

THE ANSWER BOOK FOR JURY SERVICE

Message from the Chief Justice

You have been requested to serve on a jury. Service on a jury is one of the most important responsibilities that you will exercise as a citizen of this Commonwealth. It is your responsibility to listen to the evidence presented at a trial, decide the facts, apply the facts to the law as instructed by the judge, and render a fair and impartial verdict. The trial could involve a dispute, essentially private in nature, between two or more parties. The dispute may be related to property rights, claims for damages, or matters that involve money. These types of disputes are resolved in civil cases.

Sometimes, the Commonwealth, a city, or a county will accuse someone of having committed a crime. These accusations are resolved in a criminal case. In a criminal case, you will be asked to consider the evidence presented, decide the facts, and render a fair and impartial verdict based upon the facts and the law.

This booklet has been prepared by the Judicial Council of Virginia. I hope that this booklet will help you perform your important responsibilities. This booklet contains explanations about the different parts of a trial so that you can familiarize yourself with the trial process in advance of the trial.

As a juror, you will perform a very important duty that each citizen owes to our Commonwealth. Your participation is critical because the right to a trial by a jury is a right guaranteed by the federal and state constitutions. Your participation as a juror is necessary to ensure that every citizen in this Commonwealth will have access to this fundamental right. The number of cases filed in Virginia's courts continues to increase each year. Therefore, your service as a juror is more important than ever.

You do not need any special skills, knowledge, or education to be a juror. However, you must be fair, impartial, willing to listen, and willing to keep an open mind. I hope that your services as a juror will be rewarding and satisfying. Remember, our democracy will not work and our system of justice cannot function unless citizens like you are willing to serve as jurors. I thank you very much for your help.

Sincerely,

Leroy Rountree Hassell, Sr.
Chief Justice
Supreme Court of Virginia

Part I: General Information

How was I chosen for jury service?

Potential jurors are selected randomly by the jury commissioners using lists designated by the courts, such as the voter registration list and the driver's license list. In some courts, this is done by hand, and in others, it is done by computer. Either way, the selection method is designed to produce a cross section of the community. Men and women over 18 years of age and from all walks of life have an equal opportunity to be called for jury service.

Do I have to respond to the summons to jury service?

Yes. The summons to jury service is an official court summons. If you do not respond, you could be held in contempt of court!

What if I can't perform jury service right now?

Your term of jury service might disturb your regular pattern of work and other activities. If this disruption causes you genuine hardship, not just inconvenience, it may be possible for you to defer your service to another time. However, this is done only in cases of extreme hardship or need. The judge decides whether your jury service can be deferred. If you feel that you can't perform your jury service at this time, call the number listed on your summons to discuss your situation.

You won't be excused because your jury service is inconvenient or because you have a busy schedule, but you may be for reasons such as a physical ailment. If you have special conflicts on a particular day during the term, the court may excuse you on those days.

What about my job?

Your employer can't fire, demote, or otherwise penalize you for missing work while performing jury service. If you have been summoned and appear for jury duty for four or more hours in one day, including travel time, your employer may not require you to start any work shift that begins at or after 5:00 p.m. on the day you appeared for jury duty, or to start any work shift that begins before 3:00 a.m. on the day following the day you appeared for jury duty. Many employers will continue to pay your salary while you are in jury service. Contact your employer to find out what the policy is at your job.

Will I be reimbursed for serving on a jury?

You will be reimbursed \$30 per day for attendance for each day you must report to the courthouse. This amount is set by the state legislature.

How long will I be in jury service?

Jurors serve for one term of court. Depending on where you live, your term may be up to four months. Your summons will indicate the length and exact dates of the term you will serve.

What if an unexpected emergency keeps me from coming to the courthouse while I'm on a jury?

It is very important that all jurors report each day they are told to report and that they be on time. Your absence may delay a trial. If you have an emergency (such as a sudden illness or a death in the family), call the court immediately.

How will I know what to expect and what to do during my jury service?

In addition to the information in this answer book, most courts provide an orientation program for jurors to inform and educate them about jury service and the trial process. The orientation will inform you of the procedures for checking in on the days you must report to the courthouse, how you find out when to report, what the court's hours are, and what to do if you have an emergency during jury service. Additionally, you will learn about your role as a juror and what you should and should not do while in the courthouse or serving on a jury.

What hours will I serve?

You should report to the court at the date and time shown on your jury summons. At that time, you will be told the procedure for reporting to the court for the rest of the term and the court's normal business hours. On days that you report for jury service, you can expect to be at the court during its normal hours. If not selected for a jury, you may be able to leave early. Jurors will be given a lunch break and may be given other breaks during a trial. On occasion, a trial will continue beyond the court's normal working hours. If this happens, you may need to arrange your schedule to allow you to stay longer.

I have heard the sometimes jurors are not allowed to go home until after the trial is over. Will this happen to me?

Usually, jurors go home at the end of the day and return the next morning. However, in extremely rare cases, a jury will be "sequestered" during the trial or during the jury's deliberations. Sequestered means that instead of going home at the end of the day, jurors stay in hotels, where their access to other people and to radio and television news or newspapers is limited. This is usually to keep them from accidentally hearing something about the trial that wasn't told in court or from being influenced by news reports. This is important because jurors must reach their decisions based only on what they've heard during the trial. In almost all Virginia jury trials, however, the jury goes home at the end of each day and is simply told not to discuss the case with anyone nor to watch, read, or listen to news reports about the case. It is essential that you follow these instructions.

Jurors play an essential role in the trial of civil and criminal cases. Although many people do not know what to expect from jury service, most look back upon it as a rewarding experience. Jury service is a tangible, challenging, and indispensable contribution to our country.

Is there anything I can do to make my jury service more comfortable, convenient, and enjoyable?

Certainly! While efforts are made to reduce delay and avoid waiting time, you may have to wait awhile at the courthouse before you find out whether you have been chosen to actually sit on a jury (the reasons for this are explained in the next section). So bring a book, some needlework, or other quiet activity; solve a crossword puzzle; write a letter; sketch a picture; or get to know your fellow jurors. Remember that as a juror, you are a vital part of the court system. Part of the job of many court employees, such as the bailiffs and the clerks, is to help make your jury service comfortable and convenient. Don't be afraid to ask them for help.

Part II: Selecting Juries for Trials

Is it possible that I might report for jury service but not sit on a jury?

Yes. The parties involved in a case generally seek to settle their differences and avoid the expense and time of a trial. Sometimes the case is settled just a few moments before the trial begins. So even though several trials are scheduled for a certain day, the court doesn't know until that morning how many will actually go to trial. But your time is not wasted – your very presence in the court encourages settlement.

How are jurors chosen to sit on a jury in a civil case?

When a trial is ready to begin, the bailiff calls potential jurors into the courtroom. If damages of \$15,000 or less are claimed in the case, 11 jurors will be called, and if damages of more than \$15,000 are claimed, 13 jurors will be called. The clerk or bailiff asks the potential jurors to stand, hold up their right hands, and swear or affirm that they will truthfully answer the questions about to be asked of them. If you are called as a potential juror, the judge will then tell you the names of the parties and their attorneys and briefly explain the nature of the case. The judge will ask if you are related to anyone involved in the case, have any financial interest or other interest in the outcome of the case, have formed or expressed an opinion, or have any personal bias or prejudice that might affect how you decide the case. If you don't think you can make a fair and impartial decision for any reason, you should tell the judge at this time.

The attorneys for each side might also ask you some questions. If the judge concludes that you may not be able to make a fair decision, you will be asked to step down, and another prospective juror will be brought in to replace you. After the judge decides that all potential jurors are qualified to fairly and impartially hear the case, the clerk will compile a list of jurors and give it to the attorneys. Each side will remove three names from the list. They do not have to give reasons for removing these names. If the amount claimed is \$15,000 or less, the final jury will have five members. If it is more than \$15,000, the jury will have seven members. The

remaining jurors then swear that they will hear the case and give a verdict they believe to be true. The trial is ready to begin.

Trials begin with jury selection. Names are randomly selected from those on a jury service to form a panel from which the trial jury will be selected. The judge excuses those on the panel whose knowledge of the people or circumstances would affect their impartiality.

Why are some jurors removed from the list?

Allowing both sides to participate in selecting the jury gives the parties the opportunity to feel that the jury will be fair and impartial when it decides the case. Being excused from a jury in no way reflects on your character or your competence as a juror, so you should not feel offended or embarrassed if your name is removed.

How are juries chosen in a criminal case?

The procedure for criminal cases is very similar to the procedure for civil cases. However, at least 20 prospective jurors are called for a felony trial, and the final jury will have 12 members. For a misdemeanor case, at least 13 jurors are called, and the final jury will have 7 members. (The difference between a felony and a misdemeanor case is described in the next section.)

What are alternate jurors?

Sometimes, when the judge believes that a case is likely to last for more than a day or two, additional jurors will be chosen from those summoned for jury duty, questioned, and challenged like other prospective jurors. The additional jurors are chosen to avoid having to retry the case should one or more jurors be excused from the jury during the trial for an emergency (such as illness), leaving too few jurors to decide the case. Throughout the trial, all jurors will sit together, paying careful attention to all the evidence. After closing argument, and before the jury retires to the jury room to decide the case, the judge will excuse from further jury duty enough jurors to reduce the number of jurors to the statutory number needed to decide the case.

Trial by jury – being judged by our neighbors – is at the very heart of American justice. For the American citizen there is no finer contribution to our democratic society than serving as a juror.

Part III: The Trial

What are my responsibilities now that I'm part of a jury?

In any trial, two kinds of questions will have to be decided at various times. These are questions of law and questions of fact. The judge decides the questions of law. You decide the questions of fact. After you have decided the questions of fact, you will apply the law to the facts as directed by the judge at the end of the trial.

What is a “question of law?”

Questions of law involve the determination of what the law is. They may be about procedural matters (what information can be admitted as evidence, what kinds of questions can be asked, which witnesses can appear, and what they can testify about), or they may involve questions of substantive law, which create, define, and regulate the rights of parties.

What is a “question of fact?”

Quite simply, it’s deciding what really happened in a case. Don’t be surprised if the evidence given by both sides is conflicting or if the testimony given by one witness contradicts another. After all, if everyone was in agreement about what happened and what should be done about it, the dispute probably wouldn’t be in court, and a jury probably wouldn’t be needed. Your job is to listen to all the testimony, consider all the evidence, and decide what you think really happened.

Who else will be in the courtroom? What will they be doing?

A number of people will be in the courtroom besides the judge, the jury, and the attorneys. The list below explains who they are and what they’ll be doing:

Plaintiff (civil case). In a civil case, the person who brought the case to court is called the *plaintiff*.

Defendant (civil case). The person being sued in a civil case is called the *defendant*.

Defendant (criminal case). A person who has been charged with a crime is the *defendant* in a criminal case.

Attorneys or counsel. Attorneys representing the plaintiff, defendant, or the government in a criminal case are also referred to as *counsel*. Depending on who they represent and what court you are in, you may hear them called *counsel for the plaintiff, plaintiff's attorney, counsel for the defendant, defendant's attorney or defense attorney*. An attorney representing the government in a criminal case is called the *prosecuting attorney* or *Commonwealth's attorney*.

Court Reporter. The *court reporter* keeps the official record by recording every word spoken during the trial.

Bailiff. The *bailiff* keeps order, maintains the security of the court, and helps the judge and jury as needed.

Clerk of court. The *clerk of court*, also called the *clerk*, maintains the court files and preserves the evidence presented during the trial. The *clerk* may also administer the oaths to jurors and witnesses.

Witnesses. Each side in a trial will probably have a number of *witnesses* who have information about the dispute. Very often, the judge will ask them to wait outside the courtroom until it is their turn to testify. This is done so they won't hear each other's testimony and be influenced by it.

Sequence of a Trial

- I. Selection of a Jury
- II. Opening Statements
 - A. Plaintiff's attorney (or prosecuting/Commonwealth's attorney for a criminal case)
 - B. Defendant's attorney
- III. Testimony of Witnesses and Presentation of Evidence
 - A. Plaintiff's attorney (or prosecuting/Commonwealth's attorney for a criminal case)
 - 1. *Direct examination of plaintiff's witnesses by plaintiff's attorney*
 - 2. *Cross-examination of plaintiff's witnesses by defendant's attorney*
 - 3. *Redirect examination of plaintiff's witnesses by plaintiff's attorney*
 - B. Defendant's attorney
 - 1. *Direct examination of defendant's witnesses by defendant's attorney*
 - 2. *Cross-examination of defendant's witnesses by plaintiff's attorney*
 - 3. *Redirect examination of defendant's witnesses by defendant's attorney*
- IV. Selection and Preparation of Jury Instructions
- V. Jury Instructions Presented to the Jury
- VI. Closing Arguments
 - A. Plaintiff's attorney (or prosecuting/Commonwealth's attorney for a criminal case)
 - B. Defendant's attorney
 - C. Plaintiff's attorney (or prosecuting/Commonwealth's attorney for a criminal case) to close the case
- VII. Jury Deliberations
- VIII. Verdict of Jury

What happens during a civil trial?

After the clerk or bailiff has sworn in the jury, the case is ready to begin. If a plaintiff or defendant is pro se, that is, not represented by an attorney, then that party will perform the tasks of the attorney while representing himself or herself in the trial. Both attorneys may make opening statements explaining their client's position and outlining the evidence they expect to present that will support their claims. These statements are not evidence and should not be considered as such. The witnesses for the plaintiff are then called and questioned by the attorney for the plaintiff and cross-examined by the attorney for the defendant. After cross-examination, the plaintiff's attorney may reexamine some of the witnesses. After all the plaintiff's witnesses have been called and all of the plaintiff's evidence has been presented, the attorney will tell the judge that they plaintiff rests.

Witnesses for the defendant may then be called. This time, the defendant's attorney questions the witnesses, and the plaintiff's attorney cross-examines them. When all the defendant's witnesses and evidence have been presented, the defense will also rest. After the defendant has finished, the plaintiff has the right to offer testimony in reply.

Out of the presence of the jury, the judge and the attorneys will consider the instructions the judge will give the jurors about the law of the case (this is discussed below). After the judge has decided on the instructions, the judge will read the jury instructions to the jury, then the attorneys make their closing arguments. The closing arguments let each attorney tell the jury what they think the evidence proves and why their client should win. These closing arguments may help jurors recall many details of the case, but they are not evidence. The plaintiff's attorney speaks first, followed by the defendant's attorney. Finally, the plaintiff's attorney speaks again and closes the case.

What are jury instructions?

Jury instructions tell the jury what the laws are that govern a particular case. Each attorney gives the judge a set of proposed jury instructions. The judge considers each instruction and gives the ones that properly state the law that applies to the case. The jurors must accept and follow the law as instructed by the judge even though they may have a different idea about what the law is or ought to be.

Who awards damages in a civil case?

In a civil case, the jury not only decides on a verdict for one side or the other, but also awards damages. That is, if the jury determines that an award of money should be made, the jury also decides how much money should be paid.

How are criminal cases tried?

Criminal cases are very similar to civil cases, except instead of a plaintiff, there is a prosecuting attorney. The prosecuting attorney may represent either the Commonwealth (the state) or a city, county, or town.

What are the two types of criminal cases?

There are two kinds of criminal offenses: felonies and misdemeanors. A felony is an offense that can be punishable by confinement in a state correctional facility or by death. A felony punishable by death is called a capital offense. If the maximum punishment allowed by law is less than one year in confinement or only a fine, the offense is called a misdemeanor.

The jury's primary role is to determine the facts based on an evaluation of all the evidence the judge rules admissible.

Who sets the punishment in criminal cases?

In felony or serious misdemeanor cases, the jury first decides the defendant's guilt or innocence and then, in a separate proceeding, the same jury decides on the penalty. In lesser misdemeanor criminal cases, the jury sets the punishment at the same time that they decide their verdict.

Why do the attorneys object to certain statements or evidence?

An important part of an attorney's job is to protect the client's rights during a trial. This includes making sure that the only evidence presented during the trial is evidence that is proper, relevant, and allowed by law. So if evidence is submitted that the attorney feels is improper, or if the attorney feels that the other side is asking questions that are unlawful, the attorney will call out "Objection!" By doing this, the attorney is asking the judge to rule on whether the law allows that particular piece of evidence or statement or question to be admitted. If the judge thinks it should be admitted, the judge will say "Objection overruled." If the judge agrees that the evidence in question is improper, the judge will say "Objection sustained." How often an attorney raises objections during the trial shouldn't bias you against that attorney's case.

Why is the jury sometimes asked to leave the courtroom in the middle of a trial?

The judge may decide to send the jury from the courtroom in the middle of a trial. When the jury is gone, the attorneys and the judge will discuss points of law or whether certain evidence can be admitted. The purpose of these discussions is to make sure that the jury hears only evidence that is legally valid before making its decision. You will be called back to the courtroom when the judge's decision is made.

What should I do when testimony is stricken from the record?

You must disregard that testimony. Sometimes the jury hears testimony that the judge later decides they should not have heard. The judge will tell the jury to consider the case as if they had never heard it. You must follow the judge's instructions if the parties in the case are to receive a fair trial.

Can I talk to anyone about the trial while it's going on?

No. As long as the trial is still going on, do not discuss the trial with anyone. Do not even discuss the case with your fellow jurors until you begin your deliberations. When the trial is over, you can discuss it with anyone if you want to, or you may keep silent if you prefer.

Can I watch news reports of the trial or read newspaper accounts of it?

No, not as long as the trial is still going on.

What if I accidentally hear something about the trial outside the courtroom, or if someone contacts me about the trial while it is still going on, or if I realize during the trial I have some special information that relates to the case?

Ask the bailiff to tell the judge immediately what has happened. Tell no one about the incident except the bailiff or the judge.

What if I need a break during the trial?

Jurors are given lunch breaks and may be given other breaks during a trial. If it is absolutely necessary that you take a break for some reason at any other time during the trial, tell the bailiff or the judge. But note that these requests are highly unusual and should be made only if absolutely necessary.

Part IV: Deciding on a Verdict

What happens after the closing arguments?

After the judge gives you your instructions and you hear the attorneys' closing arguments, you leave the courtroom and go to the jury room to begin your deliberations. "Deliberation" is the process the jury uses to reach its verdict. During deliberations, the jury will discuss evidence and review law and facts.

Will anyone be in the jury room besides the jury?

No. But if you have any questions or need any help, the bailiff will be nearby.

What's the first thing we do?

The first thing you should do is elect one member of the jury to preside over the deliberations, seeing that everyone has an opportunity to participate and that the discussions remain orderly. The person chosen to preside takes part in deliberations and votes on the verdict along with everyone else.

What if we don't understand the jury instructions?

You may take written copies of the jury instructions to the jury room with you. If you don't understand the instructions, you may ask the judge to explain them to you. It is usually best to put your questions in writing and ask the bailiff to give them to the judge, since the judge will discuss the questions with the attorneys before answering them.

How should we conduct our deliberations?

Each juror may have a different opinion at the start of the deliberations. To reach a unanimous decision, some jurors may have to change their opinion. You should keep an open mind; listen carefully to other jurors' opinions, and the reasons for their opinions. You should be prepared to tell the other jurors what you think and why. Be fair and carefully consider what your fellow jurors are saying. Do not let yourself be intimidated into changing your opinion, and do not intimidate anyone else. Change your opinion only if you genuinely agree with what another

juror is saying. After a full discussion of the issues, the jury should be able to reach a decision that each juror can agree to with a clear conscience.

Do we all have to agree?

Yes. Every juror must agree on the verdict. This is known as a unanimous verdict. If the jury cannot agree, then the judge must declare a mistrial.

What should we do after we've reached our verdict?

The person chosen to preside will write down the jury's verdict on a form prepared by the judge, sign it, and notify the bailiff that a verdict has been reached. The bailiff will notify the judge, who will call everyone including the jury back to the courtroom. The clerk will ask for the jury's verdict and read it out loud.

Your decision can affect the human rights, the civil rights, the property rights, even the right to life of your fellow citizens. The Commonwealth has called on you and is now counting on you to apply your sense of equity and your common sense as a layman to the formal rules of law.

Part V: Glossary

The list below defines some of the terms not defined elsewhere in this pamphlet, as well as some terms you might hear at the court or during a trial:

- **action, case, cause, suit, lawsuit** – These terms all refer to a proceeding in a court of law.
- **acquit** – To find a defendant not guilty in a criminal trial.
- **affidavit** – A written or printed statement made under oath.
- **answer** – A formal response made by the defendant, which admits or denies what is claimed by the plaintiff.
- **burden of proof** – This term refers to which side is obligated to prove the facts of the case.
- **cause of action** – A legal claim.
- **charge** – A formal accusation that someone has committed a criminal offense.
- **counterclaim** – A claim presented by the defendant in a civil case alleging that the plaintiff owes damages to the defendant.
- **cross-examination** – An attorney's questioning of a witness called to testify by the other side in the case.

- **damages** – Compensation (usually monetary) awarded to someone who has suffered loss, detriment, or injury to their person, property, or rights.
- **deposition** – Sworn testimony taken and recorded outside the courtroom but according to the rules of the court.
- **evidence** – Any form of proof legally presented at a trial, including records, documents, photographs, and testimony of witnesses.
- **exhibit** – A paper, document, or other physical object presented to the court as evidence during a trial.
- **hearsay** – Statements made out of court by someone other than the person testifying in court, which are offered to prove the truth of the matter asserted.
- **impeachment of a witness** – An attempt to show that the testimony of a witness is not truthful, accurate, or reliable.
- **inadmissible** – Material or information that cannot be admitted or received as evidence under established rules of evidence.
- **indictment** – A written accusation by a grand jury charging someone with committing a crime.
- **leading question** – A question that suggests to a witness the answer the attorney wants to elicit.
- **litigant** – An individual who brings or defends a lawsuit.
- **motion** – A request made by an attorney for a ruling or an order by a judge on a particular issue.
- **perjury** – Lying under oath, which is a criminal offense.
- **plea** – Defendant's response to criminal charges made against him ("guilty" or "not guilty").
- **pleadings** – Formal, written allegations by both sides of their claims.
- **polling the jury** – Asking jurors individually after the verdict has been read whether they agree with the verdict.
- **rebuttal** – The introduction of contradicting or opposing evidence.
- **search warrant** – A written order issued by a judge or magistrate, directing a law enforcement officer to search a specific location for specific things or individuals.

- **stipulation** – An agreement by the parties that certain facts are true. Facts that have been stipulated do not need to be proven in the trial.
- **testimony** – Any statement made by a witness under oath.
- **tort** – An injury or wrong committed to someone else's person or property for which an injured party is requesting damages.

General Information for Individuals with Disabilities

The Court System has adopted a policy of non-discrimination in both employment and in access to its facilities, services, programs, and activities. Individuals with disabilities who need accommodation in order to have access to court facilities or to participate in court system functions are invited to request assistance from court system staff. Individuals with disabilities (not employed by the court system) who believe they have been discriminated against in access may file a complaint with local court system officials. Those who need printed material published by the court system in another format or who have general questions about the court system's non-discrimination policies and procedures may contact the Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Third Floor, Richmond, Virginia 23219. The telephone number is (804) 786-6455; communication through a telecommunications device (TDD) is also available at this number.