

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

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

SEASON 01 – EPISODE 08

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 Assistant District Attorney Paul M. Treseler

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 should answer all your questions about the one day, one trial jury system.

Title Card: JURY DUTY, Michael Ryan, Host

Our guest today is Assistant District Attorney Paul Treseler.

Welcome, Paul.

MR. TRESELER: Well, thank you, thank you. Good to be here.

HOST RYAN: Thanks for being on the show.

Paul is a graduate of Ohio Wesleyan University.

MR. TRESELER: I am.

HOST RYAN: And received his Juris Doctorate from Boston College Law School. And for the past 20 years has worked in the Suffolk County District Attorney Office. You've worked on a, multiple kind of cases. You've done appeals. You've worked in the District Court. You've captained a major unit in your office. And currently, you're working on the DPH lab scandal.

MR. TRESELER: That, that's correct.

You did miss one thing.

HOST RYAN: I'm sorry. What did I miss?

MR. TRESELER: Boston Latin School.

HOST RYAN: Sorry. You got to get Latin School in there. Okay. Very good.

MR. TRESELER: We have to do it.

HOST RYAN: Kudos to the oldest school in the United States. So today, we'd like to talk about Grand Jury, and Paul has a lot of experience working with Grand Juries.

What does a Grand Jury do?

Title Card: JURY DUTY, Paul M. Treseler, Assistant District Attorney, Suffolk County District Attorney's Office.

MR. TRESELER: Well, by statute, and it's both Constitutional and by the Mass Declaration of Rights, anyone is charged with a capital offense, and capital offenses date back to the days of the death penalty, as well as any other serious crimes must be indicted.

So it's constitutionally bound that we have a Grand Jury process.

The difference between a regular person who's charged, for example, with a motor vehicle violation or shoplifting or what we consider minor offenses, those people go off to District

Court, and they're treated, their, their cases are treated in District Court by District Court Judges and by District Court Assistant District Attorneys, and never see a Grand Jury.

They would see a petite jury if they went to trial.

On the more serious cases, it's a two-step process. Those defendants have the right and the privilege to two juries.

The first jury is the Grand Jury, and they either decide to indict or not indict.

If in fact they are indicted, then they would go to the trial stage where they would have another jury, a petite jury, who would determine their guilt or innocence.

The Grand Jury is a huge protection for both defendants as well as a huge aid to the prosecutors, the District Attorney's Office, in investigating serious crimes like murder, like rape, like big fraud cases, intellectual property type thefts.

So they are both a tool and a protection all, all at the same time.

I can go into exactly how the Grand Jury works if you'd like.

HOST RYAN: Yeah. We, sure. But, so basically a major felony would, would go to a Grand Jury?

MR. TRESELER: Anything that goes to Superior Court. So if a case makes its way to Superior Court, it's in Superior Court because there was an indictment. The Grand Jury looked at the case, determined that there was, one, probable cause that the crime was committed, that there was a crime; and two, that the person who's been named, it's probable cause that that person is the person who committed that crime.

So that's what they look at. That's what it takes to be indicted. That's what it takes to be in Suffolk Superior Court as a defendant.

HOST RYAN: Now, how do you select a Grand Jury?

MR. TRESELER: Well, it's the Jury Commissioner who selects the Grand Jury.

HOST RYAN: Yes. But, when they come to Court, how are they selected?

MR. TRESELER: They are selected, they are taken into a courtroom. Linda Poulos, a woman who has been in our office for longer than I have and as, as you said, I've been there 20 years. She has been longer.

She runs the District Attorney's section for the Grand Jury, meaning that she handles all the indictments, she assists in the selection.

It's the Court. It's a Superior Court Judge who actually does the selection process.

But as we were speaking about it off air, it's a huge commitment from citizens. It, it's a great commitment, a lot of fulfillment. I've never met a Grand Juror who wasn't happy they had served, who didn't feel like they knew their city more at the end of their sitting than they did before they commenced the sitting.

But it is a big, big time commitment.

Suffolk County is the only county in the Commonwealth that actually has two Grand Juries up and running.

In 2006, we were hitting a little bit of a spike of a, the crime wave in Boston. We had a backlog on cases. The Trial Courts were getting backed up. And we petitioned the legislature in the Attorney General's Office for a second Grand Jury. We call them a Special Grand Jury. The same powers, but they were specially enacted by the legislature to give us a second.

And the way it works is the regular Grand Jury sits for a three month period and they sit four days a week.

The special sits for four months and they sit three days a week.

So they're there at the same time, they're hearing different cases, and they're both quite busy. But we actually have two up and running at, at all times since 2006.

HOST RYAN: When does each, when does your regular Grand Jury start?

MR. TRESELER: Well, they're staggered. So one's on a three month schedule, one's on a fourth month schedule.

HOST RYAN: Right.

MR. TRESELER: And we have them staggered, so we always have a Grand Jury sitting.

HOST RYAN: Like what's the opening day for the regular Grand Jury?

MR. TRESELER: The, the opening day is, you know, at the end of the three month period. But it, it may not be three months from that day, the closing day, because though they are picked to serve for three months, and, and I'll use as a hypothetical, there's a big murder investigation ongoing, and they have heard a month's worth of testimony but it's at the end of their sitting, we may ask that Grand Jury, are you willing to come back, are you willing to come back and sit every Friday for the next six weeks, or once a month for the next six months and come back and continue this one case. It's very important. It was time consuming. And by and large, the jurors want to fulfill their duty. And we have had great cooperation.

The jury is bigger than the average juror, so most people watching who have served on jury duty or watched television think of a jury sitting there in a box and there's twelve of them.

There are 23 Grand Jurors and it takes 13 to be a quorum, and it takes 12 to vote out any case, and not because, it, and every case that goes to them necessarily doesn't end in indictment.

That Grand Jury has the power to what we call no bill a case.

So we may go in there, and we think there's a crime committed, and they are, they investigate it. Witnesses are brought before that Grand Jury. And at the end of that case, they may say, you know what, there's no crime, or if there is a crime, we don't know for certainty who committed it.

The Grand Jury takes cases, you know, some cases make their way through the system. Say Paul Treseler gets arrested for whatever, and he's charged in District Court, and the Superior Court ADA decides to take it to the Grand Jury and seek an indictment. And once it's indicted, now the case is in two spots. We dismiss the District Court case, and now there's the Superior Court case.

So that case came in through a long process and saw lots of hands.

Other cases, a violent crime is committed. It's a John Doe. We're not certain who committed the crime, but we're pretty certain a crime was committed.

That may go directly to the Grand Jury, and then under those circumstances, that Grand Jury becomes an investigatory body. You hear from witnesses, and they say we'd like to hear from more, and you bring in more witnesses, and you subpoena phone records, and then you subpoena some computer records, and the case is built actually in the Grand Jury.

There was no case down in the District Court where this came from. This case began and ended in the Grand Jury and ends with either a vote of a true bill which is indictment, or a no bill and the case is over.

HOST RYAN: So that requires just a simple majority for either the true bill or the no bill?

Title Card: JURY DUTY, Paul M. Treseler, Assistant District Attorney, Suffolk County District Attorney's Office

MR. TRESELER: 12, correct, which is different from the petite jury, because as you well know, once you face the trial stage and you have a jury in the box at trial, it has to be unanimous.

The jury and the Grand Jury is just determining probable cause. And that takes a clear majority, 12 votes.

HOST RYAN: On the first day when they're putting a Grand Jury together and you mentioned the significant time commitment in Suffolk County, do the potential grand jurors have an opportunity to speak with the Judge if they feel there's a hardship in serving?

MR. TRESELER: They do. They do. They come in. The room is filled, as anybody who has served jury duty knows. The room is filled, and they're brought in and they're seen to the Judge. And the Judge will instruct them.

And the Judge, and what often happens is a lot of people want to serve. It's, it's amazing how many people want to serve.

And, and, and people will go home that night and talk to their significant other or talk to their childcare or talk to their schools and realize that though at the time in, in the courtroom at that moment, they wanted to serve and they could serve, they realized they can't. And in which case, they go back to the Judge, explain to the Judge what's transpired, and the Judge makes the decision on whether or not they'll be excused or not.

You know, you don't try to put people in a position where they'll lose their job or, you know, their children will be displaced, or a significant other or a sick parent is now left without, without care.

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The Court is very, very good about that. You need people who are committed to serving this out.

Title Card: JURY DUTY, Michael Ryan, Host

HOST RYAN: So that even if I'm not picked or the Judge excuses me on that first day, then I have fulfilled my Grand Jury obligation?

MR. TRESELER: You have. You were there. You weren't selected. It's like any other jury. You get to go home, and we'll see you in three years.

HOST RYAN: Where does the Grand Jury meet? What courthouse?

MR. TRESELER: They are in Suffolk Superior Courthouse. They're at two courtrooms. I, I am not really sure I want to talk about the floor or where they're located.

HOST RYAN: Yeah. That's fine. But that's...

MR. TRESELER: But, they have, they both have, they both have a nice set up. They both have rooms in Suffolk Superior. There is even an ante-room where there's a microwave, and, I mean they spend a lot of hours in that courthouse. They're almost as if they're an employee of the courthouse at that point. They're spending hours and hours every week handling very, very serious matters.

HOST RYAN: Why is the Grand Jury secret?

MR. TRESELER: Why is it secret? It's secret for a lot of reasons. It's secret to protect potential defendants who haven't been named, who may never be named, and it would be not right and unfair to disclose their names and drag them potentially through the media or, or the public when in fact they have not even been charged yet.

It's there to, the secrecy is there to protect the witnesses who come before that Grand Jury.

In the City of Boston, and, and if you've read the papers, I mean there is a witness intimidation issue in the City of Boston in which DA Dan Conley is addressing head on.

We like to be able to tell the witnesses no one knows you're here, we don't speak about it.

If, if someone knows you're here, it's because you told them, not us.

And it's also there to protect the jurors. The jurors know it's secret.

I mean some of these jurors are sitting on cases where all you have to do is read the newspaper for the last three months and these Grand Jurors are handling the testimony, hearing the testimony from, you know, from the most publicized to less publicized but just as important, drastic or violent crimes.

So it protects all sorts of interests.

Certainly, it goes public and, and when we say they're secret proceedings, they are secret except they're all recorded. There is a record of every word spoken in the Grand Jury. There is a system that records the words being spoken by the DA, the questions, the witnesses, the Grand Jurors' questions, and all of that is transcribed.

And if there is a criminal case, if a criminal case culminates from that Grand Jury process, the defense attorneys are provided the entire transcript.

So it's secret, but it's also turned over, as it should be, on every case.

HOST RYAN: Now, when people, if they're put on a Grand Jury, are the proceedings similar to what they would see in a regular trial, say in Superior Court? In other words, do they follow the same, you know, witnesses get questioned, or is it slightly different?

Title Card: JURY DUTY, Paul M. Treseler, Assistant District Attorney, Suffolk County District Attorney's Office

MR. TRESELER: It's slightly different, and it's, it's different in a good way. It's different, it's, it's much more interactive.

Again, all the jurors are there to determine is, is there probable cause that a crime was committed, and do we have a person who committed that crime, is there probable cause of that?

So though the DA is the lead, the Assistant District Attorney who's in there with the grand jurors is the lead, they're calling the witnesses, asking the questions, and then it's opened up to the Grand Jury, and the grand jurors ask questions.

HOST RYAN: Really?

MR. TRESELER: Oh, Absolutely. Absolutely. I can't think of a case that I've been before the Grand Jury in the last ten years where the grand jurors didn't hop in and start asking questions.

HOST RYAN: Really?

MR. TRESELER: And it is their right, and we tell them it's their right.

HOST RYAN: So in other words, the, the Assistant District Attorney asks his or her questions, and then they open it up to the Grand Jury?

MR. TRESELER: They open it up to the Grand Jury, and you have 23 people if it's, you have a full house that day who may all decide to chirp in and ask questions.

Now, again, if the question, if the question isn't relevant or it's going in a direction it shouldn't go in, it's all on the record, so there's a transcript of it.

You know, on occasion the Assistant District Attorney may have to head off an avenue that a juror might be going down.

But by and large, the jurors' questions are good questions.

HOST RYAN: Have you worked yourself with the regular Grand Jury and the special?

MR. TRESELER: Yes. I, I've worked with both, and, you know, we call one special, and we call one the regular basically just to keep track of where they sit, and what they're doing.

HOST RYAN: Sure.

MR. TRESELER: Their mission is the exact same mission. Their cases, a case is determined does it go to the special, does it go to the regular, based upon how many days it's going to take to get the case before the Grand Jury, who's sitting on what day.

There really is no distinguishment other than it, it was special legislation from the legislature who provided the funding to have a second Grand Jury in Suffolk.

HOST RYAN: Did you have any preference yourself of, as a prosecutor during grand versus regular trial jury?

MR. TRESELER: You know what, if you're doing one, you're doing the other.

HOST RYAN: Okay.

MR. TRESELER: If you're doing one, you're doing the other.

By and large in Suffolk County with the District Attorney's Office under Dan Conley, if you're indicting that case, you're trying that case.

So more, you know what, you may hit all three levels because you may have the case in District Court if it's a homicide and arraign it in the District Court, indict it in the Suffolk Grand Jury, and then try the case before a Suffolk petite jury.

So we are, we do not have an office in, in, it was old school and some offices did do this for a while, is they had specific prosecutors that presented to the Grand Jury, and once the case was indicted, handed it off to other prosecutors who tried it.

No. The preparation for these cases begins before you hit the Grand Jury. You're, you're, you're preparing for what's down the road, and by and large, our, our prosecutors who present to the Grand Jury also present to the jury at trial.

Title Card: JURY DUTY, Michael Ryan, Host

HOST RYAN: So versus trial jurors, if they're picked on a trial, they sort of work under the auspices of the trial Judge, whereas as a Grand Jury is sort of working for the District Attorney?

MR. TRESELER: They don't work for the District Attorney. They work with the District Attorney. We are providing them with witnesses. If they want witnesses, we provide them. The Grand Jury has the, has the power, and they often do, they will order phone records, they will order computer records.

If there's any issue at any point in the proceedings over the three months or four months, whichever the case may be, we take them right to the Judge.

You know, they know the Judge is there, the Judge is available. Any issues, let's go see the Judge.

And most of those, when it does happen, is scheduling, you know. Someone has a doctor's appointment. There's a surgery scheduled. And we go see the Judge.

HOST RYAN: Any advice for first time grand jurors?

Title Card: JURY DUTY, Paul M. Treseler, Assistant District Attorney, Suffolk County District Attorney's Office

MR. TRESELER: You know what, jury duty's a very special thing. I, I was, I was honored and lucky enough approximately three years ago to sit on a petite jury on a civil matter in Suffolk Superior Court, and I sat for three weeks, and we deliberated for a week. And it was a very, very fulfilling experience.

It was an honor. We had a great Judge, and I, I believe the Judge is going to be on your show, Judge Lauriat.

And I don't know how I got selected, but I was selected.

HOST RYAN: You weren't challenged.

MR. TRESELER: I was not challenged, and it was an honor and a privilege to serve.

HOST RYAN: Was that the first time you sat on a jury?

MR. TRESELER: I get called every, every three years, like clockwork, I am called. And usually someone looks at my little application and they see that I've been a prosecutor since 1995, and some attorney says go home, and the Judge says yeah, you can go home, and I get sent home.

And I, I was very, very happy to be, you know, to be able to be a part of the process, to see a different part.

HOST RYAN: Yeah. Would, did it give you a different perspective whereas your, your, as a prosecutor, now you're a member of the jury?

MR. TRESELER: I will say this, I was treated a lot nicer as a juror than I sometimes am as a prosecutor.

No, the system bends over backwards. It, it really does for the jurors who come to Suffolk Superior Court.

And the facilities aren't the most wonderful in the world, and they're dated, and we're in a courtroom up on the 13th floor which was the old SJC, and the hearing was tough, and the chairs weren't the most comfortable in the world, and you, you laugh but you're sitting in that chair for seven hours a day, and you're not a, you really don't speak.

And it's not an easy thing to do. It really isn't. The, a lot of effort goes in. If you're a good juror, and I ask anybody watching if they're selected, please be a good juror, and you're listening and you're paying attention, and it's work. It is work.

But it's important work. It's important work. I mean it's, it's the foundation of how we, how we survive on this earth and in this country.

HOST RYAN: So no special qualifications for being a Grand Juror, but as you said,

MR. TRESELER: It's the day you got that selection from the Jury Commissioner saying come on in and visit us, and if it's the one day in the three month or four month period that the Grand Jury's being selected, you're being selected, or potentially being selected.

HOST RYAN: Have you, people, you mentioned earlier that a lot of people enjoyed being on the Grand Jury. Were there some people who might have been somewhat cynical or maybe not too happy being on the Grand Jury, but once they served, they had a different perspective?

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MR. TRESELER: Absolutely. And, and I've had the, I've had the ability to speak with many grand jurors after they've, their service was over about the experience, not about cases, but about their experience.

And I don't think I've ever talked to one who was disappointed that they had served.

The most frequent comment I got is, and, and some of them were like people like me. I've lived in the city for 50 years, and, you know, it, long term people who had lived in the city who said I've, I didn't know the city as well as I thought I did. Now, I know every neighborhood. I know what's going on in the neighborhoods.

Not all of it's good, but we're trying to make it better. We're trying to make it better.

And, and by and large, they, they enjoy the service.

HOST RYAN: So they really enjoyed their time as, as a grand juror?

MR. TRESELER: Absolutely.

HOST RYAN: Any,

MR. TRESELER: Absolutely.

HOST RYAN: Any anecdotes or you can't share any anecdotes,

MR. TRESELER: You know what,

HOST RYAN: About Grand Jury?

MR. TRESELER: I'm hesitant to do so.

HOST RYAN: Okay.

Title Card: JURY DUTY, Paul M. Treseler, Assistant District Attorney, Suffolk County District Attorney's Office

MR. TRESELER: As we talked about. You know, I'm, the secrecy really is important. It allows them to do their job, you know, and, and it protects everybody's rights. It's not just the rights of the, of the prosecution or the rights of, of, of the jurors. It's the rights of the defendants as well.

HOST RYAN: Now, we believe the first Grand Jury occurred in Plymouth Colony in 1630. How important a role do grand jurors play in today's society?

MR. TRESELER: They play a huge role. You know that there's high profile homicides going on in the City of Boston. They're going on all over the state.

There are rape cases. There are bank robbery cases. There are big drug cases and, and gun trafficking cases.

All of those cases went through the Grand Jury process. Without that Grand Jury, we wouldn't have indictments. Without indictments, those cases wouldn't be in Suffolk Superior or the, or the other Superior Courts of the Commonwealth.

They play a huge role in making sure that we get this right, a very, very important role.

HOST RYAN: You think by serving on a Grand Jury would give the average person a better appreciation of what a Grand Jury does?

MR. TRESELER: Oh, absolutely. If, if given, if given the opportunity, I, I implore your viewers, serve. You will not regret it. Serve.

It is fulfilling. You'll get to know some of the police. You'll get to understand some of the drug issues that are going on in the city. You'll understand some of the crime issues going on in the city, and I think you'll have a new found faith in the whole judicial system at large that, you know what, most of the time, we do get this right, and that's because we have a Grand Jury.

Title Card: JURY DUTY, Michael Ryan, Host

HOST RYAN: Well, you've heard it here first.

We've run out of time, but thank you for being, watching Jury Duty: You Make a Difference on BNN.

Just remember, if you have any questions about your trial jury or your Grand Jury, you can always call the Office of The Jury Commissioner at 1-800-THE-JURY, 1-800-843-5879.

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

Thank you, Paul.

MR. TRESELER: Thank you, sir.

HOST RYAN: And thank you at home.

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