is empanelled the trial begins. The trial judge starts by giving the jurors some preliminary instructions about the trial. Then the lawyer for each party makes an opening statement. The lawyer for the plaintiff usually speaks first. The opening statements often describe the factual contentions and the evidence that each party expects to present. The opening statements are not evidence. They are only outlines of

what each party expects the evidence to show.

How is evidence presented to the jury?

The plaintiffs in the case call witnesses and question them. The questioning of a witness by the party who called the witness is known as “direct examination.” Each party has a right to ask questions of the witnesses of the other party. This is called “cross-examination.” Usually the plaintiff first calls all of his or her witnesses. When a party has called all the witnesses that he or she wishes at that time, that party rests. Where there is more than one plaintiff, the other plaintiff then calls witnesses and then likewise rests. Then the defendant or defendants may call witnesses. This continues until all parties have rested. In a criminal case, the burden of proof is entirely on the prosecution and no adverse inference may be drawn if the defendant calls no witnesses. After both the plaintiff and the defendant have rested their cases, the plaintiff may call witnesses to “rebut” the testimony of the defendant’s witnesses if there have been any. This is called “rebuttal testimony.” The defendant may then call additional rebuttal witnesses.

Why do lawyers make objections?

During a trial, the lawyers for both sides may make objections to questions asked or evidence offered by the other side. This is part of the lawyer’s job. A lawyer may object to questions he or she believes to be improper under the rules of evidence.

If the judge agrees with an objection the judge will “sustain” the objection. If the judge considers an objection to be incorrect the judge will “overrule” the objection and the jury will be allowed to consider the evidence. The judge’s ruling does not indicate favor for one side or one lawyer over the other. The rulings reflect only the judge’s determination of whether the questions asked are in proper form and which evidence may be considered

by the jury under the rules of evidence.

What happens after all of the evidence is presented?

After all of the evidence is presented, the lawyers make closing arguments. In their closing arguments, the lawyers try to summarize the evidence and persuade the jury to find in favor of their respective clients. The judge then gives the “charge,” or instructions, to the jury. In these instructions, the issues that jurors must decide are defined. When the judge has finished, the jurors retire to the jury room to deliberate the case.

Do parts of the trial occur outside the hearing of the jury?

Yes. Sometimes the judge may excuse the jury from the room so that a point of law or an objection can be argued. Occasionally the lawyers may speak with the judge out of the hearing of the jury. These brief conferences are often held at the judge’s bench to avoid the inconvenience of having the jury file out and in again.

Bench discussions are necessary for several reasons: (1) to simplify issues relating to the trial; (2) to enter stipulations which make it unnecessary for the jury to listen to time-consuming evidence when both sides agree about the facts; (3) to prevent a mistrial by discussing delicate areas in advance and (4) to allow for careful consideration of legal points which, if decided incorrectly, could lead to appeal and retrial. Sometimes a case even reaches settlement during such conferences. While this may seem to be a waste of the jury’s time at the moment, a case that doesn’t need to be tried saves time in the long run for the courts and for the jurors.

Conduct of Jurors During the Trial

How should jurors conduct themselves during the trial?

All jurors are required to be prompt. Each juror must hear all the evidence, and tardiness causes delay and inconvenience to the judge, the parties, the witnesses, the lawyers and the other jurors. As a juror you usually must sit in the same seat in the jury box throughout the trial to enable the judge, the clerk and the lawyers to identify you more easily. When a court session begins and the judge enters the courtroom, everyone in the courtroom rises. Jurors should pay careful attention to all the evidence presented. You should notify the judge if you cannot hear a witness, lawyer or the judge.

May a juror discuss the trial before deliberation?

No. While you are a juror, and before you retire to deliberate in the jury room, you should not talk to anyone about the case — not even another juror. Nor should you permit anyone to talk to you about the case. Even friendly chats with the lawyers, parties and witnesses must be avoided. You should not listen to radio or television accounts of the trial or read articles about it in the newspapers. You also should not talk to your friends or to members of your own family about the case while it is pending. If a person persists in talking to you about the trial, or attempts to influence you as a juror, you should report it to the judge immediately.

Are jurors allowed to ask questions?

As a general rule, jurors should not ask questions of witnesses. Most questions that occur to you in the course of a trial are answered at some point later in the trial. Because there are rules about what can be considered evidence, there are restrictions on the types of questions asked of the witnesses. If you strongly feel an important point has not been covered in the course of the trial, you may ask the judge, in writing, whether such a question might be asked.

May a juror take notes during the trial?

Jurors may take notes during the trial. If you choose to take notes, do not let it interfere with your ability to observe and evaluate witnesses. Keep in mind that each party is entitled to your full attention. During deliberation you should not give undue weight to another juror's notes if those notes conflict with your recollection of the evidence. If you take notes, your notes should be left in the jury room at all times.

Is the jury usually sequestered or kept overnight?

No. Only in rare cases are members of the jury kept away from their homes during trial. You can leave to have lunch and to go home at night, but you cannot discuss the case with anyone – even with a family member.

What should a juror do if something improper occurs during the trial?

If you learn of something that the judge should know about you may ask to see the judge. You should send a message to the judge by the officer in charge of the jury, the bailiff or the clerk of the court.

Conduct in the Jury Room

How should jurors conduct their deliberations?

Upon retiring to the jury room to deliberate, the jury selects a presiding juror. It is the presiding juror's duty to see that the deliberations are conducted in an orderly fashion and to see that the issues submitted for consideration are fully and fairly discussed. The presiding juror should make sure that every juror has a chance to say what he or she thinks on every question. When ballots need to be taken, the presiding juror should see that it is done. The presiding juror should sign any written request made of the judge.

How do jurors reach a verdict?

When you deliberate you should weigh the evidence calmly and fairly. Every juror should listen carefully to the views of the other members of the jury and consider them with an open mind. You should not look up any information in books or dictionaries. You should not conduct any independent personal investigation. If you have special knowledge or information about any of the facts of a particular case, you should not communicate that information to other jurors. In deciding a case jurors are expected to bring to bear all the experience, common sense and common knowledge they possess; but they are not to rely on any private source of information. The jury's verdict must be based only on the evidence and on the judge's instructions as to the law.

How is voting conducted by the jurors?

Your final vote should represent your own opinion. When differences of opinion arise between jurors, the jurors should say what they think and why they think it. While you should not hesitate to change your viewpoint if your opinions change during deliberation, jurors must not try to force agreement. Jurors should not refuse to listen to the arguments and opinions of others and must not permit any decision to be reached by chance or the "toss of a coin."

The number of jurors needed to agree upon a verdict will vary depending upon the number of persons sitting on the panel, whether it is a civil or a criminal case and the jurisdiction of the court. The judge will instruct you about the specific number of jurors that must agree upon the verdict.

What should a jury do once it has reached a verdict?

Once the jury has reached its verdict, the presiding juror completes and signs the verdict form. The judge will provide instructions explaining the verdict form. Once the verdict form is signed, the presiding juror should inform the bailiff or clerk. The entire jury panel will then re-enter the courtroom and deliver its verdict in open court.



*Provided by the lawyers and judges of the Oregon State Bar
as a public service to the citizens who proudly serve
as jurors in Oregon courts.*