

WORKING WITH JURIES OR HEADS OF STATE

Presented by
Jesse Ramon
Bailliff Supervisor
City of Hurst

Who is the jury? (Jury Makeup)

6 - 12 ordinary people within the
courts jurisdiction

Defendant's "Peers" guaranteed
by law

They are complex

What is jury's role? (Responsibility)

- Listen to evidence presented by
both the State and Defense
- Listen to instructions given by the
court
- Expected to render a verdict
- They are the

▣ Judge of Facts
[Art 36.13 C.C.P.]

Judge of Facts

- ▣ Only the jury can decide the weight of the evidence presented
- ▣ They have now become very important
- ▣ Bailiff's interaction becomes crucial
- ▣ Think of them as Heads of State

Bailiff's Role
(Function)

- ▣ Attend to the wants of the jury [Art 36.24 C.C.P.]
- ▣ Act under the direction of the court
- ▣ Keep jury safe
- ▣ Keep jury comfortable
- ▣ Provide jury room [Art 36.21 C.C.P.]

Bailiff's Duties

(Responsibilities)

- ☐ Administer oath to the jury [Art 35.22 C.C.P.]
- ☐ Insure jury takes proper charges that have been filed [Art 36.18 C.C.P.]
- ☐ Insure jury deliberations stay confidential [Art 36.215 C.C.P.]
 - sweep jury room (.....)
 - no device (check ____ too!)

Bailiff's Duties

(Responsibilities)

- ☐ Insure no one converses with the jury [Art 36.22 C.C.P.]
 - wearing of juror's badge
 - reference to case on trial
 - while deliberating

EXCEPTION!

Perils of Bailiff - Jury Relationships

- ☐ "I have seen the enemy and he is us"
- ☐ Lack of knowledge
- ☐ Lack of written Policy and Procedures

Perils of Bailiff - Jury Relationships

- ☐ Too much knowledge
- ☐ Body language
- ☐ Facial expressions
- ☐ Hormones

Perils of Bailiff - Jury Relationships

- ☐ Lack of Professionalism

APPEALS

Appeals

Based on conduct or perceived conduct of Bailiff with the jury

Appeal titled: Jury _____

Clyde Mattox v. United States

***1892 murder case**

*** United States Territory of Kansas**

*** Supreme Court of the United States**

*** 2 juror's affidavits**

Clyde Mattox v. United States

Bailiff in charge of jury made detrimental statement

a. against defendant

b. in presence and hearing of jury

c. while in deliberations

d. gave them newspaper with negative

article of defendant and evidence not

heard in court

Clyde Mattox v. United States

▣ Ruling:

- ▣ ...private communication possibly prejudicial, between jurors and third parties or witnesses or the officer in charge are absolutely forbidden and invalidate the verdict

Thomas B. Choiniere v. The State

- ▣ * 1947 robbery by assault
- ▣ * State of Texas
- ▣ * During deliberations jury knocked on door
- ▣ * Bailiff answered door
- ▣ * Jury asked question
- ▣ * Bailiff answered

Thomas B. Choiniere v. The State

▣ Ruling:

- ▣answer bailiff gave [was] open and patent, it was in the charge had jury read it carefully.

Of course, this proceeding is not to be commended, but should be condemned.

Parker v. Gladden, Warden

- ☐ * 1966 second degree murder
- ☐ * State of Oregon
- ☐ * Supreme Court of the United States
- ☐ * Bailiff comments
 - ☐ "Oh that wicked fellow is guilty"
 - ☐ "If there is anything wrong the Supreme Court will correct it"
- ☐ * Comments heard by a juror and an alternate

Parker v. Gladden, Warden

- ☐ Ruling:
 - ☐ ...the official character of the bailiff – as officer of the court....carries great weight with a jury.
 - ☐the unauthorized communication was prejudicial and that such conduct materially affected the rights of the defendant.

Joe Silva, Appellant v. The State of Texas, Appellee

- ☐ * 1973 burglary
- ☐ * State of Texas
- ☐ * Sheriff was witness in trial
- ☐ * Sheriff acted as a bailiff during deliberations
- ☐ * Brief one time encounter, helped bring in coffee for jury

Joe Silva, Appellant v. The State of Texas, Appellee

☐ Ruling:

☐ :....although Art 36.24 C.C.P. provides that a witness may not serve as a bailiff and failure of the Sheriff to not provide one who would not be called as a witness would not ordinarily call for reversal unless harm or prejudice was shown.

Turner v. Louisiana

☐ *2 crucial witnesses acted as bailiffs

☐ * Jury sequestered 3 days

☐ Ruling:

☐ ...witnesses were in "close and continued association with the jury"petitioners right to due process had been infringed.
