



# Phases and Steps of a Criminal Jury Trial

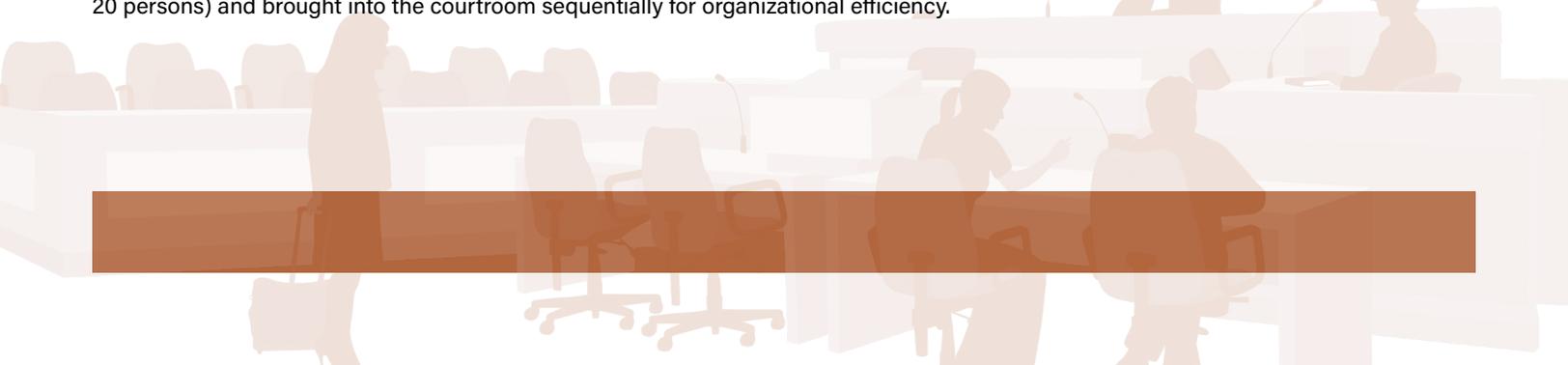
## 1. PRE-TRIAL PHASE

### Jury Summons:

- **Form and method of transmission** - A summons is a letter sent in the mail asking the recipient to go to a courthouse and participate in a jury selection process.
- **How recipients are identified** - Recipients are selected randomly from a list of qualified jurors, who have been previously identified through a combination of random selection from existing government databases and completion of mailed questionnaires.
- **Options upon receipt** - Compliance with a summons is mandatory. However, there are alternatives for persons with clear reasons why they cannot serve on a jury to defer or be excused from service without having to attend a selection process (e.g., by contacting the courthouse in writing with supporting documents; these options are typically exercised by individuals whose profession precludes them from jury service, such as lawyers and correctional officers). Permissible reasons for deferral or exclusion are discussed below, under "Jury Selection."
- **Passage of time before attending courthouse** - There is likely to be a significant passage of time (a few weeks) between receipt of a summons and the date on which the recipient is required to participate in a jury selection process.

### Jury Selection:

- **Travel to and from courthouse** - Persons summoned for jury duty must go to a courthouse at a specified date and time to participate in the jury selection process. They make their own travel arrangements to attend the courthouse. The selection process itself may require that they return to the courthouse daily over the course of several days. In the latter case, prospective jurors arrange for their own travel to and from the courthouse. They return to their homes after each day, and may leave and return to the courthouse during lunch periods or other breaks.
- **Arrival at courthouse and initial processing** - Upon first arriving at the courthouse, prospective jurors pass through security at public points of entry, present themselves to an official and provide their jury summons and personal identification. Sign-in may also take place in a jury assembly room. Otherwise, after registration, jurors await transfer to jury assembly rooms (or, in smaller court locations, individual courtrooms where all subsequent stages of the jury selection process are completed). The physical configuration of registration and waiting processes vary depending on the size of courthouses, their locality, and the number of persons participating in a selection process. In large urban locations, several hundred prospective jurors may be processed within a day, with resulting lines, congregation in common waiting areas, and high volume use of common facilities such as washrooms. Smaller localities may manage smaller volumes of prospective jurors; they may also have smaller and less modern courthouse facilities, however.
- **Gathering of potential jurors in assembly room** - Once transferred to an assembly room, prospective jurors ("panels") will be seated, ordinarily in close proximity to one another in an audience-style format, although physical configurations vary. Panels range in number, but in a large urban centre, they could comprise 150 to 500 people, and range even higher (800 to 1200 people) in the case of high profile trials. A court services officer typically delivers an introductory presentation. Panel members are then selected randomly (e.g., by numeric draw) to proceed to the selection stage for individual juries. Those who are not randomly selected may be able to leave the courthouse immediately, but could also be directed to return any day that week if other jury trials are scheduled to commence that week. They may also be asked to remain in the assembly room in order to be included in further random selections completed later in the day. It is not uncommon for prospective jurors to sit and wait in assembly rooms for an entire day before being released.
- **Assignment of potential jurors to courtrooms** - Selected panel members will be directed to individual courtrooms, where the jury selection process is completed for each trial. Officials in the courtroom will include the presiding judge, court clerk(s), counsel for the crown and the accused person, and sometimes other personnel such as sheriffs, victim support officers, and security staff. Criminally accused persons will almost always be present. The number of prospective jurors transferred to a given courtroom varies by locality; in a large urban setting, hundreds of prospective jurors may be considered for a given trial, although they may be divided into groups (e.g., of 20 persons) and brought into the courtroom sequentially for organizational efficiency.





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• **Calling of prospective jurors for questioning** - The mechanism for calling and questioning prospective jurors may vary by jurisdiction and context. Prospective jurors may each be assigned a number by the court clerk and directed to sit in seats designated for the audience. The clerk then chooses numbers at random, and the prospective jurors are asked to come to the front of the courtroom. One after the other, they enter the witness box, take an oath or affirmation (which could include close proximity to the administering official and contact with a religious text), and answer a series of questions posed by the presiding judge and counsel. In some other jurisdictions or circumstances, the prospective jurors may be kept in an area outside the courtroom while they await being called, or divided into smaller groups in designated waiting rooms. In these settings, there is continual, one-by-one movement of prospective jurors between the waiting area(s) and the courtroom, where they are asked questions by counsel and the presiding judge in isolation from the other jury candidates. Each prospective juror may be asked to leave the courtroom to allow for private exchanges between counsel and the presiding judge, and then to re-enter in order to be informed whether or not they have been retained for jury service.

• **Deferral, excusal, or elimination** - Once called by the court, prospective jurors may offer reasons to defer or excuse their service on a jury. Certain categories of professional cannot serve on juries (although typically they will have exercised advance options to decline service by contacting the courthouse). The presiding judge may grant deferrals or excusals based on other considerations, such as a personal interest in the case, a relationship with the judge, accused, any of the lawyers or witnesses involved, or due to illness, travel, employment duties, or other forms of hardship. Prospective jurors may be questioned by the crown attorney or by defense counsel if the judge allows them to be challenged for cause (i.e., for reasons that they should be disqualified from service on the jury). The level of physical proximity between counsel, prospective jurors, the judge, and other individuals will vary depending on courtroom size and configuration. As jurors are selected, they sit together in the jury box. Any prospective juror deferred, excused, or eliminated for cause may depart the courthouse immediately. Prospective jurors may also be "stood aside", meaning they are asked to standby for further consideration, either at the courthouse or by returning home with the possibility that they will be re-called to the courthouse within a certain period (e.g., one week).

• **Completion of jury selection** - The jury selection process continues until 12 to 14 jurors and alternates are selected to constitute a jury. This may take as little as several hours or as long as several days, during which time prospective jurors continue to sit in the audience and mill around the public areas of the courthouse during breaks. (In certain circumstances, a special panel may also be ordered to attend, typically later in the week, comprised of additional panel members that may number 400-500 in a large urban setting). When the 12 to 14 jurors are selected, they will be redirected to the jury room by the court services officer. Jurors move together to the room assigned. The trial may commence immediately, or the jurors may be released and asked to return to the courthouse for a specific trial date.

## 2. TRIAL PHASE

• **Daily arrival to and departure from courthouse** - Jurors are responsible for transporting themselves to and from the courthouse for each day of a trial. They may leave the courthouse independently for breaks (such as lunch), and they return to their homes at the end of each day. Although, typically, they are kept together during court recesses, unless individuals wish to independently go outside for air or to smoke. In certain circumstances, such as trials in remote regions, jurors may be housed in temporary accommodation (such as a hotel) for the duration of a trial.

• **Movement to jury room and use of common facilities** - Jurors may access courthouses through common points of entry and exit, or be directed to designated entry and exit points. They then proceed to jury rooms, where they congregate as individual (12-14 person) juries before being called into the courtroom. Jury rooms vary in size and configuration, but typically include a boardroom-style table and seating for all 12-14 jurors. Jury rooms sometimes include male and female washrooms; in other settings, jurors make use of common washroom facilities.

• **Sitting in the jury stand** - Once called into the courtroom, each juror sits in the jury stand. The jury stand is, in most courtrooms, a physical structure, like a box, in which there are the requisite number of chairs. The jury stand is off to one side of the courtroom, removed from the witness box, the clerk, and the judge. Within the jury stand, chairs are close together. The jury will remain in the jury stand for most of the time that the court is in session. The proximity of the jury stand to other courtroom elements and individuals will vary from one courtroom to the next. Once the presentation of evidence begins, the alternate jurors may be excused, leaving 12 jurors to try the case.



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- **Courtroom configuration** - Other individuals in the courtroom include the judge, typically sitting behind a raised dais; court clerk(s) and court recorder, typically seated just in front of the dais; counsel, typically seated behind individual tables facing the dais, and rising to speak at their tables or at a common lectern; and the audience, seated behind the tables reserved for counsel. Security staff, translators, and additional personnel may be situated at various locations. (A diagram of a sample courtroom is provided in the annex below).
- **Jury instructions** - In instructions to the jury, the judge will specify the length of each sitting, as well as the time at which breaks will be taken. At the opening of a trial, the judge will invite the jury to proceed to the jury room to decide upon the selection of a foreperson.
- **Exclusion of the jury** - The judge may order the exclusion of the jury from the courtroom in certain circumstances, including “voir dire” hearings to determine the admissibility of evidence. During the exclusion of the jury from the courtroom, the jury will be directed to the jury room by a court services officer. The jury will remain together, and jurors will be asked to remain in the jury room until the judge calls them back in the courtroom.
- **Presentation and hearing of evidence** - Oral evidence is given through the summoning of individual witnesses to the witness stand, which is typically located near the judicial dais and in an area that allows clear lines of sight for jurors, the judge, and counsel. Counsel take turns asking questions of witnesses, doing so either from behind their counsel tables or from behind a common lectern. They may “approach” either witnesses or the jury in order to show them exhibits or other material, and may also pass exhibits to the court clerk or approach the judge to speak with her or him privately, when so directed. Exhibits can include documents, physical objects or photographs, or other materials (such as enlarged images or diagrams). As evidence is presented, jurors may view these materials from afar, or on display screens, or may even have opportunities to “interact” with and physically inspect exhibits. In certain trials, jurors may be provided with their own binders that contain materials that will be referred to frequently during the trial. Jurors may also be permitted, in individual cases, to keep their own notes. Many will carry their personal belongings in and out of the jury room, although coats and other belongings may be secured there during the day as well. While extremely unlikely, it remains possible that, during the course of a trial, a jury may be transported to a different location in order to view something that is considered necessary for the jury to see in order to appreciate the evidence in a case.
- **Discharge of jurors** - During the course of a trial, the judge may direct that one or more jurors be discharged, which results in them being relieved immediately from the jury. This can arise when a juror falls ill or faces other intervening circumstances, or where circumstances arise that disqualify the juror. A jury will remain viable provided it has at least 10 members; if its numbers drop below this point, the entire jury may be discharged due either to a mistrial or to election to proceed by judge alone. Discharged jurors will exit the courthouse and arrange for their own transportation home.
- **Deliberation and sequestering** - At the end of a trial, the jury will be directed to the jury room to begin their deliberations. At this point, the jury is sequestered. Every juror must stay in the jury room until they reach a verdict. If the jury does not reach a verdict by the end of the day, the jury will be directed to an overnight accommodation (a hotel where rooms have been reserved for each juror) where they will remain sequestered from outside contact. No communication devices are permitted; sheriffs may be asked to assist members of the jury with notifying loved ones and collecting personal items. Jurors may be transported to and from the hotel accommodation by taxi or chartered vehicle such as a van or bus. They are provided food and refreshments and may take meals together. They may be escorted as a group by court personnel to a restaurant, provided the restaurant does not display television or radio news; court personnel will even escort jurors to washrooms and for short breaks outdoors, ensuring they do not access any news media or come into contact with members of the public. They return each day to continue deliberation in the jury room. All trial exhibits are provided to the jury, along with any other material deemed helpful to them by the judge including decision trees or a physical copy of the Judge’s Charge. They may also have their individual notes with them in the jury room, if they were permitted to make notes during the trial. All of this material would be available for jurors to have physical contact with.
- **Jury questions** - If questions arise during the deliberations, jurors are asked to put them in writing, and provide them to the court services officer in a sealed envelope. The court services officer will be standing outside the jury room where they will collect the envelope and provide it to the judge. The jury will be redirected to the courtroom and the judge will answer the jury’s questions. If the jury cannot recall something, or if various jurors have divergent recollections, counsel or the judge may assist the jury by reviewing their notes or playing back evidence from the recorder within the courtroom.



# Phases and Steps of a Criminal Jury Trial

- **Verdict** - When the jury reaches a unanimous verdict on the case before them, they will be asked to deliver the verdict. The foreperson records the verdict on a verdict sheet and notifies the court services officer. The jury will be redirected to the courtroom and take their places in the jury stand. The jury's foreperson stands to announce the verdict to the courtroom.
- **Release of the jury** - The verdict represents the termination of the trial, after which the jury is released. With the exception of some trials in remote locations, or where special security concerns exist, jurors arrange for their own transportation home.

## Annex: Sample Courtroom with Jury

