

Rules of Juror Conduct in Civil Cases

Juror Information

Supreme Court Rule of Civil Procedure 226a

The judge will instruct you to adhere to the following basic rules:

- Do not mingle with nor talk to the lawyers, the witnesses, the parties, or any other person who might be connected with or interested in the case, except for casual greetings. They will have the same instructions and you will understand it when they do.
- Do not accept from, nor give to, any of those persons any favors however slight, such as rides, food, or refreshments.
- Do not discuss anything about this case, or even mention it to anyone whomsoever, including your wife or husband nor permit anyone to mention it in your hearing until you are discharged as jurors or excused from this case. If anyone attempts to discuss the case, report it to me at once.
- Do not even discuss this case among yourselves until after you have heard all of the evidence, the court's charge, the attorneys' arguments and until I have sent you to the jury room to consider your verdict.
- Do not make any investigation about the facts of this case. Occasionally, we have a juror who privately seeks out information about a case on trial. This is improper. All evidence must be presented in open court so that each side may question the witnesses and make proper objection. This avoids a trial based upon secret evidence. These rules apply to jurors the same as they apply to the parties and to me. If you know of, or learn anything about, this case except from the evidence admitted during the course of this trial, you should tell me about it at once. You have just taken an oath that you will render a verdict on the evidence submitted to you under my rulings.
- Do not make personal inspections, observations, investigations, or experiments nor personally view premises, things or articles not produced in court. Do not let anyone else do any of these things for you.
- Do not tell other jurors your own personal experiences nor those of other persons, nor relate any special information. A juror may have special knowledge of matters such as business, technical or professional matters or he may have expert knowledge or opinions, or he may know what happened in this or some other lawsuit. To tell the other jurors any of this information is a violation of these instructions.
- Do not discuss or consider attorney's fees unless evidence about attorney's fees is admitted.
- Do not consider, discuss, nor speculate whether or not any party is or is not protected in whole or in part by insurance of any kind.
- Do not seek information contained in law books, dictionaries, public or private records or elsewhere, which is not admitted in evidence.

At the conclusion of all the evidence, the judge may give you a written charge that asks you some specific questions. Because you will need to consider all of the evidence admitted by the judge, it is important that you pay close attention to the evidence as it is presented at trial. You will not be asked, and you should not consider, whether one party or the other should win.

Note that jurors and others can be called upon to testify in open court about acts of jury misconduct. As a result, you need to follow all of the jury instructions given by the judge throughout the case very carefully.

TEXAS UNIFORM JURY HANDBOOK

(Prepared by The State Bar of Texas)

Why Is Jury Service Important?

The United States Constitution and the Texas Constitution guarantee all people, regardless of race, religion, sex, national origin, or economic status, the right to trial by an impartial jury. Justice ultimately depends to a large measure upon the quality of the jurors who serve in our courts.

What Is My Duty As A Juror?

As a juror, you must be fair and impartial. Your actions and decisions must be free of any bias or prejudice. Your actions and decisions are the foundation of our judicial system.

How Was I Selected?

You were selected at random from a list of voter registrations and a list of driver registrations from Dallas county .

Am I Eligible?

Jurors must:

- Be a citizen of the United States and of this State.
- Be at least 18 years of age.
- Reside in the county of jury service.
- Be able to read and write.
- Be of sound mind.

You cannot serve on a jury if:

- You have been convicted of a felony or of any type of theft (unless rights have been restored)
- You are now on probation or deferred adjudication for a felony or for any type of theft; or
- You are now under indictment for a felony or are now under criminal charges for any type of theft.

If you are in doubt, or think you may not be qualified to serve on a jury for one of the above or any other reasons, please notify the judge.

Who Can Be Excused From Jury Service?

You are entitled to be excused as a juror if you:

- Are over 70 years of age;
- Have legal custody of a child under 10 years of age and jury service would leave the child unsupervised;
- Are a student in class;
- Are the caretaker of a person who is unable to care for themselves (an invalid); or
- Can show a physical or mental impairment or an inability to comprehend or to communicate in English.

What Are The Different Types Of Cases?

There are two basic types of cases, criminal and civil (including family cases).

Criminal Cases

A criminal case results when a person is accused of committing a crime. You, as a juror, must decide whether the person charged is guilty or not guilty. The accused person is presumed innocent, and the State, represented by the District or County Attorney, must prove guilt "beyond a reasonable doubt."

Civil Cases

A civil case results from a disagreement or dispute between two or more parties. In a civil case, you, as a juror, must answer questions of disputed facts based upon the testimony and evidence admitted by the judge. The answers to these questions are called the verdict.

Will I Be Paid For Being A Juror?

Yes. Jurors will be reimbursed \$6.00 for the first day of jury service, \$40.00 for each day of service thereafter.

Must My Employer Pay Me While I Am On Jury Duty?

Your employer is not required to pay you while on jury duty; however, employers are prohibited by law from firing an employee for serving as a juror.

Who Can Have A Jury Trial?

Any person charged with a criminal offense or any party to a civil case has a right to a jury trial. All parties are equal before the law and each is entitled to the same fair treatment.

Are There Rules About Jury Conduct?

Yes. The Texas Supreme Court has rules to assist you in your conduct as a juror, which will be given to you by the judge.

How Is A Juror Selected For A Particular Case?

Cases will usually be heard by juries of 6 or 12 jurors. A larger group, called a panel, will be sent to the trial court (courtroom) where the jurors will be questioned under the supervision of the judge.

A juror may be excused from the panel if it is shown that the juror cannot act impartially concerning the case to be heard. In addition, each side is allowed to remove a given number of jurors from the panel without having to show any reason. The trial jury will be the first 6 or 12 of the remaining jurors on the panel.

What Is Voir Dire Or Questioning Of The Jury Panel?

It is a way for the parties to select a fair and impartial jury. Under the justice system, you may be questioned by each of the lawyers before they decide to remove a certain number of jurors from the jury panel.

For example, the lawyer may ask you questions to see if you are connected to the trial or if you have any prejudice or bias toward anyone in the trial. These questions are not intended to embarrass you, but rather to help the lawyers in the jury selection process. You may ask the judge to allow you to answer some questions away from the other jurors.

What If I Have A Special Need or Emergency?

After you have been selected as a juror on a trial panel, if you have a special need or an emergency, tell the bailiff.

Order Of Events Of The Trial

Opening Statements

The lawyers for each side may explain the case, the evidence they will present, and the issues for you to decide.

Presentation Of Evidence

The evidence consists of the testimony of witnesses and the exhibits allowed by the judge. Exhibits admitted into evidence will be available to the jury for examination during deliberations. You have a right to ask for them. You will be asked to make decisions regarding disputed facts; therefore, your attention at all times is critically important. Juror notetaking or the use of any notes will be determined by the judge.

Rulings By The Judge

The judge may be asked to decide questions of law during the trial. Occasionally, the judge may ask jurors to leave the courtroom while the lawyers make their legal arguments. The jurors should understand that such interruptions are needed to make sure that their verdict is based upon

proper evidence, as determined by the judge under the Rules of Evidence. You may give the evidence whatever weight you consider appropriate.

Instructions To The Jury

At the close of all the evidence, the judge may submit to the jury the Charge of the Court. This will include legal instructions on this particular case and the questions that the jury is to answer from the evidence admitted.

Closing Arguments

After the Charge of the Court, the lawyers have the opportunity to summarize the evidence in their closing arguments and to try to persuade the jury to accept their client's view of the case.

Deliberations And Verdict Of The Jury

Following closing arguments, the jury is sent to deliberate. When the jury has answered the questions asked of them they shall return their verdict. The verdict must be based solely on the evidence presented by the parties, the Charge of the Court, and the rules of law provided by the judge.

When In Doubt, Ask The Judge

You have the right to communicate with the judge regarding any matters affecting your deliberations, including but not limited to:

- physical comfort;
- special needs;
- any questions regarding evidence; or
- the Charge of the Court.

During deliberation, if it becomes necessary to communicate with the judge, the bailiff or the officer of the court will deliver jurors' notes to the judge. The information in this Handbook is not intended to take the place of the instructions given by the judge in any case. In the event of conflict, the judge's instructions will prevail.

Note: Not all of these rules apply in Justice or Municipal Courts. This handbook was furnished by a grant from the Texas Bar Foundation. For reprint information call the State Bar of Texas at 1-800-204-2222.

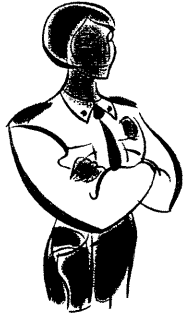


COURT SECURITY

Top 10 Things for Bailiffs to Do During Trial Other than Catching Up on Sleep

By W. Clay Abbott, General Counsel, TMCEC

- 10. Be visible.** The appearance of a uniformed professional adds to the decorum and authority of the court. Humans are natural mimics; in the courtroom, your demeanor and attitude are likely to be followed by others who are not sure how to act. People who intend to do harm are very aware of security and authority. Your presence assures the aggressive power grabber that there is no power vacuum in your court. The bailiff's high visibility also reassures court staff, witnesses, victims and other nervous court participants.
- 9. Keep the bail.** The original bailiffs were responsible for safekeeping property in dispute in trial. One security issue in municipal courts involves making sure the property of the court and funds in court are protected. Treat the courtroom like it is placed in your care. Abuse of furnishings and fixtures quickly turns to abuse of personnel. Make sure the courtroom is treated with respect, and it leads to the court being treated with respect.
- 8. Handle exhibits.** In county and district courts, this is the responsibility of the court reporter. But, in non-record courts and record courts without court reporters, this is a
- bailiff responsibility. Make sure that evidence introduced or offered is secured. Take special care that only exhibits that are admitted by the court go to the jury room or the jury box. Trials are serious occasions; items carefully admitted should not be left haphazardly cluttering the courtroom overnight or during breaks. The jury is entitled to be furnished admitted exhibits during deliberation. Art. 36.25, C.C.P.
- 7. Handle jury notes.** If the jury wants to ask questions to the court during deliberations, the questions should be reduced to writing. Art. 36.27, C.C.P. The bailiff should take the question and present it directly to the court. Neither side should get sneak peeks. The bailiff should also summon the defendant and prosecutor before the court receives a question. The judge may answer the question in front of the jury or send a written response through the bailiff.
- 6. Enforce decorum.** Keep an eye on everyone in the courtroom. Make sure dress, conduct and attitudes are appropriate. Sometimes, even staff needs a reminder that guests (jurors) are present. Be aware of potential disruptions.
- Tempers can fly in court. The bailiff subtly moving closer to the court participant working up to blow off steam often prevents an outbreak.
- 5. Secure witnesses.** A bailiff has a duty to secure witnesses unless they are released by the court. Art. 36.05, C.C.P. Make sure there is a place outside the courtroom for witnesses. Remember that it is often wise to separate victims and defense witnesses for the safety of both. Special care and planning should be made in domestic violence cases. Victims have a right to a secure and separate waiting area. Art. 56.02(a)(8), C.C.P. Provide a place and procedures to make sure witnesses placed under "The Rule" (Rule 614, Rules of Evidence and Art. 36.03, C.C.P.) do not talk about their own or other witnesses' testimonies with anyone except the prosecutor or the defense attorney/*pro se* defendant.
- 4. Provide information to parties and witnesses.** Judges must take great care to avoid private conversations with any party or witness; they also appropriately avoid even the appearance of giving advice. The bailiff should also be very zealous in avoiding the appearance of favoritism to any



person or giving advice to parties. *Pro se* defendants are often specially in need of advice and counsel, but it is absolutely improper for the bailiff to give it.

On the other hand, who better than the bailiff—the second-most visible authority in the courtroom—to ask about how court proceeds? Even frequent court participants often take for granted that they know what to do in a courtroom. Bailiffs should be traffic directors, schedule keepers, and etiquette and decorum experts. Bailiffs are a natural and proper source of information on court rules and procedures. Yet, bailiffs should never be legal advisors, counselors, advocates or confidants.

Even prosecutors and defense counsel can use logistic support and help on the use of court facilities, technology, and local rules and customs. A wise trial attorney once taught me that a conversation with the court's bailiff on security, rules, and logistics was an essential step in trial preparation.

3. **Provide information to jurors.** There is nothing as stressful as being stuck in an unfamiliar place. Where are the restrooms? Places to eat? Pay telephones? Parking? The bailiff can reduce the stress of jury service by being a ready source of mundane information. Certain information about court procedures is also appropriate. "Trials usually last one day."

"No, this court usually does not sequester." "We will take frequent breaks." The bailiff is in a unique position to provide calming knowledge in a stressful situation. Hollywood creates a huge number of misconceptions about court and trial. The bailiff can be a great help in providing real information.

The bailiff should not discuss the cases, parties, or counsel. Any instruction on the law or legal issues must come from the court. Cases have been reversed where an overly helpful bailiff tried explaining legal issues.

2. **Keep the jury and jury room secure.** The only duty assigned to bailiffs by law is "to attend the wants of the jury and act under the direction of the court." Art. 36.24, C.C.P. Jury deliberations are secret. No one, including the bailiff, should be present during or listening to jury deliberations. Arts. 36.215, 36.22 and 36.23, C.C.P. Violations of this rule are punishable by contempt. Jurors must be provided with separate bathrooms, necessary food and lodging, and may not be furnished alcoholic beverages. Art. 36.21, C.C.P. (Needless to say, there have to be some great stories behind some of these rules.) The bailiff acts as the gatekeeper and guard against intentional or inadvertent interruption, influence or invasion during jury deliberation. The bailiff should do homework making sure that the place the jury deliberates is secure. Check or lock extra doors, and make sure the deliberations will be uninterrupted.

1. **Keep the judge and jury safe.** Security should always be the highest concern of the bailiff. Physical harm, threats and inappropriate confrontation should be prevented. Be aware and be proactive. Never believe that it cannot happen in your court. I have seen violence break out in courtrooms and have been lucky to always see quick and professional responses from bailiffs. During trial, keep aware of verbal and non-verbal direction from the court.

The bailiff's obligation does not end with the trial. Trials can be very traumatic for participants. Guilty verdicts can inspire some very hostile responses. Not guilty verdicts can too. Watch all of the folks at a trial, not just the defendant. As a prosecutor, I have been attacked by more saintly little mothers than big bad defendants.

Escort your jurors and judge to their vehicles following a trial. Many disgruntled participants think court rules stop at the court doors and will wait to confront or harm your charges as they leave court. Let jurors know that if threatened, they are to inform both you and the police immediately. If jurors are threatened or harmed, prosecute! We are a nation of laws. When this line is breached, we are all at the mercy of the most reprehensible of us. 🐘