

HANDBOOK FOR TRIAL JURORS IN THE FEDERAL COURTS

I. Purpose of this Handbook

The purpose of this handbook is to acquaint trial jurors with the general nature and importance of their role as jurors. It explains some of the language and procedures used in court, and it offers some suggestions helpful to jurors in performing this important public service. Nothing in this handbook is to be regarded by jurors as instructions of law to be applied by them in any case in which they serve. The judge will instruct the jury in each separate case as to the law of that case. For example, in each criminal case, the judge will tell the jury, among other things, that a defendant charged with a crime is presumed to be innocent and the burden of proving his guilt beyond a reasonable doubt is upon the Government. Jurors must follow only the instructions of law given to them by the trial judge in each particular case.

II. Importance of Jury Service

Jurors perform a vital role in the American system of justice. The protection of our rights and liberties is largely achieved through the teamwork of judge and jury who, working together in a common effort, put into practice the principles of our great heritage of freedom. The judge determines the law to be applied in the case while the jury decides the facts. Thus, in a very important way, jurors become a part of the court itself. Jurors must be men and women possessed of sound judgment, absolute honesty, and a complete sense of fairness. Jury service is a high duty of citizenship. Jurors aid in the maintenance of law and order and uphold justice among their fellow citizens. Their greatest reward is the knowledge that they have discharged this duty faithfully, honorably, and well. In addition to determining and adjusting property rights, jurors may also be asked to decide questions involving a crime for which a person may be fined, placed on probation, or confined in prison. In a very real sense, therefore, the people must rely upon jurors for the protection of life, liberty, and the pursuit of happiness.

III. The Courts

In this country, there are two systems of courts. They are the courts of the individual 50 States and the District of Columbia and the courts of the Federal Government. This book is written for jurors selected to serve in the trial court of the Federal Government, the United States District Court. The types of cases which can be brought in this court have been fixed by the United States Congress according to our Federal Constitution. Cases in the United States District Courts are divided into two general classes. These are called criminal and civil cases. Criminal cases are those in which individuals or organizations are charged with breaking the criminal laws. Typical criminal charges in a federal court are those involving violation of the federal income tax and narcotics laws, mail theft, and counterfeiting. Civil cases are suits in which persons who disagree over their rights and duties come into court to settle the matter. A typical example of a civil case is one involving a broken contract. One party may claim that it should be paid under the terms of the contract, while the other side may assert a defense to the claim, such as the lack of a binding contract. The court is asked to decide who is right. This depends on the law as laid down by the judge and the facts as decided by the jury.

IV. The Criminal Case

The person charged with a violation of the law is the defendant. The charge against the defendant may be brought in two ways. One way is by means of an indictment; the other is by an information. An indictment is a written accusation by a grand jury that charges the defendant with committing an offense against the law. Each offense charged will usually be set forth in a separate count of the indictment. An information is the name given to a written charge against the defendant filed by the United States Attorney and not by the grand jury. But even in cases where the defendant has the right to have a grand jury consider the charges presented, the defendant may agree to give up this right and consent to the filing of an information. After the indictment or information is filed, the defendant appears in open court where the court advises the defendant of the charge and asks whether the defendant pleads "guilty" or "not guilty." This procedure is called the arraignment. No trial is needed if the defendant pleads guilty and admits to committing the crime. But if the defendant pleads not guilty he or she will then be placed on trial. The judge in a criminal case tells the jury what the law is. The jury must determine what the true facts are. On that basis the jury has only to determine whether the defendant is guilty or not guilty as to each offense charged. What happens thereafter is not for the jury's consideration, but is the sole responsibility of the judge. In other words, then sentence is not to be considered in any way by the jury in arriving at an impartial verdict as to the guilt or innocence of the defendant. The jury must consider separately each of the charges against the defendant, after which it may find the person: not guilty of any of the charges, guilty of all the charges, or guilty of some of the charges and not guilty of

others.

V. The Civil Case

The following is an example of the kind of civil case jurors in a United States District Court will help decide. Let us call the case John Smith v. XY Company. This means that John Smith has filed a case against the XY Company. John Smith is called the plaintiff, the person who begins the case. The XY Company is the defendant. The plaintiff and the defendant are the parties. The plaintiff, John Smith, states his claim in a paper called the complaint. The defendant, XY Company, replies to the complaint in a paper called the answer. The complaint and the answer are the main pleadings in the case. The points in the pleadings upon which the parties disagree make up the issues of fact and law. Sometimes these issues are set forth in a pre-trial order. This is an order drawn up by the judge after consulting with the attorneys for the parties.

VI. The Voir Dire Examination

To begin a jury trial, a panel of prospective jurors is called into the courtroom. This panel will include a number of persons from whom a jury will be selected to try the case. Alternate jurors may be chosen to take the place of jurors who become ill during the trial. The panel members are sworn to answer questions about their qualifications to sit as jurors in the case. This questioning process is called the voir dire. This is an examination conducted by the judge and sometimes includes participation by counsel. A deliberately untruthful answer to any fair question could result in serious punishment to the person making it. The voir dire examination opens with a short statement about the case. The purpose is to inform the jurors of what the case is about and to identify the parties and their lawyers. Questions are then asked to find out whether any individuals on the panel have any personal interest in the case or know of any reason why they cannot render an impartial verdict. The court also wants to know whether any member of the panel is related to or personally acquainted with the parties, their lawyers, or the witnesses who will appear during trial. Other questions will determine whether any panel members have a prejudice or a feeling that might influence them in rendering a verdict. Any juror having knowledge of the case should explain this to the judge. Parties on either side may ask that a member of the panel be excused or exempted from service on a particular jury. These requests, or demand, are called challenges. A person may be challenged for cause if the examination show he or she might be prejudiced.

The judge will excuse an individual from the panel if the cause raised in the challenge is sufficient. There is no limit to the number of challenges for cause which either party may make. The parties also have a right to a certain number of challenges for which no cause is necessary. These are called peremptory challenges. Each side usually has a predetermined number of peremptory challenges. The peremptory challenge is a legal right long recognized by law as a means of giving both sides some choice in the make-up of a jury. Jurors should clearly understand that being eliminated from the jury panel by a peremptory challenge is no reflection upon their ability or integrity. In some courts the peremptory challenges are made openly in the hearing of the jury. In others, they are made from the jury list out of the jury's sight.

VII. The Jurors' Solemn Oath

After the voir dire is completed, the jurors selected to try the case will be sworn in. The judge or the clerk will state to the jury: "Members of the Jury, you will rise, hold up your right hands, and be sworn to try this case." The jurors then rise and hold up their right hands. The jurors face the judge or the clerk who is to administer the oath. That official slowly, solemnly, and clearly repeats the oath. The jurors indicate by their responses and upraised hands that they take this solemn oath. Jurors not wishing to take an oath may request to affirm instead of swear. In some districts the jury is sworn upon the Bible and not by uplifted hand.

VIII. The Eight Stages of Trial

The trial proceeds when the jury has been sworn. There are usually eight stages of trial in civil cases. They are:

- (1) The lawyers present opening statements. Sometimes the opening statements on behalf of one or more parties are omitted.
- (2) Plaintiff calls witnesses and produces evidence to prove its case.
- (3) Defendant may call witnesses and produce evidence to disprove the plaintiff's case and to prove the defendant's claims.
- (4) Plaintiff may call rebuttal witnesses to disprove what was said by the defendant's witnesses.
- (5) Closing arguments are made by the lawyer on each side.

- (6) The judge instructs or charges the jury as to the law.
- (7) The jury retires to deliberate.
- (8) The jury reaches its verdict.

During the trial, witnesses called by either side may be cross-examined by the lawyers on the other side. Throughout the trial, the judge may be asked in the presence of the jury to decide questions of law. Usually these questions concern objections to testimony that either side wants to present. Occasionally, the judge may ask jurors to leave the courtroom briefly while the lawyers present their legal arguments for and against such objections. The law requires that the judge decide such questions. A ruling by the judge does not indicate that the judge is taking sides. He or she is merely saying, in effect, that the law does, or else does not, permit that question to be asked. It is possible that the judge may decide every objection favorably to the plaintiff or the defendant. That does not mean the case should be decided by the jury for the plaintiff or the defendant. Even where the judge decides every objection favorably to the plaintiff or the defendant, the jury should maintain its objectivity and base its verdict strictly upon the testimony and exhibits received in evidence at trial. The juror takes an oath to decide the case "upon the law and the evidence." The law is what the judge declares the law to be. The evidence which you will consider consists of the testimony of witnesses and the exhibits admitted in evidence. What evidence is proper for the jury to consider is based upon the law of evidence.

IX. The Arguments of Counsel

After presentation of the evidence is completed, the lawyers have the opportunity to discuss the evidence in their closing arguments. This helps the jurors recall testimony that might have slipped their memory. The chief purpose of the argument is to present the evidence in logical and comprehensible order. The lawyers fit the different parts of the testimony together and connect up the facts. It must be remembered that each attorney presents the view of the case that is most favorable to his or her own client. Each lawyer's side appears to be right to that lawyer. Each lawyer's statement may be balanced by the statement of the lawyers on the other side.

X. The Charge to the Jury

The charge of a judge to a jury in a United States District Court frequently is much more than a statement of the rules of law. Sometimes it may contain a summary of the facts or some of the facts. It is the jury's duty to reach its own conclusion. This is done upon the evidence. The verdict is reached without regard to what may be the opinion of the judge as to the facts, though as to the law the judge's charge controls. The judge may point out and may also explain what basic facts are in dispute, and what facts do not actually matter in the case. In other words, the judge may try to direct the jury's attention to the real merits of the case and impartially summarize the evidence bearing on the questions of fact. The judge will state the law related to the facts presented to the jury.

XI. The Jury's Verdict

In both civil and criminal cases, it is the jury's duty to decide the facts in accordance with the principles of law laid down in the judge's charge to the jury. The decision is made on the evidence introduced, and the jury's decision on the facts is usually final.

XII. Courtroom Etiquette

A court session begins when the court official raps for order. Everyone in the court rises. The judge takes his or her place on the bench, and the court official announces the opening of court. A similar procedure is used when court adjourns. Common courtesy and politeness are safe guides as to the way jurors should act. Of course, no juror will be permitted to read a newspaper or magazine in the courtroom. Nor should a juror carry on a conversation with another juror in the courtroom during the trial. Jurors will be treated with consideration. Their comfort and convenience will be served whenever possible. They should bring to the attention of the judge any matter affecting their service and should notify the court of any emergencies. In the event of a personal emergency a juror may send word to the judge through any court personnel, or may ask to see the judge privately.

XIII. Conduct of the Jury during the Trial

Jurors should give close attention to the testimony. They are sworn to disregard their prejudices and follow the court's instructions. They must render a verdict according to their best judgment. Each juror should keep an open mind. Human experience shows that, once persons come to a preliminary conclusion as to a set of facts, they hesitate to change their views. Therefore, it is wise for jurors not to even attempt to make up their mind on the facts of a case until all the evidence has been presented to them, and they have been instructed on the law applicable to the case.

Similarly, jurors should not discuss the case even among themselves until it is finally concluded. During the trial the jury may hear references to the rules of evidence. Some of these rules may appear strange to a person who is not a lawyer. However, each rule has a purpose. The rules have evolved from hundreds of years of experience in the trial of cases. The mere fact that a lawsuit was begun is not evidence in a case. The opening and closing statements of the lawyers are not evidence. A juror should disregard any statements made by a lawyer in argument that have not been proved by the evidence. A juror should also disregard any statement by a lawyer as to the law of the case if it is not in accord with the judge's instructions. Jurors are expected to use all the experience, common sense and common knowledge they possess.

But they are not to rely on any private source of information. Thus they should be careful, during the trial, not to discuss the case at home or elsewhere. Information that a juror gets from a private source may be only half true, or biased or inaccurate. It may be irrelevant to the case at hand. At any rate, it is only fair that the parties have a chance to know and comment upon all the facts that matter in the case. If it develops during the trial that a juror learns elsewhere of some fact about the case, he or she should inform the court. The juror should not mention any such matter in the jury room. Individual jurors should never inspect the scene of an accident or of any event in the case. If an inspection is necessary, the judge will have the jurors go as a group to the scene. Jurors must not talk about the case with other not on the jury, even their spouses or families, and must not read about the case in the newspapers. They should avoid radio and television broadcasts that might mention the case. The jury's verdict must be based on nothing else but the evidence and law presented to them in court. Breaking these rules is likely to confuse a juror. It may be hard to separate in one's mind the court testimony and reports coming from other sources. Jurors should not loiter in the corridors or vestibules of the courthouse. Embarrassing contacts may occur there with persons interested in the case. If juror identification badges are provided, they should be worn in the courthouse at all times. If any outsider attempts to talk with a juror about a case in which he or she is sitting, the juror should do the following:

- (1) Tell the person it is improper for a juror to discuss the case or receive any information except in the courtroom.
- (2) Refuse to listen if the outsider persists.
- (3) Report the incident at once to the judge.

Jurors have the duty to report to the judge any improper behavior by any juror. They also have the duty to inform the judge of any outside communication or improper conduct directed at the jury by any person. Jurors on a case should refrain from talking on any subject - even if it is not related to the matter being tried - with any lawyer, witness, or party in the case. Such contact may make a new trial necessary. Some cases may arouse much public discussion. In that event the jury may be kept together until the verdict is reached. This procedure is used to protect the jurors against outside influences.

XIV. In the Jury Room

In some districts the judge selects the foreperson of the jury. In other districts the jurors elect their foreperson and in still other districts the first juror to enter the jury box becomes the foreperson automatically. The judge will inform jurors which method is used in the district. The foreperson presides over the jury's deliberations and must give every juror a fair opportunity to express his or her views. Jurors must enter the discussion with open minds. They should freely exchange views. They should not hesitate to change their opinions if the deliberations have convinced them they were wrong initially. In a criminal case all jurors must agree on the verdict. This is also required in a civil case, unless the jury is otherwise instructed by the court. The jurors have a duty to give full consideration to the opinion of their fellow jurors. They have an obligation to reach a verdict whenever possible. However, no juror is required to give up any opinion which he or she is convinced is correct. It would be dishonest for a judge to decide a case by tossing a coin. It would be just as dishonest for a juror to do so. The members of the jury are sworn to pass judgment on the facts in a particular case. They have no concern beyond that case. They violate their oath if they render their decision on the basis of the effect their verdict may have on other situations.

XV. After the Trial

After the jurors return their verdict and are dismissed by the judge, they are free to go about their normal affairs, although in some districts jurors must check with jury office personnel to see if their service is concluded. They are under no obligation to speak to any person about the case and may refuse all requests for interviews or comments. Nevertheless, the court may enter an order in a specific case that during any such interview, jurors may not give any information with respect to the vote of any other juror.

XVI. Conclusion

To decide cases correctly, jurors must be honest and intelligent. They must have both integrity and good judgment. The jury system is based on these attributes. The continued vitality of the jury system depends on them. To meet their responsibility, jurors must decide the facts and apply the law impartially. They must not favor the rich or the poor. They must treat alike all men and women, corporations and individuals. Justice should be rendered to all persons without regard to race, color, religion or sex. The performance of jury service is the fulfillment of a high civic obligation. Conscientious service brings its own reward in the satisfaction of an important task well done. There is no more valuable work that the average citizen can perform in support of our Government than the full and honest discharge of jury duty. The effectiveness of the democratic system itself is largely measured by the integrity, the intelligence, and the general quality of citizenship of the jurors who serve in our courts.