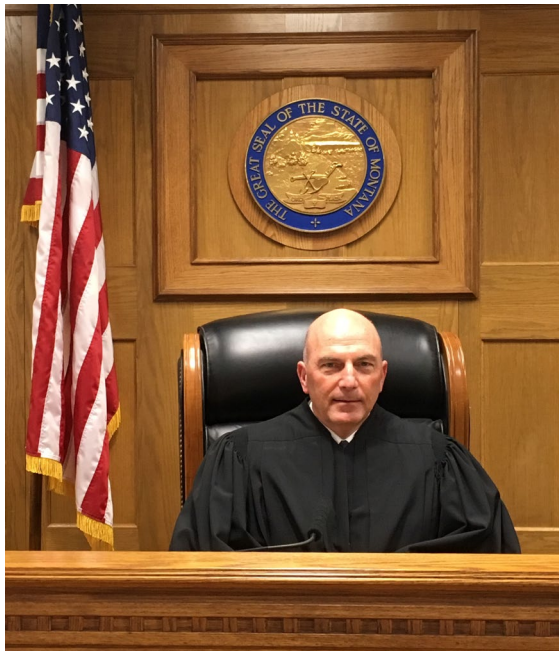


# 21<sup>st</sup> JUDICIAL DISTRICT JUROR HANDBOOK



**Welcome!** You've been selected for jury service in the 21<sup>st</sup> Judicial District Court. You have a key role in the State's justice system. The right to a trial by jury is one of the foundation stones of our system of justice. You probably have a lot of questions. Who wouldn't? This handbook is designed to answer some of these. If you have other questions, feel free to ask court officials about them before you are sworn in as a jury member.

You will also find brief descriptions of trial procedures and a short glossary explaining some of the legal terms you might hear during your jury service. We hope this handbook is helpful. If you have any suggestions for other items to include in this handbook, or any other comments on it, please contact the District Court Clerk at (406) 375-6710.



HON. HOWARD F. RECHT  
District Judge - Department No. 1



HON. JENNIFER B. LINT  
District Judge - Department No. 2

## **COURTROOM NO. 2 ELECTRONIC EQUIPMENT**

If the trial is held in Courtroom No. 2, you will notice there are monitors located in the jury box as well as the witness stand, attorney's tables and judge's bench. There is also an exhibit camera located on the shelf directly in front of the Clerk. This equipment is used by the attorneys to present their case and allow viewing of the exhibits by the judge, jurors, witness, court staff, and attorneys contemporaneously.

Each counsel table is equipped with a monitor to allow counsel to simultaneously view the exhibit being shown to the witness. Once the exhibit is admitted into evidence, the judge will allow it to be electronically published to the jury, and not until then.

Both the monitors at the lawyer's podium and the witness box are equipped with special features that allow the examining lawyer or the witness to mark the exhibits by a simple touch on the screen of the monitor. These markings will immediately show on all of the monitors, including those in front of the jurors.

The electronic courtroom is a great way to keep the jury informed, and should help alleviate any confusion in the case. Notify the Bailiff/court personnel if you experience any difficulty or have questions regarding this electronic equipment.

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As a juror, please be careful moving in and out of the jury box. The monitors are securely mounted, but do not use them to catch your balance, or allow your clothing or bags to catch and pull on them.

The monitors may be adjusted for your ease in viewing the exhibits being displayed. The monitors in the front row can be pulled toward you, moved either direction and raised and lowered. The monitors in the back row can be tilted and adjusted, but cannot be pulled toward you. The monitors are located in positions to allow two jurors to view one monitor. The alternate juror located in the back row will need to share viewing with the two jurors to the right of him/her.

Before exiting the jury box, please return the monitors to the original position.

## QUESTIONS & ANSWERS



**Q:** Why me?

**A:** The court keeps a “master list” of eligible jurors compiled from voter registration and licensed driver lists. When it has a jury trial coming up, the court asks that a certain number of jurors be randomly selected for jury duty. To qualify as a juror, persons must be at least 18 years old; U.S. citizens; Montana and Ravalli County residents; able to read, speak and understand English reasonably well; physically and mentally able with reasonable accommodation to serve; and free from any loss of civil rights because of high misdemeanor or felony convictions for which jurors are still under some form of official supervision.

**Q:** Do I have to serve?

**A:** Yes - most of the time. State law requires all qualified Montanans to serve as jurors. The court very reluctantly excuses persons from jury duty. A lack of any of the qualifications listed above will cause a person to be disqualified for jury duty. In addition, the court will consider excuses upon satisfactory showing of undue hardship, extreme inconvenience, and public necessity.

**Q:** How long do I have to serve?

**A:** In most instances, not any longer than one trial (most are 3 days or less) in any one year.



**Q:** Do I get paid?

**A:** Yes. Members of the panel receive \$12.00 per day for attendance at jury selection plus persons selected for a trial jury receive an additional \$13.00 per day. Jurors will be reimbursed for mileage at the current rate by the most direct, passable route from and to your home. These rates are set by State law. Coroner’s inquest jurors get \$25.00 a day.

**Q:** How about my job?

**A:** State law protects your job. Your employer can’t fire you, demote you, threaten you or otherwise hassle you because of jury service.

Upon request, a Certification of Jury Service form may be obtained from the Clerk of District Court at the completion of trial.

**Q:** Now that I've been summoned for jury duty, what's next?

**A:** Next you must report to jury duty at the court or other location indicated in the summons. Failure to do so can lead to all kinds of unpleasant things like contempt of court charges and/or fines.

Trial jurors need to report to the Clerk of District Court. Once selected to serve as a juror on a case, between the hours of 9 - 5 excluding lunch breaks, you will be expected to remain in the jury room when you are not in the courtroom.

**Q:** Where do I park?

**A:** We no longer can issue parking passes for jurors. The closest free parking lots are located (1) on the NE corner of 4th and Pinckney (77 spaces) and (2) at City Hall Bedford Building (9 spaces). You may park all day with no time restrictions in these two lots. Otherwise, be careful not to park in spaces with time restrictions.

**Q:** Where are the facilities?

**A:** The restrooms are located near the elevator on the courtroom level and in the jury room. The courthouse is a non-smoking environment.

**Q:** How many breaks do we get?

**A:** Trial jurors will have at least one hour for lunch, which will not be paid for by the County unless the jurors are deliberating. There are several eating establishments within easy walking distance from the courthouse. Breaks are announced throughout the day. Coffee is available in the jury room and soda pop machines are located on the main and lower levels of the courthouse. Food and drinks are not allowed in the courtroom.



**Q:** What should I wear?

**A:** There are no strict or prescribed dress codes. Some courts suggest dressing as you would for church, a business meeting or a social function. Dress comfortably but avoid extremes in dress.

Temperatures may vary in the courtroom and jury room, and a light sweater or sports coat may be advisable.

**Q:** What is this "challenge" business? Will I have to answer a lot of private and personal questions?

**A:** Not really, but you will have to answer some questions. All the jurors called for a particular

term are in the courtroom at the start of a trial. The clerk of court utilizes a random selection process to seat prospective jurors in the jury box. The juror examination is called voir dire (pronounced vwor deer). It's purpose is to determine whether you can be fair and impartial judges of the facts of the case, whether a civil case or a criminal case. Voir deer is usually conducted by the lawyers in the case, although sometimes a judge will participate or conduct it.

The judge or one of the lawyers begins voir dire with a short explanation of the case. While this is not proof or evidence, you should pay attention since this is the first information you'll receive about the case.

The examination seeks to find out if a prospective juror has a personal interest in the case, or has any prejudice or preconceived notions about the case that might make it impossible to serve as an impartial juror. Examples might be a juror related to someone involved with the case, or who strongly believes that all persons accused of crime are guilty. In such a case, the juror can be challenged for cause by one of the lawyers and the court will excuse him or her from the jury panel. Another prospective juror is then called.

There are two types of challenges. One is for cause, such as what was just described. Each side has an unlimited number of these. If the judge thinks cause is sufficient, the juror will be excused. The other type of challenge is called peremptory. The number of these allowed by each side ranges from four in most civil cases to eight in murder cases. No reasons have to be given for these challenges.

Being challenged off a jury panel is absolutely no reflection on a prospective juror. It does not mean the lawyer or the court believes you are not qualified to sit on the case. It merely means that in this particular case a lawyer for one of the sides, or the judge, believes you may not be well suited. The Twenty-First Judicial District observes the "one day or one trial rule," which means you will be excused for the rest of this year from further jury service.



### ***JUDGE'S RULINGS***

***From time to time during a trial a judge will be called on to make rulings on many matters such as motions, objections by the opposing attorneys, the admissibility of certain evidence, testimony to be considered by the jury, etc. These rulings are part of the trial and should not be considered as reflections on either side's case. When these rulings are directed to you as jurors, they must be followed.***

**Q:** What happens if I'm not picked for the jury or am challenged off a particular jury panel?

**A:** Persons not selected for the jury will be excused under the one day or one trial rule.

**Q:** How big are the juries?

**A:** This depends on the type of case. Usually, a jury will not be less than 6 or more than 12.

**Q:** What is the difference between civil and criminal cases?

**A:** In criminal cases, the state is charging a person or persons with violations of criminal law. A prosecutor, usually a state's attorney, represents the government. The person accused of the crime is the defendant, who is usually represented by a private attorney or a court-appointed attorney. A civil case, on the other hand, is a dispute between two or more persons or organizations concerning their respective rights. One party sues to determine these rights. This is the plaintiff. The persons being sued are the defendants. Civil suits usually involve money or property, with no criminal charges involved.

**Q:** Do I have to take an oath?

**A:** You will be required to take up to two oaths: After the whole jury panel has been selected, you will be asked to stand, raise your right hand and have the following oath administered:

*“You, and each of you, do solemnly swear or affirm that you will well and truly answer such questions as may be asked of you as to your qualifications as a trial juror during this jury term and this case in particular, so help you God.”*

*“You and each of you do solemnly swear or affirm that you will well and truly try the matter in issue between \_\_\_\_\_ and \_\_\_\_\_ and a true verdict render according to the evidence, so help you God.”*

You answer, “I do.” If you do not care to invoke the name of God in the oath, you may “affirm” instead of “swear” and may substitute for “So help you God” the phrase: “Under penalty of perjury.”



**Q:** As a juror, what do I do during a trial?

**A:** Your basic job is to pay attention. If you have trouble hearing or seeing, let the judge know. When in the jury box, you will not be allowed to read, talk to other jurors, or otherwise divert your attention from courtroom proceedings. You may, however, take notes. Generally, be alert and courteous, and remain impartial.

Generally all of the exhibits received in evidence will be given to you at the end of the trial. Some of the exhibits may also be read or shown to you during the trial.



**Q:** As a juror, will I be allowed to ask questions of the witnesses?

**A:** Generally this is the obligation and responsibility of the attorneys. In some civil cases the judge may permit jurors to submit questions in writing.

**Q:** As a juror, will I be allowed to take notes during the trial?

**A:** This is a matter within the discretion of the judge. The policy of this court is to allow note taking. You will be provided note pads and pencils for that purpose by the bailiff.

## **SIX STEPS IN A JURY TRIAL**

- 1. Plaintiff, or the prosecutor in a criminal trial, opens the trial and presents case subject to cross-examination.***
- 2. Defense next offers its case and evidence subject to cross-examination.***
- 3. Both sides then have the opportunity to offer rebutting testimony and evidence.***
- 4. Each side next presents its closing arguments.***
- 5. Plaintiff or the prosecutor offers concluding arguments.***
- 6. Judge gives the jury its instructions and charges.***

**Q:** Will I have to stay overnight?

**A:** Not unless the jury is sequestered by order of the Court. This is extremely rare, and you will be notified during jury selection if this will be done for that trial.

**Q:** Do I have to live like a hermit during a trial?

**A:** No. But, you must not discuss the case with anyone during the trial, not even the other jurors,

and you should avoid reading about it in newspapers or listening to or watching news broadcasts about it. Don't discuss it with court personnel or any of the parties involved. When the trial is over and the judge sends you to the deliberation room, then and only then should you discuss the case freely with the other jurors in order to reach a verdict.



**Q:** Should I “bone up” on the case on my own by some outside reading or investigation?

**A:** Absolutely not! As a juror you must reach your decision only on the evidence and other matters presented in the courtroom during the trial. If the occasion arises where it is necessary to go out of court to view a scene or listen to some testimony, this will be done under court supervision and by all the jurors together.

**Q:** Do all the verdicts have to be unanimous, like I see on TV?

**A:** In criminal cases verdicts must be unanimous. In civil cases at least two thirds of the jury (8 out of 12) must agree to a verdict.

## **HUNG JURY**

*A jury is considered “hung” when, after a time deemed proper by the court, it appears there is no reasonable probability the jurors can agree on a verdict.*

**Q:** What happens if a jury member gets sick, dies, or otherwise becomes unavailable during the trial?

**A:** You will need to contact the Clerk of Court at 375-6710 if an illness or emergency arises and you cannot return to court. In civil cases, the parties can agree to accept the verdict of the remaining members. Sometimes (usually in longer civil or criminal cases) one or more extra (alternate) jurors are impaneled, and one of them would take the missing juror's place. In criminal cases, if no alternate is available, a mistrial could be declared and the case begun again with a new jury.

**Q:** I don't know anything about law. How will I know what to decide in a complicated case?

**A:** At the beginning and at the end of every case, both civil and criminal, the judge gives the jury instructions. These instructions are intended to tell the jury what its choices are and to clarify the decisions it must make.



**Q:** Do I have to tell how I voted or what went on in the jury room?

**A:** The foreperson who is elected by the jurors when the jury begins its deliberations signs the verdict and presents it to the bailiff to be read in the courtroom. A lawyer may request that a jury be polled after the verdict is announced. Each juror must then announce how he or she voted. If by chance there is a change of a vote that affects the outcome, the jury must go back and consider the matter again. No juror has to say anything to anyone after the trial about what went on in the jury room, or why a particular decision was reached. This includes inquiries from court personnel, the opposing parties or their attorneys, or the news media. There is no prohibition against talking about it, either.

### **The Role of the Jury is Essential**

The jury is a critical element in our system of justice. You should be proud of your service as a juror. It is, without a doubt, one of the highest expressions of citizenship. Your participation in the selection of the jury panel is essential, regardless of whether you are actually selected to serve on a case. Whether you ever get to sit on a case or not, the court and the litigants sincerely appreciate your willingness to serve your community. If you do sit on a case, the Court will mail you a brief questionnaire requesting your comments and feedback.

## GLOSSARY OF LEGAL TERMS

**adversary system** - The system of trial practice in the United States and some other countries in which each of the opposing, or adversary, parties have full opportunity to present and establish opposing contentions before the court.

**bailiff** - A court attendant whose duties are to keep order in the courtroom, to carry out court instructions, to take care of your requests, and to see that you are comfortable and well informed.

**binding instruction** - One in which the jury is told if they find certain conditions to be true they must find for plaintiff or defendant, as the case might be.

**brief** - A written or printed document prepared by an attorney to file in court, usually setting forth both facts and law in support of the attorney's case.

**chambers** - Private office of a judge.

**clerk of court** - Court official who keeps track of court files, records, and exhibits, and who administers oaths.

**complainant** - Synonymous with "plaintiff".

**complaint** - The first or initial pleading on the part of the complainant, or plaintiff, in a civil action.

**court reporter** - A person who by shorthand or stenograph takes down testimony during court proceedings.

**counterclaim** - A claim presented by a defendant against a plaintiff.

**cross-examination** - The questioning of a witness in a trial, or in the taking of a deposition, by the party opposed to the one who produced the witness.

**defendant** - In a civil case, the person being sued. In a criminal case, the person charged with having committed a crime.

**deposition** - A witness's out-of court testimony that is reduced to writing for later use in court or for discovery purposes

**direct examination** - The first questioning of a witness by the party on whose behalf the witness was called..

**discovery** - Compulsory pretrial disclosure of information designed to reveal facts involved in the controversy or claims in dispute.

**expert witness** - A witness qualified by knowledge, skill, experience, training, or education to provide a scientific, technical, or other specialized opinion about the evidence or a fact issue.

**impeachment of witness** - An attack on the credibility of a witness.

**inadmissible** - That which, under the established rules of evidence, cannot be admitted or received.

**instruction** - A direction, also called a “charge,” given by the judge to the jury concerning the law of the case.

**interrogatory** - A written question submitted to an opposing party in a lawsuit as part of discovery.

**jury** - A certain number of people, selected according to law, and sworn to inquire of certain matters of fact, and declare the truth upon evidence presented to it.

**leading question** - A question that suggests to the witness the answer desired.

**mistrial** - An erroneous or invalid trial; a trial that cannot stand in law because of lack of jurisdiction, wrong drawing of jurors, or disregard of some other fundamental requirement.

**objection** - The act of a party during a trial to call the court’s attention to some matter or proceeding that may be improper. Immediately thereafter the judge determines the validity of the objection and either overrules or sustains it.

**panel** - A list of jurors to serve in a particular court, or for the trial of a particular action; denotes either the whole body of persons summoned as jurors or those selected by the clerk by lot.

**plaintiff** - A person who brings an action; the party who complains or sues in a personal action and is so named, on the record.

**prosecutor** - The lawyer who argues the state’s case against persons charged with violating state law. This is usually the State’s Attorney or an assistant.

**redirect examination** - Follows cross-examination, and is conducted by the party who first examined the witness.

**rest** - A party is said to “rest” or “rest his/her case” when all the evidence the party intends to offer has been presented.

**subpoena (su-pe’na)** - A process to cause a witness to appear and give testimony before a court or magistrate.

**testimony** - Evidence given by a witness, under oath.

**tort** - In civil cases, an injury or wrong committed, either with or without force, to the person or property of another.

**transcript** - The official record of proceedings in a trial or hearing.

**voir dire (vwor deer)** - To speak the truth. The phrase denotes the preliminary examination the court may make of one presented as a witness or juror, as to the qualifications of the witness or juror.