

# Administrative Office of the Courts

Supreme Court of New Mexico

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## Juror Handbook

## TABLE OF CONTENTS

<b>Right to a Jury Trial</b>	<b>3</b>
<b>Who May Serve</b>	<b>3</b>
<b>Exemption from Service</b>	<b>3</b>
<b>Length of Service</b>	<b>3</b>
<b>Obligation of Employers</b>	<b>3</b>
<b>Emergency</b>	<b>3</b>
<b>Failure to Appear</b>	<b>3</b>
<b>Compensation</b>	<b>4</b>
<b>Public Employees</b>	<b>4</b>
<b>Meals</b>	<b>4</b>
<b>Attire</b>	<b>4</b>
<b>Juror Identification</b>	<b>4</b>
<b>Electronic devices and other items</b>	<b>4</b>
<b>Certificates of Attendance</b>	<b>5</b>
<b>Function of Jurors</b>	<b>5</b>
<b>Juror Responsibilities</b>	<b>5</b>
<b>Disqualifications of Jurors</b>	<b>5</b>
<b>Juror Oath</b>	<b>5</b>
<b>Types of Cases</b>	<b>5</b>
<b>Evidence</b>	<b>6</b>
<b>Juror Conduct</b>	<b>6</b>
<b>Deliberations of a Jury</b>	<b>7</b>
<b>Verdict of Jurors</b>	<b>7</b>
<b>Questions during Deliberations</b>	<b>7</b>
<b>Time Spent Waiting</b>	<b>7</b>
<b>Civic Duty</b>	<b>8</b>
<b>Terms Jurors Will Hear in Court</b>	<b>8</b>
<b>Tips for Coping after Jury</b>	<b>10</b>

### ***Right to a Jury Trial***

The Constitutions of the United States and the State of New Mexico guarantee the right of trial by jury. Juries may consist of six or twelve members depending on the court and type of case.

### ***Who may Serve***

Any citizen who is qualified to vote, over the age of 18 years old, a U.S. Citizen, a Resident of the County, or has a valid State of New Mexico driver's license, may be summoned for service as a juror.

### ***Exemption from Service***

The following individuals may be exempted from jury service:

- \* persons incapable of serving because of physical or mental illness or infirmity;
- \* persons exempted from jury service at the discretion of the district court;
- \* persons who have served as members of a petit jury panel or a grand jury in either the courts of the United States or the State of New Mexico, within thirty-six (36) months of the preceding are exempt from jury service in the courts of the state at the juror's option; and
- \* persons exempted from jury duty by the judge upon satisfactory evidence presented to him.

The individual requesting to be excused need not be personally present in court when making the request. A form which must be completed in order to claim an exemption from jury service because of physical or mental illness, infirmity, or to express a claim for exemption for other reasons, will be provided by the clerk of the court.

### ***Length of Service***

A person is not required to remain a member of a jury panel for longer than six (6) months.

### ***Obligation of Employers***

Employers who deprive their employees of employment or threaten or coerce them with respect to jury duty are guilty of a petty misdemeanor and are subject to prosecution.

### ***Emergency***

If illness or other emergency requires that you be delayed or absent, telephone the jury division, as soon as possible. *Leaving a message the night before or the morning of a jury trial indicating that you have a doctor's appointment or that you cannot come in, is not acceptable.*

### ***Failure to Appear***

Willful failure to appear as a juror is a criminal offense. Jurors failing to appear for a scheduled jury trial place unnecessary burdens upon the entire system. The first time a juror fails to appear, they may receive a warning call from the jury clerks or written notification shall be mailed to the juror. If a juror fails to appear a second time, a written notification shall be mailed to the juror. If a juror fails to appear a third time,

Contempt Order shall be issued for the juror to appear before a judge and explain their absence. The juror may be sentenced to a Detention Center for up to thirty (30) days for failure to comply with the court's order.

### ***Compensation***

Jurors may be reimbursed for mileage for traveling to and from their place of residence to the court at the rate of \$0.45 per mile. In addition, a juror may receive compensation at the prevailing federal minimum wage rate of \$6.75 per hour for each hour of service.

Jurors will not receive a W-2 or 1099 at the end of the year if they do not receive over \$600 in compensation for jury duty. The process for issuing checks may take up to six (6) weeks. **Notice: Jurors who request compensation, must notify the jury division if payment has not been received after six (6) weeks.**

### ***Public employees***

Pursuant to the Administrative Office of the Courts' jury guidelines, "A public employee, including a state, local government, or other state political subdivision employee, **shall not** be personally compensated for jury service during normal working hours. If the governmental employer requires juror compensation to be paid, the payment shall go directly to the governmental employer. The request for reimbursement must be made in writing."

### ***Meals***

The court may provide meals to jurors who are serving on a case **only** during deliberations. You are not required to eat with other jurors except when you are in deliberation or otherwise restricted by the judge.

### ***Attire***

Jurors are representatives of the court and should dress comfortably and conservatively in order to avoid distracting others by their attire. Shorts, tank tops, or cutoffs are not considered appropriate attire for a courtroom.

### ***Juror Identification***

Jurors shall be given a juror badge when selected for a jury trial. Jurors are to wear their badges while in the courthouse. If jurors leave the building for lunch or a break, they must remove their badges from public view.

### ***Electronic devices and other items***

Cellular phones, Computers, pagers, recorders, cameras, food or drinks (including water bottles), knitting, needlepoint, scissors, knives, tools, guns, or reading materials will not be allowed into the courthouse or jury rooms.

### ***Certificates of attendance***

Upon request, the bailiff, jury division, or clerk's office will provide jurors with a certificate of attendance for employers. The certificate will indicate the time arrived and the time the juror was dismissed.

### ***Function of Jurors***

Jurors judge the facts in both criminal and civil cases. In a criminal case a jury determines whether the accused is guilty or not guilty of committing a criminal offense. In a civil case a jury determines disputes involving money, property and other things of value.

### ***Juror responsibilities***

Members selected must not have personal knowledge regarding the facts of the particular case which could influence their decision. In order to reach this objective, the judge and attorneys question the jurors concerning their family relationship with or their personal knowledge of the parties or the attorneys and their personal knowledge of the facts of the case. This called "***Voir dire***", meaning "to tell the truth", if the relationship or knowledge would influence the juror's decision in the case, the juror is disqualified from serving in the case.

### ***Disqualification of Jurors***

The qualification of jurors is one of the most important aspects of any trial, thus making honest and forthright answers to the questions of the judge and attorneys is extremely important. Jurors may be selected or rejected for many and various reasons, none of which reflect upon the individual juror. Jurors should not take it as a personal insult if they are not selected to serve. In the event that the questions asked by the judge or attorneys become offensive, a juror may request permission of the court to refuse to answer or a juror may ask to approach the bench to speak to the judge.

### ***Juror Oath***

Once a jury has been selected, each juror selected is required to take an oath or affirmation that he will return a verdict based on the law and evidence as presented in court.

### ***Types of Cases***

Jurors are called upon to hear both criminal and civil cases. Criminal cases are brought by the State of New Mexico (District Attorney's Office), or in some cases, by a city or county, against an individual charged with a crime. The individual is not guilty until the jury unanimously makes that determination.

Civil cases vary somewhat from criminal cases in that the dispute is between individuals, business organizations or governmental entities, such as the state, a county or a municipality. Ordinarily, one party, called the plaintiff, will be making a claim for damages against another party called the defendant. In some instances, the defendant will also make a claim for damages against the plaintiff, call a ***counterclaim***. A third party, called a third-party defendant may also be a party in the action and damages or other relief may be requested from this party. In civil cases the jury determines the amount of money or damages to be awarded.

In both civil and criminal cases after the evidence has been presented, an explanation of the law applicable to the case and other instructions to the jury is given. This is usually followed by ***closing arguments*** or statements by the lawyers. The jury is then asked to ***deliberate*** and reach a verdict in the manner directed by the court.

### ***Evidence***

Evidence is usually presented in the courtroom by question and answer. The attorneys or a party will question the witnesses and the answers become the evidence which you consider. At times, the court will prohibit a witness from answering to avoid the jury from hearing improper evidence. The lawyers may object to certain evidence and the judge will then decide if the evidence may be presented to the jury. The jury should not consider as evidence any statement made by a witness or a lawyer which the judge has ruled to be improper evidence.

In listening to testimony, the jury should consider whether or not a witness is truthful. It is important that a jury's decision or verdict not be based upon false evidence.

Any documents, photographs or objects admitted into evidence are to be considered in determining the facts along with testimony and other competent evidence which has been admitted. The jury may also be asked to consider evidence in the form of depositions which are statements made by witnesses prior to trial. These will be read by the parties or attorneys and are just as important as other evidence.

### ***Juror Conduct***

Jurors remain seated throughout the proceedings in court except when requested by the bailiff or the court to stand.

The attitude and conduct of each juror throughout the trial is equally as important as that of the judge, parties, attorneys and witnesses. Because the jury has the important duty of deciding the true facts and applying those facts to the law applicable to the particular case, it is important that each juror understand the facts and apply the applicable law in order to reach a proper result.

It is important that jurors arrive at the time scheduled for the case to begin. Jurors must remain alert throughout the trial. IF A JUROR IS UNABLE TO HEAR OR SEE THE EVIDENCE PRESENTED, IT IS THE JUROR'S DUTY TO MAKE THIS KNOWN TO THE JUDGE SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

Jurors may not discuss the case with anyone including the other jurors and if anyone attempts to discuss the case with a juror, it is the juror's duty to report this to the judge through the bailiff. Discussions concerning the evidence, witnesses or any aspect of the case with family members or friends is prohibited.

Jurors must avoid news accounts of the trial, whether they be on radio, television, internet, in the newspapers, or other written publications.

Jurors may not inspect the scene of the occurrence which is the subject of the trial unless the court specifically makes provision for a view of the scene. This is important because the place where the incident occurred may be entirely changed from what it was at the time of the occurrence.

Only in rare cases are members of the jury kept away from their home continuously during the trial. Typically jurors can leave to go home at night, but they cannot discuss the case with anyone, not even a member of their family.

Jurors may not take notes or draw pictures, diagrams or other memoranda to remind them of the facts, but must rely entirely upon their memory. This is to avoid overemphasizing some facts and de-emphasizing others.

### ***Deliberations of a Jury***

After the judge has provided the jury with the law applicable to the case, it is the juror's sworn duty to follow the law as explained by the judge and apply it to the facts presented in court.

The manner in which the jury deliberates in the jury room is completely within the jury's control. The jurors should first select a foreperson. The foreperson may be either a woman or a man. Once the foreperson of the jury is selected by the jurors, it is advisable that the foreperson act as chairperson for the procedural guidance of the jury during its deliberations. The foreperson has only one vote and should not be permitted to influence the other jurors any more than any other juror.

Each juror's vote should reflect the juror's opinion. No juror should permit himself to be pressured or pushed into a decision. Each juror should carefully consider the opinions and reasons of other jurors and avoid a stubborn attitude in order to prove a point.

A juror may not agree with the law as explained by the judge in the instructions to the jury. Any disagreement as to the law should have no effect on the decision of the juror. The jury is not deciding the law, but is determining the true facts. The juror's duty is to carefully listen to the judge, witnesses and lawyers, to deliberate, and deliberate calmly and fairly, and to decide intelligently and justly.

### ***Verdict of Jurors***

In criminal cases the agreement of all jurors is required to reach a verdict.

In civil cases, if the jury consists of twelve person, ten or more must concur in a verdict.

If the jury consists of six (6) persons, five or more must concur in a verdict.

After a verdict is reached by the jury, the foreperson should notify the bailiff that the jury is ready to report to the judge.

### ***Questions during Deliberations***

Jurors' questions that cannot be resolved among the jurors may be submitted by a note to the judge setting forth the question. The note should be folded so that it cannot be seen by anyone. It is delivered to the bailiff for delivery to the judge. Jurors should make every effort possible to resolve all questions among themselves in order to avoid any outside influence from anyone including the judge.

### ***Time Spent Waiting***

Jurors may be required to sit and wait for periods of time prior to and during a trial. This time is usually spent by the judge and attorneys considering legal matters necessary for a fair determination of the rights of the persons involved or to save time

later on in the proceedings. Oftentimes, however, the judge may be called upon to consider emergency matters.

Conflicts in schedules may sometimes develop which result in delays.

The courts are constantly searching for and implementing new ways to eliminate or avoid jurors having to spend unnecessary waiting time.

The courts will appreciate any suggestions on how the process may be improved.

### ***Civic Duty***

You have been summoned to render an important service as a juror. As a juror, you will serve as an officer of the court, along with lawyers and the judges.

Trial by jury has long been one of the cornerstones of judicial administration. The right has survived through the centuries as a vigorous and necessary force in the lives of free men and women. The decisions of the jury affect the property rights, and even the life and the liberty of those whose cases come before it.

Those chosen for jury service should take pride in performing this most important duty to their country and to their fellow men and women.

The proper and efficient functioning of the jury system requires that each juror exercise intelligence, integrity, sound judgment and complete impartiality in the performance of their duty.

When you give to the performance of jury service the best combined efforts of your mind, heart and conscience, you will feel that you are making a substantial contribution to the stability and perpetuation of an institution which must be preserved if freedom under a democratic government is to endure.

### ***Terms Jurors Will Hear in Court and Their Meaning:***

***Action, Case, Suit, Lawsuit:*** These words mean the same thing. They all refer to a legal dispute brought into court for trial.

***Answer:*** The paper in which the defendant answers the claims of the plaintiff.

***Bailiff:*** The bailiff is an officer of the court who waits upon the court and the jury and maintains order in the court.

***Civil Case:*** A lawsuit is called a "civil case" when it is between person in their private, capacities or relations, or when the government, whether federal, state or local, or some department thereof, sues an individual under the law, as distinguished from prosecuting a criminal charge. It results generally in a verdict for the plaintiff or the defendant and, in many cases, involves the giving or denying of damages.

***Complaint:*** The document or legal pleading in which the person who brings the lawsuit sets forth allegation, accusations or charges against another person.

***Court Monitor:*** The court monitor records the record for the case. The record is made should an appeal require it.



**Court Reporter:** The court reporter takes down in shorthand or on a machine everything that transpires which constitutes the stenographic record in the case. The notes so made are subject to transcription should occasion, such as an appeal, require it.

**Criminal Case:** A lawsuit is called a “criminal case” when it is between the state on one side, as plaintiff, and a person on the other side, as defendant, charging the defendant with committing a crime, the verdict usually being “guilty” or “not guilty”.

**Cross Examination:** The questions asked by a lawyer to the opposing party or witnesses of the opposing party.

**Defendant:** In a civil case, the defendant is the person against whom the lawsuit is brought. In a criminal case, the defendant is the person charged with an offense.

**Deposition:** Testimony taken under oath in the same manner as during a trial. This is ordinarily done because of illness or absence of a party, or to determine prior to trial how a witness will testify at trial.

**Examination, Direct Examination:** The questions which the lawyer asks the lawyer’s client or the client’s own witnesses.

**Exhibits:** Objects including pictures, books, letters and documents which are produced as evidence in a case.

**Instructions or “Charge to the Jury:**

The outline of the rules of law which the jury must follow in their deliberations in deciding the factual issues submitted to them.

**Issue:** A disputed question of fact is referred to as an “issue”. It is sometimes spoken of as one of the “questions” which the jury must answer in order to reach a verdict.

**Jury Panel:** The whole number of prospective jurors from which the trial jury is chosen.

**Objection:** A reason or argument by a lawyer that a question asked or statement made was not proper or in accordance with the law.

**Objection Overruled:** This term means that, in the judge’s opinion, the lawyer’s objection is not proper or correct under the rules of the law. The judge’s ruling, so far as a juror is concerned, is final and may not be questioned.

**Objection Sustained:** When a lawyer objects to a question or the form of a question, the judge may say “objection sustained”. This means that the judge agrees that under the rules of the law, the lawyer’s objection to a statement or a question is proper. This ruling, likewise, is not subject to question by the jurors.

**Opening Statement:** Before introducing any evidence for their side of the case, lawyers are permitted to tell the jury what the case is about and with what evidence they intend to prove their side of the case.

**Parties:** The plaintiff and defendant in the case. They are also sometimes called the “litigants”.

**Plaintiff:** The person who starts a lawsuit.

**Pleadings:** The parties in a lawsuit must file in court papers stating their claims against each other. In a civil case, these usually consist of a complaint filed by the plaintiff, an answer filed by the defendant.

**Record:** This refers to the pleadings, the exhibits and the word-for-word record made by the court of all the proceedings at the trial.

**Rests:** This is a legal phrase which means that the party has concluded the evidence he/she wants to introduce in that stage of the trial.

**Striking Testimony:** On some occasions, after a witness has testified, the judge will order certain evidence deleted from the record and will direct the jury to disregard it. When this is done, the jury will treat this evidence as though it had never been given and will wholly disregard it.

**Subpoena:** The document which is issued for service upon a witness to compel the witness to appear in court.

**Verdict:** The finding made by the jurors on the issues submitted to them in the “verdict”.

### ***TIPS FOR COPING AFTER JURY DUTY***

This section reviews ways to cope with symptoms of distress. Not everyone feels anxiety or increased stress after jury duty. However, it may be helpful to be aware of the symptoms if they arise.

#### **Temporary Signs of Distress:**

- Anxiety
- Sleep or appetite changes
- Moodiness
- Physical problems (headaches, stomach aches, etc.)
- Feeling guilty, feat, trouble dealing with issues or topics related to the case
- A desire to be by yourself
- Decreased concentration or memory problems

**Techniques for Coping:**

- Talk to family members and friends- one of the best ways to put your jury experience in perspective is to discuss your feelings and reactions with loved ones;
- Maintain your normal daily routines - return to your normal schedule as soon as possible. Don't isolate yourself;
- Prior to leaving the court, get names and telephone numbers of some of your fellow jurors - it may be helpful to talk to people who went through the experience with you. This can help remind you that you were part of a group, and not alone
- Remember jury is an unusual experience and you are responding normally;
- cut down on alcohol, caffeine, and nicotine - substances can increase anxiety, fatigue and make sleep problems worse;
- Sleep problems - increase your daily exercise, but do not exercise before bedtime;
- Do "boring" activities before bedtime;
- Listen to relaxation tapes or relaxing music before bedtime.

**Things to Think About:**

- Jury service is the responsibility of good citizens;
- Resist negative thoughts about the verdict;
- No matter what others think about the verdict, your opinion is the only one that matters;
- You don't have to prove yourself to anyone;
- Sometimes it takes a lot of courage to serve on a jury. Cases may be violent and brutal which make them hard to deal with. The case is over and it is important for you to get on with your life;
- If you are fearful of retaliation or if you are threatened after the trial, tell the court and/or law enforcement immediately.

If signs of distress persist for two weeks after jury service has ended, you may wish to contact your physician or a counselor.