

- In criminal cases, it is the duty of the jury to determine whether a defendant is guilty or not guilty. If a jury decides that a defendant is not guilty, then the defendant is free and the case is over. If the jury finds the defendant guilty, then the judge will then set the sentence unless the jury finds the defendant guilty of a crime punishable by death, in which case the judge will not impose the death penalty unless the jury verdict includes certain findings of aggravating circumstances and a recommendation that the death penalty be imposed.

What is proper conduct for a juror?

1. During the trial

During the trial and the recesses, you should not talk about the case with other jurors or with any other person or allow anybody to talk about the case in your presence. A juror should not participate in any activity which might tend to incline him or her toward one party or the other, and this includes any research or investigation you might want to do on your own.

Jurors should not mingle with the attorneys or with the witnesses in the case. They should not accept any favor of any nature, however small, from any of the witnesses, parties or attorneys. If you are approached in any way by a party interested in the outcome of the case, you should report this communication privately to the judge or to the jury bailiff.

2. In the jury room

When the jury retires to the jury room to consider its verdict, its first task is the selection of a foreman or forewoman. This person acts as the chairperson of the group.

The foreperson supervises the taking of ballots and also signs any written verdicts which may be required and any written request made to the judge, such as a request for a further change on some point. In selecting the foreperson, the jurors would be well-advised to select someone of experience and general knowledge who will command the respect of the other jurors.

Discussion among the jurors should be carried on in a sensible and orderly fashion so that the issues submitted for decision are fully understood and fairly discussed.

3. After the trial

Once the jury's verdict has been announced and the trial is over, you will be free to discuss the case with the parties, the witnesses, the attorneys, the press or others. On

the other hand, the jurors have no obligation to discuss the case with others if they do not wish to do so.

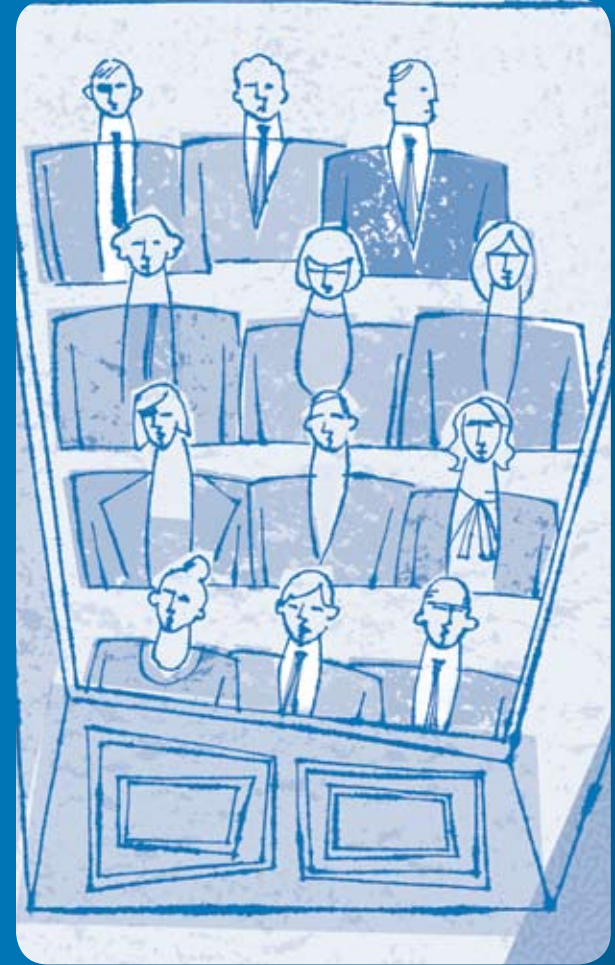
Qualifications, Exemptions and Deferrals

In order to be qualified to serve as a juror in either a civil or criminal case, the juror must satisfy the following:

- be a citizen of the United States
- be a resident citizen of the county where the case is pending
- be 18 years of age or older
- be competent to serve (not incompetent by virtue of mental illness, mental retardation or intoxication)
- not be a convicted felon, unless civil rights have been restored or the conviction pardoned
- be able to communicate in the English language

You may be exempted or deferred from jury service if you fall into any of the following categories:

- engaged in work necessary to the public health, safety or good order
- a full-time student in a college, university, vocational school or other post-secondary school
- primary caregiver having active care and custody of a child six years of age or younger, with no reasonable available alternative childcare
- a primary teacher in a home study program who during the week of trial is actively engaged in teaching and no reasonable alternative for the child or children is available
- a person 70 years of age or older may request that his/her name be removed from the jury list of the county
- a service member on ordered military duty, or the spouse of such service member, upon presentation of a copy of official military orders or a written verification signed by the juror's commanding officer



This pamphlet was prepared by the Young Lawyers Division of the State Bar of Georgia with the advice of the Council of Superior Court Judges as a public service. It is not intended to be a comprehensive statement of law. Its purpose is to inform, not to advise on any specific legal problem. If you have a specific question regarding any matter contained in this pamphlet, you are encouraged to consult an attorney.

Juror's Manual



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Introduction

The purpose of this brochure is to provide you with general background information which will hopefully lead to a clearer understanding and better appreciation of the judicial process. The material and information in this brochure is not law, and it should not be taken by you as law. In each case, the judge will charge and instruct you as to the law which is applicable.

Why is jury service important?

Jury service is an important civic and community duty. By service on a jury, a citizen has a direct hand in the administration of justice. The right to a trial by jury had its origin in England and has been preserved by the institutions of our state and country. Jury service is a privilege and responsibility which you should accept with pride.

The jury is responsible for correctly deciding the facts which are in dispute in a given case. An error made by the jury with regard to a question of fact is not easily corrected. Thus, a juror's duty is one of responsibility and importance.

What is the procedure in civil cases?

1. How a case begins.

The person who begins a lawsuit is known as the plaintiff. The person against whom the suit is brought is called the defendant. A suit is commenced when the plaintiff states his or her claim in a document filed with the court called a complaint. In response to the complaint, the defendant then files a document called an answer, which states his or her defenses and other contentions. These papers are known as pleadings. The points in the pleadings upon which the parties disagree make up the issues in the lawsuit. The pleadings are not evidence. They merely state the written contentions of the parties.

2. How the jury is selected.

The jury commissioners compile a jury list from the voter registration list and other sources. Names are randomly drawn from the list, and these persons are summoned or called to the courthouse to serve as jurors.

In civil cases, a panel of potential jurors is asked questions by the judge and the attorneys to determine whether each panel member is qualified to serve. This questioning process is called "voir dire." A juror who is related to any of the parties or has already formed an opinion about the

case will be excused and another substituted. This process is continued until there is a full panel of 24 from which a jury of 12 persons may be selected.

Selection of the jury continues by a process known as striking the jury. It gets its name because the parties alternately strike names so as to excuse qualified persons from the panel until the number is reduced by one-half. An attorney's decision to strike you as a juror should not be interpreted as a reflection of your personal qualifications as a juror. The remaining jurors will be administered the juror's oath and will constitute the jury that tries the case.

3. Opening statement and presentation of evidence.

The attorneys for the parties will each make an opening statement of what they intend to prove. Opening statements are not evidence.

The evidence is presented after the opening statements. The plaintiff will usually present evidence to support his or her position first, and the defendant will then present his or her evidence. The plaintiff may then offer evidence to oppose any of the defendant's evidence.

Most evidence is presented by the oral testimony of witnesses who testify under oath. The attorney for the party who has called the witness proceeds with his or her questions, called direct examination. When this is finished, the attorney for the other party proceeds with his or her questions, called cross-examination. After the cross-examination has been concluded, the attorney who called the witness may then ask questions on redirect examination.

Oral testimony may have been taken prior to the trial. When a witness is not available, this previously recorded testimony, known as a deposition, may be read into evidence by the attorneys as if the witness were present and testifying.

During the course of the trial, the attorneys may object to certain testimony or evidence that the other party presents. The judge will then decide whether or not the law allows such evidence to be presented. When the judge sustains or agrees with an objection, the evidence is not permitted. When the judge overrules or disagrees with the objection, the evidence will be admitted.

In a civil case, the plaintiff has the burden of proving his case by a preponderance of the evidence. Preponderance of the evidence is defined as that superior weight of evidence, which, while not enough to wholly free the mind



from a reasonable doubt, is sufficient to incline a reasonable and impartial mind to one side of the issue rather than the other.

4. Final arguments and the charge.

After the conclusion of the evidence, the parties will summarize their case in final arguments. The final arguments are not evidence in the case.

The judge will then charge or instruct you as to the question or questions you are to decide and as to the law which applies to the evidence that has been presented. You should pay close attention to the judge's charge.

5. The verdict.

After the judge has charged the jury, you will retire to consider your verdict. The jury must decide the facts based on

the evidence presented and then apply the law as charged by the judge in deciding the question or questions involved.

The verdict and its fairness is of vital importance to the parties in the case. The law requires a unanimous verdict. In reaching the verdict, jurors should enter into the discussion of the case with an open mind and should freely exchange views with each other.

What is the procedure in criminal cases?

With some exceptions, criminal cases are tried under the same rules of procedure and in much the same manner as civil cases. The person indicted or against whom the offense has been charged is known generally as the defendant. The state prosecutes all criminal cases in the name of the state. In a criminal case, the contention of the state is that a law of the state has been broken. The defendant, on the other hand, contends that he did not commit the offense charged or that there was some justification. The attorney who represents the state in felony cases is called the district attorney, and the attorney who represents the state in misdemeanor cases is called the solicitor. Felony cases are those in which a crime is punishable by more than one year in prison. Misdemeanor cases are those in which a crime is punishable by one year or less in prison.

There are some major differences between civil and criminal cases, including:

- In a criminal case, the state proceeds by the way of indictment or accusation. The defendant files no written answer. All material allegations in the indictment or accusation are deemed to be denied.
- In the selection of a jury in non-capitol felony cases, the court empanels 30 jurors and each juror is questioned by counsel for either side. The attorneys are each entitled to strike as many as nine jurors, leaving 12 to constitute the trial jury. In misdemeanor cases, the court empanels 12 jurors, and the attorneys may strike three each, resulting in a six person trial jury.
- In a criminal case, the state must prove every essential element of the alleged crime beyond a reasonable doubt. A reasonable doubt is a doubt based upon a reason and for which a good explanation can be given. It is a doubt upon which a reasonable man would act, or decline to act, in a matter of importance or of grave concern to himself. It is the doubt of a fair-minded, impartial juror honestly seeking the truth.