OFFICE OF THE JURY COMMISSIONER
FOR THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS JURY DUTY - YOU MAKE A DIFFERENCE
TRANSCRIPT

SEASON 01 – EPISODE 01

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 Jury Commissioner Pamela J. Wood, By the Massachusetts Judicial Branch

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

Title Card: JURY DUTY, Michael Ryan, Host

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

Our special guest today is Pamela Wood, Jury Commissioner for the Commonwealth.

Welcome, Pam.

COMMISSIONER WOOD: Thank you, Mike.

HOST RYAN: Thank you for being on the show.

Pam earned her degrees at Wellesley College, her Juris Doctorate at University of Pennsylvania, and she started her legal career at Bingham, Dana, and Gould, followed by being a litigation associate at Choate, Hall, Stewart for a couple years, moved on to become a senior attorney at the Federal Trade Commission for eleven years, followed by four years as general counsel and deputy director of the State Board of Registration and Medicine.

And Pamela's appointed the Jury Commissioner in 2003 by the Supreme Judicial Court.

Now, you've spent a lot of time in jury locations across the country.

Why is Massachusetts considered the national model for jury duty?

Title Card: JURY DUTY, Pamela J. Wood, Jury Commissioner, Office of the Jury Commissioner

COMMISSIONER WOOD: Well, Massachusetts, Mike, has played a special role in the American jury system from the very beginning, from before there was an America.

The pilgrims actually brought the trial by jury system with them to Plymouth when they landed in Plymouth, right here in Massachusetts.

The first jury trial in the nation was conducted at the Plymouth Plantation. It was a murder trial.

I have a colleague down in Virginia who feels confident that the first jury trial was probably held in Jamestown down in Virginia, but she hasn't been able to provide any specifics for me, so I'm sticking with the Plymouth Plantation story.

We were the first place in the country to impanel African Americans on a jury in 1860. Just before the Civil War, two barbers from Worcester, two African American barbers were impaneled on a jury out in Worcester.

We were the first state in the entire nation to have a statewide one day or one trial system, which at the time was considered very innovative. Now, it's pretty much the model, although not every jurisdiction follows the one day, one trial system, most do, and Massachusetts was the first to have that.

So Massachusetts has been on the forefront from the very beginning with respect to the American jury system.

HOST RYAN: What are some of the benefits of the one day, one trial jury system?

COMMISSIONER WOOD: Well, the one day, one trial jury system, the biggest benefit to the juror is convenience and speed.

Prior to the one day, one trial system going into effect, jurors were summonsed to serve for thirty days, and over the course of thirty days, they

might sit on four or five trials, and by the time they got to their third or fourth trial, they were very familiar with the process. They were perhaps a little fatigued, frustrated, maybe jaded, you know, about the process. And they might not have been the impartial, fresh, attentive, alert jurors that everybody hopes for when their case comes before the Court.

Under one day or one trial, you only service for one day or the duration of one trial if you're impaneled.

So if you go into jury service and you are sent to an empanelment and not picked, or if you're in District Court, you might actually be picked to sit on a jury but be finished in one day anyway, once you've finished that one day, you are done. You've met your obligation, and you're disqualified from serving on jury service for at least another three years, although most people go for longer than three years between summonses.

If you are impaneled on a jury, then you will sit for the duration of that trial. About ninety percent of people who appear for jury service are done in one day either because they're not impaneled on a case, or because they're impaneled on a one day trial.

Another maybe six percent are done in three days or fewer. And so ninety-six percent total will be done with their jury service in one to three days. And only four percent of the approximately 212,000 people who show up for jury duty every year will serve for four days or more.

HOST RYAN: So if I go to jury duty, I shouldn't fear that I might get on a long trial for the most part?

COMMISSIONER WOOD: The chances are very slim that you'll be on a long trial, and in Massachusetts, even a long trial in Massachusetts isn't what you may have seen or, on TV, or heard about of some of the really notorious trials, the OJ Simpson trial going to for months and months, things like that. Long trials in Massachusetts tend to be a matter of a week or a few weeks, rather than months and months.

HOST RYAN: Are there any exemptions from jury duty?

COMMISSIONER WOOD: There are no exemptions from jury service. Everybody is eligible.

Of course, there are ten disqualifications.

If you're not a citizen, you can't serve on a jury.

If you're under the age of eighteen, you can't serve on a jury.

There's on discretionary exemption, which is if you're over seventy years old, you can choose to be excluded from jury service. But if you want to serve, and many of our citizens over seventy do want to serve, then we're happy to have you.

I actually have a friend who is a very busy, overbooked, eighty plus year old person, and she got summoned for jury duty, and told me that she was going to exercise her exemption because she just didn't have the time to serve jury duty at that time. And then she was distressed to learn that we had taken her off the list permanently. Once you have exercised the exemption, we assume that you're not going to want to do it again, and she was very eager to be put back on the list, which we were happy to do although most people don't choose to do that.

HOST RYAN: So there is no exemptions? The jury commissioner does jury duty?

COMMISSIONER WOOD: The jury commissioner does jury duty. The jury commissioner has done jury duty.

I was impaneled on a criminal case in Malden District Court the last time I reported for jury service.

We've had Judges serve on juries. There's one Judge who's currently sitting who was impaneled on one of those lengthy, rare lengthy trials we were just talking about. Between the time he was appointed as a Judge and the time he actually took the bench, he was impaneled on a jury, and his, and him going on the bench was delayed by the fact that he was serving on a jury.

The theory is that there are many folks who may have difficulty performing jury service at one time or another, but most folks in all of the categories that previously were exempt are eligible to serve, are able to serve, and it doesn't make sense to exempt entire categories of people because then you really cut down on the diversity and representativeness of the jury.

So it used to be that there were all sorts of exemptions. Doctors were exempt. Judges were

exempt. Members of the legislature, parents of young children, train engineers were exempt. Members of the great and grand artillery, whoever they may be, were exempt.

And with the advent of one day, one trial, all of the exemptions were abolished.

You still have the opportunity to appear before a Judge and explain if there's a reason that it's difficult for you to serve or you have, also have an absolute right to postpone your service up to a full year from the date on which we originally summoned you.

So if you know, if you have a sick child at home or if you're at a particularly busy time at work, if you're an accountant and we summon you to appear in March or April when taxes are coming due, you can just go online on our website, which is MAJury.gov or you can call us at 1-800-THE-JURY, and you can just tell us what date you would like to come in up to a year from the date we summoned you.

TITLE CARD: JURY DUTY, For More Information Call, 1-800-THE-JURY, 1-800-843-5879

HOST RYAN: So you don't have to give a reason to postpone?

COMMISSIONER WOOD: No. You have an absolute right to postpone to the date of your choice for up to a year. We ask that you only postpone once, but if you really find yourself in a bind, if you've postponed and then you find yourself, you know, with a broken leg or something and having trouble getting around, you know, and need to postpone again, we'll try to accommodate you.

What we really want is for people to come in and do their service. We're not interested in chasing after people or making things difficult for people.

In fact, Massachusetts and the one day, one trial system was part of the Trial Court Reform back in the `80s, put a lot of effort into trying to make jury services as convenient and as, and to eliminate as much of the burden as possible.

So in Massachusetts, for example, your employer is responsible for paying you for the first three days of your jury service, and as I mention, ninety-six percent of all people who appear are done within three days. So there's no economic hardship in those cases.

If you are one of the few people who serves for four days or more, the Commonwealth will pay you fifty dollars a day from the fourth day on.

I know fifty dollars a day is, may not be what you're earning in your salary, but Massachusetts is actually the highest compensating state in the nation. There are many jurisdictions that don't compensate you at all for jury service or they pay a very nominal amount like six dollars or twelve dollars a day.

So you can get up to fifty dollars a day for your jury service.

And as I say, you can postpone to a date of your choosing.

So really, the goal is to, to make it as easy as possible for people to fulfill their civic obligation.

HOST RYAN: What's your source for picking jurors? Do you use the voting list?

COMMISSIONER WOOD: We do not use the voting list. Everybody thinks we use the voting list and many other jurisdictions do use the voting list. Our former legal counsel says that he used to get calls

from folks who would say, you know, I purposely didn't register to vote so I wouldn't be summoned for jury duty. How did you find him? And his stock response to that was, well, aren't you a good citizen.

But we don't use the voting list. We use the street listings, which are submitted by the cities and towns once a year. Massachusetts is unique in that we have an annual census, and the streets compile, and the cities, excuse me, compile a street listing of everybody who lives on every street in the town. It's constantly being updated by, you know, if you pull a permit for construction, if you have a dog license, any information, a change of address, that sort of thing, they'll be constantly updating it. And once a year, they give us the most up to date information.

And as a result, Massachusetts is widely believed to have the best jury source list in the country.

And that leads to the most diverse and representative juries in the country.

You, when you think about it, if you're using something like the voter list, that's a very self-selected group. That's civic-minded people who've registered to vote, who've lived in a community for

long enough that that's a current address. It's often very outdated. They're only updated every six years I believe, the voting list, four to six years.

Similarly with driver's registrations, those are notoriously outdated, and as a result, most jurisdictions don't even bother to use them. It can be five to ten years between updates for those.

But our list is updated every year. So it's very fresh, it's very current, and as a result, we have virtually, we have a very low rate of undelivered mail returned to us. It's under eight percent, which is I think possibly the best in the country. We have a very, very low nonresponse rate. We, the non, when we mail out a summons and if it doesn't come back to us, we presume it's reached its destination, and only 3.5 percent of those summonses do we receive no response.

And of those people who say they're going to come, who confirm and say they'll appear for jury service, it's about 1.5 percent who don't show up.

So the no show rate as we call it, those who we, you know, have to believe have received their summons, because it didn't come back to us, is less than five percent in Massachusetts which is phenomenally low

compared to other jurisdictions that have twenty to thirty percent no show rates.

HOST RYAN: What's the minimum age for jury duty?

COMMISSIONER WOOD: You have to be eighteen years old. You have to be eighteen years old and a citizen to serve on a jury.

You have to reside or inhabit the jurisdiction that you've been summoned to.

So let's say that you are a student, a college student for example, who lives in Cambridge in Middlesex County, and then you, you know, you go off to UMass in Hampshire County, you can be summoned in either one of those places because if you live in a county for six months of the year or more, you're considered to be an inhabitant of that county.

And of course if you're living in Cambridge, if your parents are in Cambridge and that's where you call home, then you're a resident of that community.

HOST RYAN: So you get two summonses?

COMMISSIONER WOOD: You could get two summonses, but we'll only make you serve on one of them. You can pick which one you want.

And if you get summoned, if you get a third summons from the federal system, then we advise you to do that one because we will disqualify you from service if you've served on a federal summons in the last three years, but the feds do not return the favor.
So if you've served in the state and then you get summoned by the feds, they're going to have you come in anyway. So we let you go to the feds if they get you first.

HOST RYAN: So high school students and college students?

COMMISSIONER WOOD: Sure. As long as you're eighteen years or older, you can, and also students from out of Massachusetts.

HOST RYAN: Really?

COMMISSIONER WOOD: Yep. So if you know, grew up in New Jersey or Arizona or someplace like that and you come to Massachusetts for college and you're living here for six months of the year or

more, then you're eligible to serve on a jury here in Massachusetts.

HOST RYAN: Any advice for these out of state students?

COMMISSIONER WOOD: Come on in. We will be happy to see you.

We have, you know, we've worked with all of the colleges. The colleges are well aware of this requirement and by and large, they're pretty supportive of it and enthusiastic about it.

It's an important civic obligation. It's a real education and what it means to be an American citizen, and the colleges are generally pretty excited about that.

We do very rarely get a situation with a student who has exams or a situation with a professor who doesn't want to excuse them, in which case we'll be happy to contact the college, contact the professor, and explain the legal obligation that's at stake here.

I know there's one Judge who used to tell the story of a juror, a student that she had sitting on a murder trial that went longer than she expected,

than the Judge had expected it to, and the student finally came to her and said she was having a problem with some exams coming up. And the Judge helped her work it out.

And it was only then, after this trial had gone on for weeks, that she learned the student was actually driving down every day from New Hampshire because she was so intrigued and compelled by the experience and by, you know, the obligation that had been entrusted with her that she did not want to be excused and was coming to trial, to Court every morning from New Hampshire in order to take part.

HOST RYAN: So some of these out of state students, it's welcome to Boston and you might get jury duty, right?

COMMISSIONER WOOD: Absolutely. Absolutely.

And what we say, you know, people joke about jury duty, and they say, oh, I don't want to have it, and you know, it's boring or it's, you know, takes too much time.

But we find that those who are actually lucky enough to be impaneled on a jury find it to be one

of the most fascinating and empowering experiences of their lives. You know, they can't stop talking about it.

My husband was impaneled on a jury a few years ago, and he's kind of a reticent guy generally, but he just was fascinated by the experience, asking all sorts of questions, telling all sorts of stories about what had gone on in the courtroom that day, and that's much more common an experience than the opposite.

And in fact, we do have people who contact us after serving on a jury and say, you know, I don't want my disqualification. I, put me back in the pool. I'd like to serve again.

And unfortunately, we have to tell them that disqualified means disqualified. It's not an option. You're not eligible because we want fresh minds coming into the courthouse every day, people who haven't been involved with the process for a while.

HOST RYAN: And people actually volunteered to serve jury duty?

COMMISSIONER WOOD: Absolutely. Absolutely.

People, you know, are very interested in it, and many of the trials, right now we have several high profile trials going on that are getting nationwide attention, and people go down to the courthouse just to sit in the courthouse and watch what's going on and are very interested in serving on the jury.

You know, unfortunately we can't take volunteers because we want to make sure that we have a fair and impartial jury, neither somebody who's determined, you know, not to do it, nor somebody who is determined to do it.

But we, I think we do a pretty successful job here in Massachusetts.

And in Massachusetts, as in many other jurisdictions, survey after survey show that Judges agree overwhelming with the decisions reached by a jury. So ninety percent or more of the cases, the Judge says this is the decision that I would have reached, that the jury has reached the same decision.

HOST RYAN: Even though we have Judges who are trained in law, we still need jurors?

COMMISSIONER WOOD: Oh absolutely. Absolutely.

Jurors play an essential role both in the judicial system and in our American Democracy.

Not many people realize that there are actually very few countries in the world that have a jury system, and I am often, you know, every, a couple times every year I will be called upon and meet with visitors from other countries who want to hear about our jury system and see what they could do to perhaps try to set up a jury system in their country.

It's really participation by the everyday average citizen in the functioning of government. They are acting in the role of the Judge. They are actually administering justice, doing what the judicial branch does on a daily basis.

When you elect somebody to go to congress on your behalf, that's representative government.

When you vote, you know, you're one of, you know, thousands, millions possibly of people who are voting.

But when you sit on a jury, you're one of six or seven or twelve or thirteen people who are going to make a decision as to who is going to remain free,

who will lose their liberty, who will maybe pay a large sum of money or lose their property.

You are doing what the Judge does. It's participation in government. It's government by the people.

HOST RYAN: Some of our cases that jurors are put on, be it a civil case or a criminal case, are they too complex for jurors?

COMMISSIONER WOOD: No. You know, a lot of people are worried about that. And we, and Judges can tell you that often a juror will say I don't know if I'm really smart enough to decide this case or to sit on this case.

But the beauty of the jury system is it's a group of, as I say, six to twelve people, who bring all different experiences to the deliberation process.

It's the lawyer's job to make sure that they present their client's case or the Commonwealth's case in a manner that is clear and persuasive and can be, can be understood by the juror.

Some, you know, we, if you look at our video which you can do on our website, by the way, at

MAJury.gov, you can click on the link and watch the video.

There are real jurors who appear in that video, and one of them talks about how in the deliberation process, if she forgot something, there would be someone else in the room who remembered it.

If she didn't really understand a piece of evidence that had been presented, there'd be somebody else in the room who could explain it.

And then somebody else might say I thought it was something a little different, and they would talk it out and reach a decision together.

And the Judge also plays a role there in making sure that the case and the evidence is coming in in a way that's clear and understandable to the jury.

If the parties and the Judge have serious concerns that someone might not be right for a particular case, then that person probably won't be seated on that jury.

But often, it's a matter of, you know, the parties trying to find the people that they feel are, might be best disposed towards their client rather than

saying, gee, this person isn't smart enough or that person, you know, doesn't like me enough, or something like that.

If you're struck from one case, if you go to one empanelment and you're asked, you know, to step down and you're excused, it, it's really not a reflection on you. It's a reflection on what the lawyers are looking for in terms of the best jury for that particular case.

And often, someone who is excused from one case will return to the jury pool room and be sent out and impaneled on another case in another courtroom in that same building.

So people should never feel that they're not, they're not qualified or they're, they're not good enough to sit on a jury.

HOST RYAN: So they shouldn't be intimidated by everything they read in the newspaper about some complex cases that should be explained to them in layman's terms?

COMMISSIONER WOOD: Sure. Absolutely. And the Judge, long before the case gets before the jury, the Judge has been meeting with the parties and

saying, you know, how do you intend to put in your evidence? What, you know, what witnesses are you going to bring? Is somebody going to, you know, the lawyers are thinking about how am I going to, you know, it's in the lawyer's interest to put their case together in such a way that it will be understandable and persuasive to the jury.

It's not going to help the lawyer if they come in and try to, you know, have some college professor explain quantum physics or something in a way that nobody can understand. They're not going to prevail.

So really, it's in their interest to make it an understandable experience.

HOST RYAN: What happens if I was foolish enough not to go to jury duty?

COMMISSIONER WOOD: Ah, well, in that case, we're going to come and get you. But hopefully, it's simply a misunderstanding or an error, you forgot the date, you had a flat tire on your way to the courthouse, and you can just call us up or go online and pick another date off of our interactive calendar.

If you have ignored the summons, then you'll get a failure to appear notice.

If you ignore that, you'll become a delinquent. You'll get a delinquency notice.

If you ignore that, you'll get a notice of application for a criminal complaint because it is a crime to, not to perform your jury duty or not to complete it, to leave the courthouse before you're dismissed.

And ultimately, it can go so far as a warrant for your arrest.

And every year, a few folks are picked up on jury duty warrants, and it makes a lot of news, and attendance at the courthouses will spike as people see the news about somebody who's been arrested for failure to perform jury duty.

But really, all we want for people to do is to perform their jury service or explain to us why they're disqualified. We'll work it out with you. Just give us a call at 1-800-THE-JURY, and we'll get it straightened out.

HOST RYAN: Outside of being in the military, would you say serving as a juror is the greatest civic contribution a citizen can make?

COMMISSIONER WOOD: Well, we do say that other than military service, it's the only time your government will call upon you to defend the rights of our, that are guaranteed in our constitution.

It is a, an extraordinary privilege.

Back when I've been privileged to visit some other countries and talk with the citizens there or had people come and visit here. They're so envious. They're so envious of our system. It ripples throughout the culture that people have greater confidence in their government because they know that ordinary citizens are participating in the government and performing that vital service.

So we do, we do urge everybody to serve with pride when they receive their summons.

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

Just remember, if you have any questions regarding jury duty, you can always call 1-800-THE-JURY or online at...

COMMISSIONER WOOD: MAJury.gov.

HOST RYAN: Thank you for tuning in.

Thank you, Pam.

COMMISSIONER WOOD: Sure.

HOST RYAN: Thank you at home.

Title Card: Produced by the Office of the Jury Commissioner, Directed by David A. Palomares, Audio and Video Tape Operator Wallace Fashaw, Camera Operations Myles Netherton, Jhashawn Burrell, For the Boston Neighborhood Network, Studio Manager David A. Palomares, Assistant Studio Manager Cullen Cockrell, Jury Duty has been produced in association with the Boston Neighborhood Network.

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