

JUSTICE

BEHIND CLOSED DOORS

A GUIDE FOR JURY DELIBERATIONS



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Founded in 1913, the American Judicature Society is an independent, nonprofit organization supported by a national membership of judges, lawyers, and other members of the public. Through research, educational programs, and publications, AJS addresses concerns related to ethics in the courts, judicial selection, the jury, court administration, and public understanding of the justice system.

Introduction

You have just been instructed on the law in the trial before you and are ready to begin deliberating. Before you begin, please take the time to read through this booklet for some tips on how to organize yourselves, how to consider the evidence, and how to reach a verdict. You are free to deliberate in any way you wish. These are suggestions to help you proceed with the deliberations in a smooth and timely way.

Before you get started, it would be useful to think about the following guidelines:

- Respect each other's opinions and value the different viewpoints you each bring to this case.
- Be fair and give everyone a chance to speak in the deliberations.
- It is okay to change your mind.
- Listen carefully to one another, do not let yourself be bullied into changing your opinion, and do not bully anyone else.
- Do not rush into a verdict to save time. The people in this case deserve your complete attention and thoughtful deliberation.
- Follow the judge's instructions about the law, and you will do a good job.

Getting Started

Q. How do we start?

A. *At first, you might want to:*

- Take some time to get to know one another.
- Talk about your feelings and what you think about the case.
- Talk about how you want to go ahead with the deliberations and lay out some rules to guide you.
- Talk about how to handle voting.

Selecting the Presiding Juror

Q. What qualities should we consider when choosing the presiding juror?

A. *Suggestions include someone who:*

- Is a good discussion leader.
- Is fair.
- Is a good listener.
- Is a good speaker.
- Is organized.

Q. What are the responsibilities of the presiding juror?

A. *The presiding juror should:*

- Encourage discussions that include all jurors.
- Keep the deliberations focused on the evidence and the law.

- Let the court know when there are any questions or problems.
- Tell the court when a verdict has been reached.

Q. Does that mean the presiding juror's opinion is more important than mine?

A. *No.*

- The opinions of each juror count equally.

Getting Organized

Q. Are there any set rules to tell us how to deliberate?

A. *No. You could:*

- Go around the table, one by one, to talk about the case.
- Have jurors speak up anytime, when they have something to say.
- Try to get everyone to talk by saying something like, "Does anyone else have anything to add?"
- Show respect to the other jurors by looking at the person speaking.
- Do not be afraid to speak up and express your views.
- Have someone take notes during your deliberations so that you do not forget the important points.
- Write down key points so that everyone can see them.

Discussing the Evidence and the Law

Q. What do we do now?

A. *First, review the judge's instructions on the law because the instructions tell you what to do.*

Q. Is there a set way to examine and weigh the evidence and to apply the law?

A. *The judge's instructions will tell you if there are special rules or a set process you should follow. Otherwise, you are free to conduct your deliberations in whatever way is helpful. Here are several suggestions:*

- Look at the judge's instructions that define each charge or claim and list each separate element that makes up that charge or claim.
- For each of these elements, review the evidence, both the exhibits and witness testimony, to see if each element has been established by the evidence.
- If there is a lot of evidence, try listing each piece of it next to the elements it applies to.
- Discuss each charge or claim, one at a time.
- Vote on each charge or claim.
- Fill out the verdict form(s) given to you by the judge.

Q. What if someone is not following the instructions, refuses to deliberate, or relies on other information outside of the evidence?

A. *This is a violation of a juror's oath and the court should be told.*

Voting

Q. When should we take the first vote?

A. *There is no best time. But, if you spend a reasonable amount of time considering the evidence and the law and listening to each other's opinions, you will probably feel more confident and satisfied with your eventual verdict than if you rush things.*

Q. Is there any correct way to take the vote?

A. *No, any way is okay. You might vote by raising your hands, by a written ballot, or by a voice ballot. Eventually, a final vote in the jury room will have to be taken with each of you expressing your verdict openly to the other jurors.*

Q. What if we cannot reach a verdict after trying many times to do so?

A. *Ask the judge for advice on how to proceed.*

Getting Assistance from the Court

Q. What if we don't understand or are confused by something in the judge's instructions, such as a legal principle or definition?

A. *Ask the judge because you must understand the instructions in order to do a good job.*

Q. Is there any other type of information we can ask for from the judge?

A. *Yes, to refresh your memory about what was said or introduced, you could:*

- Ask for a list of the witnesses.
- Ask for a reading back of the testimony of witnesses.
- Ask to review the trial exhibits.

Q. How do we get this information?

A. *Write it on a piece of paper and have the presiding juror give it to the court official.*

Q. Is there any type of information we cannot ask for?

A. *Yes, some examples of information you cannot ask for include:*

- Police reports, doctors' reports, etc., that were referred to during the trial, but were not received in evidence as an exhibit.

- Reports and other information that were not referred to during the trial, but which you assume might or should be available.
- There may be some information you ask for that the judge is unable to give you.

The Verdict

Q. After we have reached a verdict and signed the verdict form(s), how do we turn our verdict over to the court?

A. *The following steps are usually followed:*

- The presiding juror tells the attending court official that a verdict has been reached.
- The judge calls everyone, including you, back into the courtroom.
- The clerk in the courtroom asks the presiding juror for the verdict.
- The verdict is read into the record in open court.

Q. Who reads the verdict?

A. *The verdict will be read into the record by the clerk, the judge, or some other court official. The judge may ask for an individual poll of each of you to see if you agree with the verdict. You need only answer “yes” or “no” OR “not guilty” or “guilty” to the question asked by the judge.*

Once Jury Duty is Over

Q. Now that the case is over, may we speak with others about the case and the deliberations?

A. The judge will inform you about speaking with others after you have been dismissed. Generally, you do not have to talk to anyone about the case. It is entirely up to you.

Q. How do we know we have done the right thing?

A. If you have tried your best, you have done the right thing. Making decisions as jurors about the lives, events, and facts in a trial is always difficult. Regardless of the outcome of this case, you have performed an invaluable service for the people in this case and for the system of justice in your community. Thank you for your time and thoughtful deliberations.



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