

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

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

SEASON 01 – EPISODE 09

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 U.S. District Court Judge William G. Young and U.S. District Court Jury Administrator Jim Mclear

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, hopefully the show that will answer all your questions about the one day, one trial jury system.

Our guests today are Judge William G. Young from the Federal Court and Jim Mclear, the Federal Jury Administrator.

Welcome, Judge.

JUDGE YOUNG: Thank you.

HOST RYAN: Welcome, Jim.

MR. MCALEAR: Thank you, Michael.

HOST RYAN: Thank you for being on the show.

Judge Young is a graduate of Harvard College and of Harvard Law School, served as an Officer in the United States Army, began his legal career at Dana, Bingham, and Gould and went on to become Special Assistant Attorney General and Chief Counsel for the former governor, Francis Sargeant.

You were appointed to the Superior Court bench in 1977, and then later appointed to the United States bench in 1985, and have served there since.

And you have taught courses on evidence and trial advocacy at several law schools and have written extensively on the law, several books.

And Jim Mclear has worked for the Federal Courts for the past 17 and a half years, the last 15 as the Federal Jury Administrator, and before that, he worked for the Office of Jury Commissioner.

So today, we'd like to talk about jury duty at the Federal Court and, in Boston.

And Jim, let's start with you. How long is federal jury duty?

Title Page: JURY DUTY, James Mclear, Jury Administrator, United States District Court of Massachusetts

MR. MCALEAR: Federal jury duty is three weeks long. Jurors are on call. They call in the night before they're required to report, and they're told whether or not to come in. If they have to come in, it turns into something like the State Court which is a one day, one trial. Jurors are either selected that day and will have to serve the duration of that trial, or they're excused from any further service.

Those jurors that are not required to come in, they call back the following Friday to see if they have to report the Monday after that, and that process repeats for three weeks.

HOST RYAN: So they're on call sort of for three, for three weeks?

MR. MCALEAR: That's correct.

HOST RYAN: And people in Boston, do they go, is it just people in the Boston area who go to the Federal Courthouse in South Boston?

MR. MCALEAR: No. We actually cover a very broad area, much broader than our counterparts over at the State Court.

The Federal Court in Boston covers all of eastern Massachusetts from the border of New Hampshire all the way down to Martha's Vineyard and Nantucket. So it's everything east of Worcester County.

We have two other Courts that handle federal jury duty. One is in Worcester which covers all of Worcester County, and the other is in Springfield which covers the western part of the state.

HOST RYAN: So if I live in the Cape, I have to come to Boston. If I live up near New Hampshire, I have to come to Boston.

MR. MCALEAR: Yes, you do.

HOST RYAN: Any travel tips?

MR. MCALEAR: Leave early, give yourself extra time, don't, don't think you can just hop on the highway and get right in.

Those jurors that are coming over on the T that live in the Boston area, just give yourself a little extra time as the, the travel conditions are always changing over in the ever changing South Boston area.

HOST RYAN: What, what time is check in for the jurors?

MR. MCALEAR: Check in begins at 8 o'clock. We request everybody to be there by 8:30.

HOST RYAN: Okay, your Honor. You've worked in the State Courts and in the Federal Courts. Is there any difference in the jury trials between state and federal?

Title Page: JURY DUTY, William G. Young, District Judge, United States District Court

JUDGE YOUNG: Well, there's differences in the jurisdiction of the Courts, but really a trial is a very basic American experience. And the actual trial that the jury experiences is not going to be much different at all.

We, in all so-called criminal cases, just like the State Courts, require unanimous verdicts on proof beyond a reasonable doubt.

One difference in the State Court in a civil case, a verdict can be received with ten out of twelve agreeing, but in the Federal Courts, it has to be the traditional unanimous verdict.

HOST RYAN: Unanimous on a civil?

JUDGE YOUNG: On a civil, yes.

HOST RYAN: So what kind of cases would a juror possibly sit on at the US District Court?

JUDGE YOUNG: Our jurisdiction is as broad as Congress will permit. We are the basic Trial Court of the federal system.

So our docket on the criminal side deals with alleged violations of any federal criminal statute.

Interestingly, the Commonwealth, the, our Commonwealth of Massachusetts has extensive criminal code dealing with drug violations. So does the Federal Court, and they, and they tend to overlap.

So criminal, there are alleged drug offenses. We specifically have immigration offenses that you wouldn't have in the State Courts, and we have various federal securities law violations.

Now, on the civil side, we have those civil claims that Congress has empowered the Courts to deal with, so we have a broad array of Civil Rights violations. But of course so does the State Court because we have very powerful antidiscrimination laws that are violations of state law.

Some of the unique things that a juror might run across if you sit in Federal Court are patent cases. We're the only ones who deal with patent and trademark cases.

But it, it's like two intersecting circles. The State Courts have some cases that we do not, an arson case, for example, a burglary case. That, that wouldn't involve federal issues. And we have some that the states do not like patent cases.

But most involve the same types of dispute, commercial disputes on the civil side. Civil rights is the largest part of our docket on the civil side.

HOST RYAN: Jim, is there a typical length that a trial would be in, in the Federal Court? Is that too hard to,

MR. MCALEAR: It's very hard to answer as there's so many varying factors depending on what the case is about, what the hours the Judge will sit. Typically we have, quite a few of our Judges sit on jury trials between the hours of 9 and 1 and do other Court business after the jurors leave.

And some Judges sit between the hours of 10 and 4 or 9 and 4.

We, we like to say that civil trials usually are, tend to be four to seven days. That doesn't mean we don't have our fair share of one and two day trials. It doesn't also mean we have our fair share of six and eight week trials.

About four to seven days is I, I guess the basic number that we do use, but it can vary very much.

HOST RYAN: But if you're not selected on the day you report, then your service is completed?

MR. MCALEAR: Most of the time.

HOST RYAN: Most of the time.

MR. MCALEAR: In, in, in the event where we have an, an extremely busy three week period, we may call jurors back. It, it is possible, but we try not to do that. We try to stick to the one day, one trial.

HOST RYAN: Your Honor, and what's the longest jury trial that you've presided over?

JUDGE YOUNG: The longest, and I believe it's the longest in the history of the Court, was eleven months, and we sat in Springfield. *United States versus Levasseur*. And we started with eighteen jurors. Twelve would deliberate. And we had six alternates, the maximum number of alternates.

At the end of the trial, we still had eighteen jurors.

In those days, we used to sequester them, and we did sequester them in this case, and we sequestered them over Thanksgiving.

At the end of 22 days of deliberation, they acquitted on one count, and it was a perfectly valid jury verdict, and then they hung on the other count. But the government did not want to try the case again. Most of the people who had been indicted were already in prison.

That was the longest case.

HOST RYAN: What is the Judge's role in a jury trial?

Title Card: JURY DUTY, William G. Young, District Judge, United States District Court

JUDGE YOUNG: The Judge in a jury trial is a teacher. The Judge is the teacher of the law. That, that's the basic role of the Trial Judge, is fairly and impartially to teach the law to the jurors.

The Judge does not decide, does not comment on the evidence, on the data on which the jury will decide the case because it is the jurors, under our constitutional system, they are judges too. They're the judges of the facts. And how they unanimously come to view the facts, that settles the matter.

No Judge at whatever level it, can review a jury verdict and say, no, they got it wrong. That, that's committed directly to the people under our United States Constitution.

But what the Judge does is teach the law. It, it teaches this is what, in a criminal case, this is what the government has to prove. They've made this charge. They have to prove the charge beyond a reasonable doubt.

And in a civil case, you, you'll usually say the plaintiff, the person who has brought the lawsuit, and we try to use the actual name of the person. We say Mr. Smith, he's got to prove certain things. Now, here's what he's got to prove.

But it's a fair preponderance of the evidence.

And when I'm doing it, I actually extend my arms, and I try to gesture to them, fair preponderance of the evidence means more likely to be true than not true. It's not beyond a reasonable doubt.

And anything we can do properly to teach the jury, that's what ensures justice and makes sure that every, that the law is the same throughout all the cases.

Judges teach it.

The evidence is different in every case, and that is for the jury.

HOST RYAN: Are some cases too complex for jurors?

JUDGE YOUNG: In, well, you'll understand I'm biased.

HOST RYAN: Okay.

JUDGE YOUNG: Emphatically no.

HOST RYAN: Okay.

JUDGE YOUNG: The jury system in the United States works. It's the most robust system of direct democracy that any country in the history of the world has ever used.

I, de Tocqueville speaks of this stunning experiment in direct democracy.

Those, and there are some. Some academics argue that some of these patent cases, some of these complex, long cases are too complex for the average person to understand.

I think they have it dead wrong. The juror is direct democracy. It's the people. It's the people ruling directly. And it's up to the lawyers and the Judge.

It's up to the lawyers to explain, to teach through witnesses this aspect of human endeavor, and it's up to the Judge to make understandable the laws that Congress has passed.

That, that's the genius of our system. We're all part of it. We all have the right to know what the law is.

In fact, that's one of the juror's rights to have the law explained to the jury absolutely accurately, and it's from that right that we have judicial independence of all the Courts below the Supreme Court.

Why, why do we say that a Judge can declare an act of Congress unconstitutional? Who, who left it up to her? No one elected her. Why can she do that?

There's only one reason. The reason is she has to teach the jury how the law actually works. You couldn't have a jury system if everything had to be referred to the Supreme Court in Washington and say I'm not sure whether this is constitutional, why don't you tell me. And then once you've told me, we'll go on.

It, the jury is the life's blood of our system. It, it is the concept of justice here in the United States.

So, yes, you've touched a nerve there. Jurors can handle every case, and it is the obligation of Judges and lawyers to make sure they understand it.

Title Card: JURY DUTY, Michael Ryan, Host

HOST RYAN: Jim, what about when people come to Court at the Moakley Courthouse, can you describe what typically may happen during the course of their jury day?

Title Card: JURY DUTY, James Mclear, Jury Administrator, United States District Court of Massachusetts

MR. MCALEAR: As in most jury trials or jury duty around the state, or I'm sure around the country, a lot of waiting is involved.

HOST RYAN: Any tips about first time jurors coming to the Federal Court?

MR. MCALEAR: Bring a book.

HOST RYAN: Bring a book. What about dress?

MR. MCALEAR: We have a relaxed dress code at the Federal Court. We, we request that people dress respectful because it is a courthouse. But we have no official dress code.

We do ask jurors to come in at 8AM as I said earlier, and we try to start right on, right on time.

We try to start right around 8:30 to 8:45, start with an orientation video, try to get everybody to relax a little bit, and get ready to perform their civic duty.

When we bring jurors in, we're generally ready to go to trial. State Court, I find that when I go to the State Court it seems that there, they have a lot more trials, and they may bring in a panel for a number of trials that are going to start that day and throughout the day they'll start bringing jurors up to the various courtrooms.

We bring in jurors, the number that we bring in are ready to go to Court. So once the Judge calls down and says we're ready, we have that jury upstairs hopefully by 9:30 is when the jurors are usually delivered to the courtroom.

And it's a lot of, it's a lot of hustle once jurors get going. We try to keep them moving as quickly as we can because we're trying to minimize the amount of time that a juror is there. And we try to make sure that they have hopefully received a satisfactory experience at the Federal Court.

Title Page: JURY DUTY, William G. Young, District Judge, United States District Court

JUDGE YOUNG: I, I want to jump in here.

HOST RYAN: Sure. Go ahead, Judge.

JUDGE YOUNG: A little bit.

There is waiting, and waiting primarily for jurors is on the first day. Mondays is when we usually impanel. And it's necessary because we have to sort out this larger group of people and get them into the different courtrooms of the Judges who are commencing trials on that day.

So Jim is absolutely right though. He and his team try very hard to keep that to a minimum.

Once a Judge calls for jurors, he'll do anything he can to get the requisite number of jurors into the courtroom.

Now, once they've been picked, the normal day, if I have my way, is we start right at 9 o'clock, and I want all the jurors to be there, but if the jurors are there, and jurors will respond to this, then everything's ready to go. If they know that 12 jurors are going to walk out and walk into the jury box, then the witnesses are ready and the like.

The way I work it is, we, I do sit nine in the morning till one in the afternoon. I do all my other work in the afternoon. I take a break during the morning so the jurors aren't sitting there for four hours. We bring them refreshments, time for a cup of coffee, and then I stop right at the dot of one because people have work to go to or other obligations.

When they are deliberating, I say we want you for a full business day, nine to five, but it would be very rare to sit beyond five in the afternoon or to sit into a weekend.

Title Card: JURY DUTY, Michael Ryan, Host

HOST RYAN: Your Honor, do a lot of cases in the Federal Court settle just because of the presence of jurors being in the courthouse that day?

JUDGE YOUNG: Yes. Nothing so concentrates the mind as the prospect of an actual trial. And, and that is as it should be. There's nothing the matter with settling.

Settling gives the parties the chance to strike their own deal, and that's desirable. They can work it out. It may well be a compromise, but they can work it out.

If jurors are there, if the people are there, jury is the New England town meeting writ large.

They rapidly get the idea that they, these 12 people are going to decide it. And that appropriately causes settlement. And a juror who finds that the case on which they have been called had settled, should not feel bad. They have made an enormous contribution by being ready to resolve it.

HOST RYAN: Jim, how are jurors selected for Federal Court?

Title Page: JURY DUTY, James Mclear, Jury Administrator, United States District Court of Massachusetts

MR. MCALEAR: Same way the State Court is. We actually use the town and city residents list.

HOST RYAN: So not the voting list?

MR. MCALEAR: Not the voting list.

HOST RYAN: Okay.

MR. MCALEAR: No. And even though our video will tell the jurors because it's the same video that gets shown in Massachusetts, gets shown in California, and in Idaho, and some of those states still use a registered voter list, where we in Massachusetts use the town and city res...census list or, you know,

HOST RYAN: Sure.

MR. MCALEAR: Residence list is what it's commonly known as.

HOST RYAN: So,

JUDGE YOUNG: From your office, and we are very grateful for that cooperation.

That's, but for Alaska, and Alaska has a specific reason because they give a dividend check each year from their oil revenues.

But for Alaska, Massachusetts has the best, and I'm, I mean this, the Commonwealth, the state, has the best jury lists in the United States.

HOST RYAN: I'm going to write that down.

JUDGE YOUNG: Well, I'd tell anyone that.

HOST RYAN: That's very good.

JUDGE YOUNG: They're the best jury lists, and they're shared with us, and we make we choose at random coincident with the population because that's another juror right.

Everyone has a right equal with every other citizen to sit on a jury. As an affirmative thing, that's the citizen's right. One of their four major rights is to sit on the nation's juries.

So as Jim said, for instance, we had, eleven of us sit in Boston, one in Worcester, one in Springfield, the Judges.

Well, our Judge in Springfield, he, he took what's called senior status which meant he tried fewer cases.

Well, you could say, in a state our size that those people have to come to Boston. That, after all, is where the Judge is.

That's not how our Court worked it out. We said no, we Judges have to go to Springfield. The reason? If we make everyone come to Boston, what about the people who live in the four western counties? How are they going to get their right? And it is a right to serve to the nation's juries.

HOST RYAN: So people can be called for state jury duty and federal jury duty, and our office will accept one day of federal jury service. But for the federal, if you get both summonses, what would you say?

MR. MCALEAR: We would say we trump State Court jury service. And if you did request to be excused because you served State Court jury duty, you would have served, you would have to have served five days or more,

HOST RYAN: Five.

MR. MCALEAR: On a, on a trial within the last three years.

HOST RYAN: Okay. So it is possible some people have done federal and state jury duty say within a year?

MR. MCALEAR: Absolutely. Some have got summonsed for the same day but only have to serve federal jury duty if they get summonsed for the same day.

HOST RYAN: Are there any, Judge Young mentioned about bringing coffee. Are there any amenities for people who come to the Moakley Courthouse, the jury?

MR. MCALEAR: Yes. In the morning when jurors report, we have coffee, juice, and soda that's available for the jurors. And that's for jurors that come in in the morning.

And then as Judge said, if a juror is selected, we do have light refreshments for them at a morning break.

HOST RYAN: Do they have Wi-Fi?

MR. MCALEAR: Jurors are not allowed to bring in their cell phone or laptop into the Federal Court.

HOST RYAN: Okay. So the, there's no issues with social media from jurors and, at the federal level that you know of?

MR. MCALEAR: Not while they're sitting there, no.

HOST RYAN: Yeah.

MR. MCALEAR: But it is definitely a concern with the amount of social media that is, that is out there. It's definitely a concern for sitting jurors.

JUDGE YOUNG: That's now added into our instructions. We instruct them not to talk about the case and make a specific point of social media.

And, and the reason is an obvious reason. Once they are selected as a juror, they're a constitutional officer just like the Judge.

They're the only, they're one of twelve who are going to decide a particular case.

And once a case is over, they can say anything they want. But while it's going on, they are to focus on the evidence in that specific case and not talk to anyone, not because it's secret but because they have a special role.

I tell people if you go and tell people about the case you're on, they're going to tell you what they think about it. But they're not sworn. They weren't chosen. They don't have the responsibility.

And so we try to make that emphatic.

And my experience has been, Americans have an extraordinarily strong sense of duty. Jurors do their duty. There, there isn't run away jurors. Sympathy does not sway jurors. They pay attention to the evidence, and they make extraordinarily difficult choices, and they make them with common sense decency that is inspiring, and it's inspiring every single week.

HOST RYAN: Jim, can someone postpone their juror service?

MR. MCALEAR: We do give postponements on a case by case basis. It's not like the state where you can automatically receive a, a postponement.

We would request the juror submit in writing the reason why they need to be postponed.

We are liberal with our postponements. However, we do have to worry about the needs of the Court and make sure we have sufficient number of jurors to, to continue on with our business.

But we do do, we do give deferments again on a case by case basis.

HOST RYAN: Judge Young, you recently fined a juror for not showing up for jury duty and as your discussion already feel very strongly about jury duty. What kind of a role do jurors play in the Federal Court system?

Title Card: JURY DUTY, William G. Young, District Judge, United States District Court

JUDGE YOUNG: They're the life's blood of the system. The system emphatically could not operate without jurors.

Something I say in every case, civil or criminal. I was taught back when I was a State Judge, a Superior Court Justice, I was taught to go back and thank the jurors for their

service. Not ask them questions but thank them for their service, and I do that in every single case.

If, if the case settles while it's going on, I thank them.

So I always go back and I thank them. And one of the things I say, if you ever wonder what justice is in the United States, look around this room, and these of course are the other eleven people that they've just been deliberating with, and I say that's what justice is.

Title Page: JURY DUTY, James Mclear, Jury Administrator, United States District Court of Massachusetts

And that's right. That's what justice is. Those twelve people, and the twelve people we'll have in that follow them, and the twelve people that were in that room before they went in to sit down, that's what justice is.

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

Just remember, if you have any questions about your federal jury duty in Boston, you can call 617-748-9082 and also on the web at MAD.USCourts.Gov.

You do make a difference when you come to jury duty. Please serve when called for either state or federal jury duty. It's important to all of us.

Thank you, Judge Young.

JUDGE YOUNG: Thank you.

HOST RYAN: Thank you, Jim.

MR. MCALEAR: Thank you, Michael.

HOST RYAN: And thank you at home.

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