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# What should I know about serving on a jury?

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#### Introduction

You have been summoned for jury duty. It may seem like an inconvenience. It may conflict with your vacation plans. You may worry about its impact on your job. But keep in mind that jury service is a rare opportunity to make a difference, to serve your community and to play a crucial role in America's system of justice.

For Americans, trial by jury is a basic constitutional right. The roots of our jury system span back to Medieval Europe. In the 9<sup>th</sup> Century, for example, groups of "disinterested neighbors" determined property rights. In the 17th Century, a "jury of neighbors" would present evidence to prove the "wrongdoing" or "good character" of the accused. In our current system, jurors are simply asked to keep an open mind, weigh evidence presented to them in court — and try to reach a verdict.

Today, three out of four Americans believe the jury system is the most fair method of determining guilt or innocence in criminal cases, according to an American Bar Association survey. Another survey found that a large majority of federal judges say they would prefer to have a jury rather than a judge decide their case if they were ever on trial.

This guide will provide you with an overview of California's jury system — the eligibility requirements, the state's "one-day or one-trial" system and the basic trial process. We hope it helps you understand the jury's vital role in our justice system and what is expected of you, the prospective juror.

#### 1 Who is eligible to serve on a jury?

Any U.S. citizen who:

- Is at least 18 years old.
- Is able to understand English.

- Lives within the court's jurisdiction.
- Has not been convicted of a felony or malfeasance while in public office (unless his or her civil rights have been restored by, for example, a pardon).
  - Is not under a conservatorship.
  - Is not on active military duty.
  - Is not on a grand jury or another trial jury.

There are no educational or skill requirements. Juries are made up of people from all walks of life; they are supposed to reflect the community. Jurors are asked to remain impartial during the trial, weigh the evidence presented to them, apply the applicable law and attempt to reach a verdict.

#### 2 How are potential jurors picked?

They are randomly selected from sources that may include various lists, such as voter registration lists and lists of licensed drivers and identification cardholders (from the Department of Motor Vehicles). Once summoned to court, prospective jurors make up the panels from which trial juries are chosen.

### If I report for jury service, will I definitely serve on a jury?

No, not necessarily. Jury duty summons are sent out to more individuals than will be needed. This is because some people are automatically excused and others may be excused during the jury selection process.

## 4 How often can I be summoned for jury service?

No more than once in a 12-month period. This is because California has a "one-day or one-trial" jury service system. If you are not chosen to serve on a jury during your first day of service, you will be excused from any further jury service for at least a year. If you are put on a jury, you will be expected to serve until the trial's end. In California, most jury trials are completed within a week. Then you would be excused from jury service for at least a year. If you are summoned back sooner, contact the court.

## 5 If I receive a summons for jury duty, do I have to respond?

Yes. For the system to work, citizens must respond when summoned for jury service. Even if you may not qualify for service, you must respond to the summons. If you do not, you could be held in contempt of court and be fined and/or sent to jail.

If you cannot serve on the summons date, you may ask for one postponement to a more convenient time. (Read the summons from your particular court to find out how to respond in your county.) In addition, students may request a postponement to the next school break.

## 6 If I have a good excuse, can I get out of jury service?

It depends. Jury service is not voluntary. It is a responsibility of citizenship and the law only allows you to be excused for certain reasons. For example, you might be excused if jury service would place an *undue hardship* on you or the public,

or for certain other reasons (see #7). Or, if you do not meet the general eligibility requirements for jury service or you are a peace officer or you have been placed under a conservatorship, you may be disqualified or temporarily excused from service.

### 7 Why would a judge excuse someone from jury service?

Judges can excuse prospective jurors for various reasons. The individual may have:

- Immediate family members related to someone involved in the case.
  - A financial interest in the case.
  - A prejudice or bias.
  - Formed an opinion about the case.

And, as mentioned previously, judges can excuse individuals if serving on the jury would be an undue hardship for the individual or the public.

### 8 What happens during the jury selection process?

This process is also called *voir dire*. A panel of prospective jurors is randomly selected, sent to a courtroom and given an oath to tell the truth. From that panel, a smaller group is seated in the jury box for questioning. The judge and attorneys assigned to the case then ask questions to determine the prospective jurors' qualifications and suitability. The judge may excuse some individuals. The lawyers may then request that additional prospective jurors be excused *for cause*. (This means that the individual may be excused for a

specific reason, such as a bias.) The attorneys also are allowed a limited number of *peremptory challenges*. This means that attorneys on each side can, without giving any reason, ask that particular jurors be excused.

#### 9 How many jurors serve on a jury?

In California, trial juries are generally made up of 12 jurors. In civil trials and in criminal cases involving a misdemeanor (a lesser criminal charge), however, there may be fewer than 12 jurors if both sides agree to it.

## 10 Can my employer refuse to give me time off for jury service?

No, not legally. Nor can your employer harass or fire you for responding to jury service (as long as you have given him or her reasonable advance warning). There are also laws allowing students to be excused from their classes to meet their civic duty and show up for jury service.

## 11 Will I be paid anything for serving as a juror?

Yes, but not much. Beginning on the second day of service, the county will pay you at least \$15 a day (unless your government or public employer continues to pay you during your jury service). You also would be entitled to 34 cents a mile in mileage costs one way after your first day of jury service.

### **12** What happens if I am not chosen to serve on a jury?

If you are not chosen as a juror during your first day of service, you will be excused and usually cannot be summoned back for jury duty for at least a year. If you are summoned back sooner, contact the court.

### 13 If I am picked for a jury, what will be expected of me?

You will be expected to weigh the evidence presented to you. This could involve judging the facts and deciding whether or not the witnesses are believable. You also will be expected to follow the judge's instructions. You will not, however, be expected—nor will you be allowed—to do any outside research on your own.

The case might involve a civil lawsuit—a consumer suing a business, for example, or a patient accusing a doctor of malpractice. Or, the trial might involve criminal charges—a person accused of robbing or even killing someone, for example. Either way, you will be asked to keep an open mind and to avoid forming any opinions until you have weighed all of the evidence in the case.

### 14 During the trial, can I talk about the case with anyone outside court?

No. In fact, you can't even discuss the case with your fellow jurors until the jury deliberations at the end of the trial. Nor can you talk to the lawyers, witnesses or anyone else connected to the case.

#### 15 What happens during a trial?

Trials can take many unexpected twists and turns. You, as a juror, may even be excluded from certain discussions and hearings during the trial. Generally, however, trials follow this process:

- In *opening statements*, the *plaintiff's attorney* (in a civil case) or the *prosecutor* (in a criminal case) explains what he or she expects to prove in the trial. He or she may point to certain evidence that will be presented during the trial. The defense attorney may—or may not—choose to give an opening statement as well. Or, he or she could wait until later in the trial to offer the defense version of the case.
- The plaintiff's attorney or the prosecutor then calls witnesses and presents evidence. The witnesses in a criminal trial might include, for example, someone who saw the crime take place, the detective who investigated the case or an *expert witness* who could explain scientific evidence and establish (or discount) its reliability. Defense attorneys would have a chance to question the witnesses as well.
- After the plaintiff's attorney or the prosecutor *rests* (finishes presenting evidence) the defense attorney may present evidence to counter the accusations against the defendant. However, keep in mind that it is up to the plaintiff or prosecutor to *prove* a defendant's guilt. In our justice system, the accused is always "innocent until proven guilty."
- After the attorneys rest their case, both sides will present *final arguments*. In the final arguments, the attorneys can give their views on what the trial evidence has—or has not—proven. Again, the plaintiff's attorney (or prosecutor) goes first. There may also be *rebuttal* arguments.

- The judge instructs the jury on the applicable law and the verdicts that the jury could reach in the case.
- The jury moves to the jury room for *deliberations*. After choosing a jury foreperson, the jury weighs the trial evidence and attempts to reach a verdict.

## 16 Where can I find out more about serving on a jury?

Visit the California Courts website at **courtinfo.ca.gov/jury.** Some counties provide juror information on their county websites as well.

### 17 Does the State Bar offer basic consumer guides on other topics?

Yes. The State Bar produces pamphlets and guides on a variety of basic legal topics to help you—the consumer—better understand the law and your rights. The State Bar's *Get the Legal Facts of Life* pamphlet series addresses topics ranging from divorce, domestic violence and estate planning to your rights as a renter or employee.

There are also State Bar guides that can provide you with basic overviews of those laws applicable to seniors, parents or teenagers who are coming of age. Visit the bar's website at **calbar.ca.gov** where you'll find the publications and details on ordering complimentary copies. Or send an e-mail to **pamphlets@calbar.ca.gov**. If you don't have access to the Internet, call 1-888-875-LAWS (888-875-5297) for information on ordering the publications by mail.

The purpose of this pamphlet is to provide general information on the law, which is subject to change. It is not legal advice. Consult a lawyer if you have a specific legal problem.

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