

**OFFICE OF THE JURY COMMISSIONER
FOR THE COMMONWEALTH OF MASSACHUSETTS**

**MASSACHUSETTS JURY DUTY – YOU MAKE A DIFFERENCE
TRANSCRIPT**

SEASON 01 – EPISODE 07

OFFICE OF JURY COMMISSIONER

"Jury Duty: You Make A Difference"

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Begin Transcript.

Title Card: MASSACHUSETTS JURY DUTY, YOU MAKE A DIFFERENCE

With Legal Counsel Kara Houghton, By the Massachusetts Judicial Branch

Audio Video Recording produced by the Office of the Jury Commissioner in association with the Boston Neighborhood Network

MICHAEL RYAN, BNN LIVE HOST: Hello. My name is Mike Ryan. The name of the show is Jury Duty: You Make A Difference on BNN, the show that hopefully will answer all your questions regarding the one day, one trial jury system.

Title Card: JURY DUTY, Michael Ryan, Host

Our guest today is Legal Counsel Kara Houghton.

MS. HOUGHTON: Good afternoon.

HOST RYAN: From the Office of Jury Commissioner.

Thank you for being on the show.

MS. HOUGHTON: Thank you for having me.

HOST RYAN: And today, we'd like to talk about how to avoid juror delinquency.

So how, could you explain how the delinquent juror prosecution program started?

Title Card: JURY DUTY, Kara Houghton, Legal Counsel, Office of the Jury Commissioner

MS. HOUGHTON: Certainly. The program has been in existence for about 20 years or so. We started back in 1996, and it was basically created to increase the number of people appearing for juror service at the Courts throughout the state.

HOST RYAN: Now, did it start as a pilot program?

MS. HOUGHTON: Yes. It did. Originally, it started in, I think we had four counties going. It was Bristol, Essex, Plymouth, and right here in Suffolk County. And then we spent time implementing it piece by piece throughout the different counties throughout the state. And I think by 2007, we had pretty much wrapped up rolling it out to all of the counties in the state.

HOST RYAN: Now, should everyone when they get a jury summons, should they always respond to it?

MS. HOUGHTON: Yes. You should always respond to your summons. Responding to the summons helps us know whether we should expect to see you or not on your service date.

If you let us know that you're coming, then we know to expect you and we can save on not sending you an additional summons.

Likewise with folks who are not qualified to serve jury duty, if they notify us that they're not qualified, we know not to expect them, we can close their file, and it saves us again from sending that person an additional summons.

HOST RYAN: Are there any exemptions from jury service?

MS. HOUGHTON: There are no exemptions from juror service in the sense that because of anything that you may do or, for work or your status, but there are certain reasons why you might not be qualified to do juror service, and those are basically if you're not a United States Citizen, you're not qualified to do jury duty.

If you don't speak and understand English, you're not qualified.

If you are under the age of 18, you're not qualified.

If you move out of the county in which you're summoned in, you're not qualified.

So that, an example of that would be if you live in Suffolk County when you receive your summons, and then after you, your receipt of your summons, you move to a different county, you're not qualified to serve.

And that sometimes trips people up because they might live in Boston when they get their summons and then they might move out to Milton and then they come back into Boston to do their jury duty and they show up at the courthouse only to find out that they're not qualified because they now live in Norfolk County.

HOST RYAN: So in other words, if someone isn't eligible, they should always provide proof to the Office of Jury Commissioner?

MS. HOUGHTON: Exactly. That's correct.

HOST RYAN: What is, is there an age limit? Can I hit a certain age that I don't have to do jury duty?

MS. HOUGHTON: Yes. Once you reach the age of 70, you can choose not to serve, but it's not an automatic disqualification. It's not like once I reach 70, therefore I don't have to serve.

Well, you don't have to serve but you will still continue to get summoned until you tell the Jury Commissioner's Office that you've chosen to elect not to serve.

HOST RYAN: There are people over, over 70 who have served jury duty?

MS. HOUGHTON: Absolutely.

HOST RYAN: And what about if I'm in the military? Am, do I, am I required to go to jury duty?

MS. HOUGHTON: No. There are - well, generally, no.

HOST RYAN: Yeah.

MS. HOUGHTON: There's an exception or a disqualification for folks who are living and working outside of the particular county or out, outside of Massachusetts. If they are going to be outside of the county for at least, I think it's a year.

HOST RYAN: A year.

MS. HOUGHTON: Without any intention of returning to the state, then they just need to notify the Jury Commissioner's office of that.

HOST RYAN: If I have any criminal activity in my background, does that prevent me from serving?

MS. HOUGHTON: Yes and no. It depends on when it happened and what it was.

For disqualification, if you have a felony conviction within seven years from your service date you're not qualified to serve.

If you have a pending felony, you're also not qualified to serve.

If you're incarcerated, you're not qualified.

If you have a pending misdemeanor case or misdemeanor convictions, you are qualified to walk through the door and participate in the process.

And the same thing with convictions that are older than seven years old, or felony convictions that are older than seven years old.

It's still not going to prevent you from coming to the courthouse and participating in the process.

You always have to disclose anything in your criminal background on your confidential juror questionnaire when you report to the courthouse, and that information is used during the juror selection process to determine if you would be a suitable juror for the particular case.

HOST RYAN: If I serve jury duty, how, what kind of an exemption do I have after I serve even one day? Am, do I get, can I get called back for jury duty or?

MS. HOUGHTON: You can, but you are generally disqualified for a period of three years after you perform juror service. And Massachusetts will actually recognize prior state service, service that you may have performed in another state, or if you performed federal jury service.

HOST RYAN: Okay. So if someone gets their, serves jury duty, they should save their juror service certificate?

MS. HOUGHTON: Absolutely.

HOST RYAN: And, so if, if I move or my last name changes, I could get called again for jury duty?

Title Card: JURY DUTY, Kara Houghton, Legal Counsel, Office of the Jury Commissioner

MS. HOUGHTON: That's correct. But generally, if you, if you get a summons for juror service, and it, if it's within the three year period, it's a simple resolution. Just call the Jury Commissioner's Office at 1-800-THE-JURY, speak with one of our rep, representatives and we'll help you resolve the matter.

HOST RYAN: What if I'm not in good health?

MS. HOUGHTON: If you have a medical condition that prevents you from performing your juror service, you can request disqualification. In order to do that, however, you must submit a letter from your doctor that states the nature of your condition and the doctor's opinion that it prevents you from performing your juror service.

HOST RYAN: Now, what if I have somebody at home who cannot take care of him or herself, and I can't leave that person unattended? Can that get me out of jury duty?

MS. HOUGHTON: Yes. If you meet the certain criteria. The person that you're taking care of obviously has to live in the same household with you.

You have to get a letter from a doctor that documents the nature of the care that you provide to that person and provides a statement that your leaving the home to go do your jury duty would cause harm to that person.

It's important to note though with that disqualification, if you work outside of your home, you're not qualified for that disqualification, the thought being if you are able to leave your home to go do work, then you are able to leave your home to come to the Court to do juror service.

HOST RYAN: So you're a full time caregiver for that person who you're taking care of?

MS. HOUGHTON: Yes.

HOST RYAN: Now, what would make somebody delinquent?

MS. HOUGHTON: There's a couple of, well, a couple of different ways that you would end up delinquent. But the, the, the end all be all is that you failed to perform your juror service.

You may respond to your initial summons and tell us that you're coming, but then you might not appear.

Or maybe you don't appear, and you haven't responded to your juror summons.

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Some folks might appear for juror service and they stay in the pool for a little while, and then they leave before they've been properly excused or discharged.

Other folks may report for juror service. They may actually have been impaneled as a juror on a case, and then they fail to return to the courthouse for a second or subsequent day of trial.

HOST RYAN: If somebody goes to jury duty and they go into the courtroom and they're not selected for a trial and they leave, could that lead them into some trouble?

MS. HOUGHTON: Yes, it can. Leaving the courtroom or leaving the courthouse without being properly excused or discharged is a serious matter.

It, initially, you're probably not going to get credited with attendance for that day. You may get a failure to appear notice. You may get a delinquency notice.

And depending upon the facts and circumstances of your departure from the courthouse, a Judge may issue a warrant for your arrest.

I think the best course of action for jurors is, when they're attempting to leave or they want to leave or they think they should - it's time for them to leave is to check with a uniformed Officer if they have any doubts about whether they're authorized to leave, and then they can confirm whether or not they've been excused or discharged.

HOST RYAN: So don't leave early unless you're told by, by an official jury pool officer?

MS. HOUGHTON: Basically, yes.

HOST RYAN: Now, what happens, can you take us through what happens when someone does become delinquent? What is the process?

MS. HOUGHTON: Sure. Well, I just alluded to the first step in, the failure to appear notice.

Title Card: JURY DUTY, Kara Houghton, Legal Counsel, Office of the Jury Commissioner

When you fail to appear for your jury duty, we'll send you a failure to appear postcard. It will basically tell you that you've missed your juror service and give you some instructions to contact the Jury Commissioner's Office to resolve the matter by either rescheduling your juror service, or if you're not qualified to do juror service, requesting and obtaining disqualification instructions.

Once you do your juror service or you send in your disqualification information, you'll basically resolve your matter, and you'll be removed from delinquency status.

If you don't do that, then you'll proceed to the next step. And the next step is when the Jury Commissioner's Office will mail you a delinquency notice.

This is a, almost like a letter. It will tell you again the date that you've missed your juror service, give you some instructions on how you can resolve this, again, by doing the service or requesting and obtaining disqualification.

The delinquency notice will also tell you a little bit more about what are some of the consequences for your failure to appear.

And then basically, for delinquents or people who have a delinquency notice, they have about 30 days to resolve their delinquency from the date that the notice was, that is, the date that notice appears on their,

HOST RYAN: And if I don't respond to the delinquency notice, what happens next?

MS. HOUGHTON: If you do not respond to the delinquent, excuse me, the delinquency notice, you will be basically scheduled for a hearing on an application for a criminal complaint.

Nonperformance of juror service is a criminal offense punishable by a fine of up to 2,000 dollars. So if you don't resolve your delinquency within that 30 day time period, the Jury Commissioner's Office will apply for an application for a criminal complaint alleging nonperformance of juror service at one of the local District or Boston Municipal Court locations. The Clerk Magistrate will schedule the matter for a hearing, and the juror will be notified of the date and time of the hearing.

HOST RYAN: And that's an official Court document?

MS. HOUGHTON: Yes, it is.

Title Card: JURY DUTY, Michael Ryan, Host

HOST RYAN: So now, if I don't go to the application for criminal complaint hearing, what's the next step?

MS. HOUGHTON: If you don't, well, if you don't go to the hearing,

HOST RYAN: Or don't live up to the terms of your hearing.

MS. HOUGHTON: Yes. You will be likely defaulted at the hearing, and the Court will issue a criminal complaint against you.

Now, before it gets to that stage, you'll have a number of opportunities to resolve this. While the hearing is actually pending, you can still resolve your matter by doing your juror service or sending in your proof of disqualification.

And even on the day of the hearing, you'll be given another opportunity to resolve this matter by either doing your juror service or sending in your proof of disqualification.

If you do agree to resolve it at the hearing by serving or sending in your proof of disqualification, in all likelihood, the hearing is going to be continued for a certain period of time to give you the opportunity to complete your juror service.

HOST RYAN: If I resolve my delinquency prior to the hearing, do I have to show up at the hearing?

MS. HOUGHTON: No, you do not need to show up at the hearing. What will happen on the hearing date is that the, the Office of Jury Commissioner will request that the application be withdrawn or dismissed, and it will be, and you will not need to appear at the Court for that event.

HOST RYAN: So if I don't show up for the hearing or I don't live up to the terms of the hearing, what's the next step?

MS. HOUGHTON: Then we'll ask the Magistrate to issue a criminal complaint against you, and then the Magistrate will do that. The Magistrate will then send a notice to you that's called a summons to appear for an arraignment, and that's a notice that basically will advise you to appear back at the Court location on a particular date and time to appear before a Judge to enter a plea on the charge of nonperformance of juror service.

HOST RYAN: And if I show up for the arraignment, then am I offered another opportunity to serve or provide disqualification? Or is that based upon the Judge?

MS. HOUGHTON: It's, in essence, it's based upon the Judge.

In any event, you know, the case will proceed in the, in the normal course.

Most of these cases are handled by the District Attorney's Office, and in most cases, it's resolved by, you know, the juror be, given an opportunity to do juror service.

In some cases, jurors are required to do community service. In others, they may be required to pay a small fine or to pay some Court costs.

HOST RYAN: So if I was foolish enough not to show up at the arraignment date, then what ensues?

MS. HOUGHTON: If you do not appear at the courthouse for your arraignment, you will be defaulted, and the Court may issue a warrant for your arrest.

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HOST RYAN: So what happens now if I have an arrest warrant? What are the repercussions from being issued a warrant?

Title Card: JURY DUTY, Kara Houghton, Legal Counsel, Office of the Jury Commissioner

MS. HOUGHTON: If you have a warrant outstanding against you, first and foremost, you are subject to arrest at any time.

There are also other consequences to you depending upon if you have any, if you're receiving any benefits from the transitional assistance department or worker's compensation or unemployment benefits. Those benefits could be suspended or terminated.

If you have a trade license or a business license, that might be suspended during the term that there's a, an outstanding warrant for you.

If you have a driver's license or a right to operate here in Massachusetts, that will be suspended during the time that the warrant is outstanding.

Generally in that case when that's hap, if that's going to happen to you, the agency that's either giving you the privilege or giving you the benefits will send you a notice telling you that this is about to happen, and they'll give you some time to resolve it.

So for example, if I can give you,

HOST RYAN: Sure.

MS. HOUGHTON: An example of that, if you have an outstanding warrant, and you have a right to operate here in Massachusetts or a driver's license, the Registry of Motor Vehicles will send you a notice telling you that you're right to operate or your driver's license is going to be suspended here in Massachusetts.

They'll generally tell you that the, that they're going to take that action in 90 days, and if you don't clear it up within the 90 day time period, then the Registry will in fact suspended or, your license.

But if you do show up at the Registry with proof that the warrant's been recalled or that, you know, it, it no longer exists, then in all likelihood, they will not suspend your license.

HOST RYAN: For someone to get to the arrest, to the warrant status, the, your office has sent out many notices, correct, to all these?

MS. HOUGHTON: Yes.

HOST RYAN: To each juror?

MS. HOUGHTON: Yes. In most cases, you've gotten six or seven notices depending upon whether you've, you've responded to your initial juror summons. And that will include, you know, your, your summons, your second summons, you get a reminder notice. I don't know if you've discussed that. I know there's programs on the series.

You'll get a failure to appear notice, the delinquency notice, the notice of hearing on the, the application for criminal complaint, and then the summons to appear for your arraignment.

HOST RYAN: And at each of those steps, each, each juror has an opportunity to either say, fulfill jury service or provide proof of disqualification?

MS. HOUGHTON: That's correct.

HOST RYAN: Now, is the, the warrant, is that national? Does it cover the whole country?

MS. HOUGHTON: It, yes, in a sense that warrant information is transmitted to federal and state police agencies across the, the country.

So if you have a warrant outstanding here in Massachusetts, there may be consequences to you out, outside of the state. You can certainly be arrested outside of the state.

HOST RYAN: So how do I get rid of the warrant?

MS. HOUGHTON: That's a great question. The first thing you want to do is when you find, if you know that you have an outstanding warrant, the best and the first thing to do is to contact the Court where the warrant is pending so that you can get some instructions on what's the best way to resolve it or remove it.

In most cases, Courts remove defaults and recall warrants during their normal business hours which are generally 8:30 to 4:30 Monday through Friday except on holidays.

When you appear at the Court, I think the best prob...best time to go to the Court is earlier in the day.

There's a process that you have to go through when you are requesting the recall of a warrant, and if you arrive later on in the day, there may not be enough time to get that process started.

To get the process started, you start by going to the Clerk Magistrate's office. You identify yourself, tell them that you have an outstanding warrant and you're there to clear it up.

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The Court staff will then retrieve your case and start prepping it to bring you into the courtroom.

As part of that process, you may be referred to the Probation Department for, also to gather some other information so that the Judge has all the information he or she will need in order to make a decision about the removal of your default and recall of your warrant.

In some cases, you may be referred to the Jury Commissioner's office to reschedule your jury duty or submit your proof of disqualification.

HOST RYAN: Now, your office also deals with employer/employee juror issues such as juror compensation. What, could you explain what you do in that role?

Title Card: JURY DUTY, Kara Houghton, Legal Counsel, Office of the Jury Commissioner

MS. HOUGHTON: Sure. In addition to the delinquent juror prosecution program, the legal department at the Office of Jury Commissioner provides information to employers about their obligations to their employees while they are performing their juror service.

We also assist jurors who may have issues with their employers related to their juror service. Perhaps the employer didn't pay them for their juror service, or maybe the employer deprived them of a benefit while they were doing their jury duty, or rearranged their schedule, or, or something like that, or took, took some negative action, or in the worst case scenario terminated them.

So we assist people with those, in those matters.

Title Card: JURY DUTY, Michael Ryan, Host

HOST RYAN: Could your, could the employers face legal consequences if they failed to compensate a juror employee or, as you say, fire them because of jury duty?

MS. HOUGHTON: Yes. Absolutely. Failing to pay your employee for juror service or terminating your employee or taking some, any sort of negative action against your

employee while they are performing juror service is a criminal offense in Massachusetts. And you, if you're convicted of it, you could be fined up to 5,000 dollars.

There's also some civil liability as well for the employer. The employee has a right to file a civil action or a lawsuit against the employer.

Sorry. The employee has the right to do that in the Superior Court. And if, if the employee is successful, the, the Court in, may award damages and attorney's fees for the employee.

HOST RYAN: Have you served jury duty yourself?

MS. HOUGHTON: I have.

HOST RYAN: So lawyer, lawyers can do jury duty?

MS. HOUGHTON: Yes. Lawyers can do jury duty, Judges, Police Officers, doctors, nurses. As I said, there's no disqualification nor exemption based upon your, your occupation.

HOST RYAN: So I guess the best way to clear up that, to get into any kind of trouble is, the best thing is to always respond to every jury summons, correct?

MS. HOUGHTON: That is correct. The best thing to do is to respond to your juror summons, and if you have any issues regarding, you know, or questions regarding your qualifications, always contact the Jury Commissioner's Office. We can certainly assist you in, in resolving that, you know, really at any time.

It's best to sort of address these issues earlier on, you know, after you've received the summons than later on during the, the delinquency process.

But in any event, if you are in the delinquency process, there are very, or a number of options that you have available to you to resolve this matter before we get to those stages that we talked about of criminal complaints, and warrants, and, and what not.

HOST RYAN: And simply, most people are done in one day, correct?

MS. HOUGHTON: That's correct.

HOST RYAN: So it's not as, quite a, versus the old 30 day system. Most people are finished in one day.

MS. HOUGHTON: That's correct. Most people wrap up their service in one day.

HOST RYAN: So the best way to avoid delinquency is to respond to every jury summons?

MS. HOUGHTON: That's the best way. That's actually the goal of the Delinquent Juror Prosecution Program is to get people to respond to their juror summons.

HOST RYAN: And by that, you, hopefully more people come to jury and fewer people avoid delinquency.

MS. HOUGHTON: That's correct.

HOST RYAN: Well, we've run out of time. I'd like to thank you for joining us at home for Jury Duty: You Make a Difference on BNN.

Just remember, if you have any questions regarding your juror delinquency, you can always call the Office of Jury Commissioner at.

MS. HOUGHTON: 1-800-THE-JURY.

HOST RYAN: And also 1-877-9-NO-SHOW. And we're also online at MAJury.gov.

Please, you do make a difference. Please serve when called. It's important to all of us.

Thank you at home.

And thank you, Kara.

MS. HOUGHTON: Thank you very much.

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