

I. PURPOSE

To establish uniform procedures for the empanelment of all juries.

II. POLICY

It is the policy of the Fairfax County Sheriff's Office to ensure that all jury trials are conducted in a similar manner.

III. PROCEDURE

A. Jury empanelment and Instructions.

1. Working a jury trial is a sensitive and delicate assignment. Care and vigilance must be exercised by the Court Security Deputy (CSD) throughout the trial to guard against a mistrial.
2. Jury panels are comprised of the following numbers:
 - a. Felony Trial: 20, plus alternates.
 - b. Civil Trial: 13 plus alternates. In rare cases where amount sued for is less than \$10,000, eleven jurors, plus alternates, can be used.
 - c. Special Civil Trials: 20, plus alternates.
 - d. Misdemeanor Trial: 13, plus alternates.
3. A CSD assigned to a jury trial will be given 7 copies of the jury list at the 0930 hours in the jury assembly area to call the lists of jurors. The CSD will escort the group to the assigned courtroom and direct them to be seated outside the courtroom. As an added precaution, CSD's should quickly recheck the list to make certain all jurors are present and advise them of any administrative procedures necessary for orderly jury duty.
4. A copy of the jury list is immediately placed on both counsel tables along with a copy of the jury occupation list.
5. A jury is empanelled in the following manner:
 - a. At the direction of the judge, following preliminary matters, the jurors in the order listed are called out slowly and distinctly. As the jurors step forward they are directed to their seats in the jury box, filling first one row, then the other. Care must be taken that jurors are seated in the exact order in which they are listed on the jury list and called to the jury box.
 - b. In some cases, since the jury box will not hold the entire panel of 20, the overflow jurors are seated in order called on the front bench of the courtroom.
 - c. After all jurors are seated and sworn by the clerk, the judge proceeds with the "Voir Dire" portion of the trial, whereby jurors are questioned by judge and counsel as to their qualifications to sit on this particular jury. If a juror

is disqualified, s/he will be directed by the judge to leave the jury box and have a seat in the back of the courtroom. The CSD draws a line through the name of the excused juror, calls the first alternate on the jury list, and directs that juror to be seated in the seat vacated by the disqualified juror. On the original and CSD copies of the jury list, the CSD writes the number of the disqualified juror beside the replacement juror's name. The "Voir Dire" continues until the judge and counsel are satisfied with the panel.

- d. The judge then directs the CSD, either by motion or voice, to begin the "preemptory strike" portion of the jury selection process.
 - e. The CSD walks over to the counsel table and proceeds with the "strikes", handing the original jury list first to the plaintiff's attorney (in civil cases) or Commonwealth Attorney (in criminal cases, felony or misdemeanor) who takes the first strike. The jury list is then passed over to the defendant's side for their strike, and so on, until the panel is reduced to 12 for felony cases and special civil cases, 7 for a civil case (5 strikes in rare cases when 11 jurors are empaneled), and 7 for a misdemeanor case.
 - f. When the last strike is made by the defendant, and after the plaintiff or Commonwealth Attorney is shown the name of that strike, the list is handed to the clerk. While attorneys are making their strikes, the CSD will concurrently "strike" the struck jurors name off his/her copy of the jury list. CSDs should retain their lists throughout the trial.
 - g. The clerk calls out the names of jurors stricken, directs them to proceed to the rear of the courtroom, calls the roll of the jurors remaining in the jury box who are to hear the case, and administers the oath. The judge then directs all other jurors in the courtroom (alternates not used and those stricken from the original panel) to proceed to the jury assembly area for their next assignment.
6. The CSD should be alert for the following jury infractions:
- a. Notes may not be taken by jurors unless directed by the judge. If any note taking is detected while the trial is in progress, the CSD should so advise the judge in an inconspicuous manner.
 - b. Gum-chewing is generally frowned upon by all judges and should be discouraged when detected.
 - c. Dozing off is not uncommon, especially after the lunch recess. When this is detected, the CSD should somehow communicate with a wide awake juror to alert the fellow juror who has dozed off. The judge may declare a short recess when made aware of this situation.
 - d. Reading material of any type should not be permitted in the jury box, lest a juror be tempted to read when s/he should be listening to a witness's testimony.
7. The CSD is in charge of the jury during all recesses. During recesses, except lunch, jurors are generally sent to the jury room. The CSD will not leave the courtroom while the jury is in the jury room, unless relieved for a short period by

another CSD.

8. The jury is brought from the jury room only upon instruction by the judge.
9. Before the lunch break, the judge will instruct the jury concerning their movement during the lunch recess. The jurors are released and free to go wherever they wish until court reconvenes. If the jurors stay at the Judicial Center for lunch, they are instructed to eat in the jury assembly area. Lunch recess is normally from 1:00 p.m. to 2:00 p.m.; however, in some instances, the judge will direct the jury to remain together at all times, to have lunch at the same place, and to return to the jury room immediately after finishing lunch. In such cases, the CSD will be instructed by the judge to remain with the jury at all times until they are back in the jury room. Jurors are instructed to return to the jury room upon re-entering the courtroom.
10. During a trial, the CSD will have frequent direct contact with members of the jury panel. It is of the utmost importance that there be no discussion, even remotely connected with the case being tried, with any member of the jury.
11. At no time will the CSD sit with the jury in the jury room.
12. Under no circumstances will the CSD answer any questions asked by a jury member, even remotely connected to the case being tried. When the trial is over and the jury has retired to the jury room to deliberate, the jury light may come on. The CSD will go to the jury room to determine why. If there is a question s/he will instruct the foreman to reduce it to writing. The CSD will immediately take the question to the presiding judge and await instructions.
13. In answering the jury light and finding that the jury has reached a verdict, the CSD will instruct the jury to remain in the jury room until informed to return to the courtroom. The CSD will immediately inform the judge and counsel. The jury will be brought back to the courtroom upon instruction by the judge.
14. While the CSD is required to remain unbiased throughout a jury trial, as well as a non-jury trial, it is expected that all common courtesies will be extended to jury members. It is expected that the CSD will furnish the jury with cold drinking water while they are deliberating (Thermos bottles and paper cups are available in the clerk's office). Permission may be obtained from the judge to allow a juror to make a phone call. It must be remembered that any such amenities are rendered only on the condition that it will not detract from the CSD's primary responsibilities.
15. CSDs are to be kind and courteous but not overly familiar with jurors. Should over-familiarity unduly influence a juror in his/her decision during a trial, a mistrial could result.
16. In the event a jury case is carried over to another day, the CSD will direct the jury to meet in front of the 5th floor jury assembly room, or as directed by the CSD. The jury remains there until ordered back to the courtroom by the judge to resume the trial. Court opening is the same as any other day.
17. Once a jury trial has begun, jurors should be instructed not to loiter in the halls or lobbies during/after lunch recess or the following morning, in the case of a carryover jury. Unless otherwise instructed by the judge, they should report

directly to the jury room to reduce risk of a mistrial due to jurors overhearing conversations related to the case.

B. Condemnation Proceedings.

1. This type of trial involves the Commonwealth or other public body with the right of eminent domain, where property, (usually land) is condemned for public use, such as land for the purpose of widening a highway. The matter is brought to court because the property owner will not accept the price offered by the Commonwealth or other public body involved.
2. In state highway cases, the jury is composed of Commissioners. The Commissioners are land owners in the county who will hear the case, view the property, and determine the dollar value of the property being taken.
3. In all other condemnation cases, petit jurors will hear the case. Petit jurors are selected from a list comprised of people who are knowledgeable of land value such as bankers, real estate brokers, etc. Usually the petit jury will be composed of 9 jurors, 4 are stricken, leaving 5 to hear the case.
4. Initially, there will be some evidence presented to describe the property and its location. At the appropriate time, the judge will instruct the CSD to transport the jurors, or Commissioners, to view the property. A vehicle will be furnished by the Chief, Court Security Branch or Supervisor, Court Security Section for this purpose. The CSD, or other designee, will transport the jury to the view. At times, the judge will also view the site, in which case another vehicle will be made available, or the judge may furnish his/her own transportation.
5. Upon return of the jury to the courtroom, the trial resumes. When presentation of the evidence is completed, the jury will retire for deliberations. After they reach a verdict, the CSD will be notified, and in turn will notify the judge and counsel. When all are present, the jury will be called into the courtroom to render its verdict. The clerk will read the verdict, and court will then be adjourned.

C. Petit Juror Records and Procedures.

1. Petit jurors are summoned to perform jury duty for a 4 to 5 week period.
2. CSDs will be appointed to assist in petit jury matters:
 - a. CSDs will greet incoming jurors, pass out pertinent information/literature, scan incoming jurors, pass out juror badge holders, enter jurors into the computer system, and collect juror information cards.
 - b. CSDs will report to the jury assembly area no later than 0930 hours.

**01/01/00
DATE APPROVED**

**01/23/97
EFFECTIVE DATE**

Revised: May 1997, July 2009, April 2016

Stacey A. Kincaid

**STACEY A. KINCAID
SHERIFF**