

**THE**

**WISCONSIN**

**JURY HANDBOOK**

**The material in this handbook is general information only. The instructions which will be given to you by the Judge in each case are controlling and must be followed by you. The handbook is maintained by the Wisconsin Records Management Committee, and is made available by the Director of State Courts. It is hoped that it will assist prospective jurors in performing their duty and promote for the public a better understanding of the Wisconsin jury system.**

## INTRODUCTION

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

You will be performing one of the highest duties in our democratic system of government. You will experience problems and have questions, but there will be people available to assist you. Your service will be an education and should bring you a sense of great satisfaction and contribution 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 yourself to act as jurors in your case.

**Please note: If you have a disability which will require an accommodation by the court to allow you to serve as a juror, please contact as soon as possible either the Clerk of Circuit Courts or the Americans with Disabilities Coordinator for your county.**

## 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 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 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 perhaps a phone number to call to know 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 - "on the courthouse steps." When the jury is actually ready to hear the case, the parties often work out a last-minute compromise rather than gamble on what the jury will decide. Usually you will not be told what the settlement is - 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 such settlements usually save your time and that of all the trial participants - and the taxpayers' 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, the delays sometimes save time. In any event, 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 is seeking the conviction of a party accused of committing a crime or violating a state statute or a county, city or village ordinance. In a criminal case the plaintiff is the State of Wisconsin and is represented by the District Attorney or by an Assistant District Attorney. The State is seeking the conviction of a party accused of committing a crime. In a violation of a county, city, or village ordinance, the plaintiff may be represented by the District Attorney, Assistant District Attorney, or other attorney hired by the local 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 the defendant is proven guilty "beyond a reasonable doubt." If the charge has not been proven beyond a reasonable doubt, then you must find the accused not guilty; if the charge has been adequately proved, then you should find the accused 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.

## **TRAFFIC AND ORDINANCE OFFENSES**

Civil cases result from disagreements between two or more

parties and include actions relating to marriage, real estate, contracts, injuries, and money. The plaintiff is the party who starts the law suit 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 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 the assistance of an attorney. You as a potential juror must not make any assumption about the credibility of the facts of the case or of the parties themselves because one may be represented by an attorney and one may not be represented by an attorney.

## **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 Courts, 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? 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 to you 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 which they think may affect your ability to decide the issues of the case in an impartial manner. The Judge will see to it 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 types of challenges. A party may also ask to excuse a limited number of jurors without stating any reason (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 which allows the parties some control over which jurors 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 to remember your interpretation of facts presented during the trial. All notes will be collected and destroyed at the conclusion of the trial.

All trials follow a general order of events, and the role of the jury 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 next. 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. Volumes of books have been written on the subject, and it would be impossible for this handbook to provide anything more than the bare basics. Essentially, anything which 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 attorney normally calls witnesses first and asks questions to prove the facts from the plaintiff's point of view. The defendant or 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 which 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 ruling of the Judge 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 hearing of the jury. These discussions are usually legal arguments which might tend to 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 that you consider only that information 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 the plaintiff's 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 in which 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 because they were expressed by the foreperson. 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 the 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 (poll 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 which 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. Be prepared. 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 or television reports might 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, the Judge should be made 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 lawsuit by the plaintiff.
<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</u> or <u>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</u> or <u>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 to a court during the trial.
<u>exit questionnaire:</u>	A written questionnaire to obtain information from the juror for a juror to complete after the 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 which 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 final decision of the jury.

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.