

Vantage Point

Massachusetts' Leadership Role in the American Jury System

By Pamela J. Wood

When the Pilgrims landed in Plymouth in 1620, they brought with them their cherished right of trial by jury. One hundred and fifty years later, local attorney John Adams persuaded a jury in Boston to acquit most of the British redcoats who were accused in the deaths of five civilians in the Boston Massacre. In 1860, a Worcester court impaneled the first African-Americans to be seated on a jury in the United States (although Massachusetts did not allow women to serve until 1950). And in 1988, Massachusetts became the first state in the country to adopt the One Day, One Trial system statewide.

Massachusetts thus has long played an important role in protecting, promoting, and improving one of our most important constitutional freedoms: the right to a jury trial by a diverse and representative group of members of the community. Today, Massachusetts continues to lead the country with arguably the most comprehensive jury list of any jurisdiction, the highest compensation rate for serving jurors, and one of the longest periods of disqualification for those who have served. In addition, the Commonwealth's use of jury management technology (notably the Massachusetts Juror Service Website), and its enforcement program (the Delinquent Juror Prosecution Program), have both been cited as models by national court organizations.



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The goal of the Massachusetts jury system is to provide jury pools that accurately reflect the community from which they are drawn. The Office of Jury Commissioner (OJC)'s process to achieve this goal is based on three components: a broad-based source list, a minimal term of service to reduce hardship, and the elimination of all exemptions. This approach has been demonstrated over time to produce jury pools that are diverse and representative, the cornerstone of "a jury of one's peers."

Broad-based Source List: In order to ensure fair, representative, and diverse juries, it is imperative to start with a list of potential jurors that is as complete and up-to-date as possible. Massachusetts has a unique and enviable resource for this purpose, as it is the only state in the country with a statutorily-mandated annual municipal census. This census data forms the basis of the Master Juror Lists that are created annually by the OJC for each of the fourteen judicial districts (essentially, each county) in the Commonwealth.

Using this annually-updated data source, together with a detailed procedure for cleaning and verifying the list, Massachusetts generates one of the highest juror yields in the country. "Juror yield" is the percentage of people summoned for jury service that actually appear at the courthouse. The higher the juror yield, the lower the costs incurred in printing, postage, and processing undeliverable mail and address changes – costs that run into the millions of dollars in Massachusetts each year. Put another way, juror yield dictates the number of summonses that must be sent to guarantee that a sufficient number of jurors will appear on a given day: if the yield in a particular county is 25%, then the OJC must send 200 summonses to produce 50 jurors at the courthouse.

Most other jurisdictions, including the federal court system, must rely on more outdated or limited data sources, such as voter registration lists (which are composed of a self-selected group of people who vote) or driver registrations lists (which are notoriously outdated and can result in an unacceptably high percentage of undeliverable summonses). The Massachusetts list is regarded in some quarters as the "gold standard" among jury lists, so much so that the United States District Court for the District of Massachusetts sought and received permission to use the Massachusetts list as the basis of its own jury summoning, rather than the more limited voter lists used in other federal courts.

Minimal Hardship: Massachusetts was the first in the country to implement the One Day or One Trial system statewide, in the 1980s. Jurors serve for one day or, if impaneled on a case, for the duration of one trial, after which they are disqualified from service for three years. This is a significant improvement over the prior system, under which jurors served for 30 days and might be impaneled on several trials during that time.

Under the One Day or One Trial system, about 90% of those who appear for jury duty in Massachusetts complete their service in one day, and over 95% are done in three days or fewer. Further, jurors are entitled by law to postpone their service for up to a full year from the date for which they are originally summoned. Massachusetts law requires employers to pay a juror's wages for the first three days of service, and the Commonwealth pays \$50 per day thereafter – the highest juror compensation rate in the country.

In the event of hardship such as lack of transportation, citizens can even be transferred to a courthouse closer to their home, although in general jurors from a particular county are randomly assigned to courthouses throughout that county to assure a diverse mix of citizens in each jury pool. By minimizing the inconvenience of service in these ways – one to three days of compensated service for the great majority, ability to select the service date of the juror's choice, relocation to a nearby courthouse if necessary – Massachusetts has seen a dramatic increase in participation of the full range of its citizens in the administration of justice.

Elimination of Exemptions: With the advent of the One Day or One Trial system came the elimination of a long list of occupational exemptions that had severely undermined the diversity of jury pools prior to 1980. Doctors, lawyers, teachers, parents of schoolchildren, elected and appointed officials, ministers, police and firefighters – all these and more were exempt from jury service under the old system.

Today, there are no exemptions from jury service in Massachusetts. All are eligible to serve, unless one of ten statutory disqualifications under Mass. Gen. Laws c.234A, § 4 applies. (There are eight specified disqualifications, and the introduction further specifies that jurors must be citizens and reside in the county to which they are summoned.) These disqualifications are based on status, not discretionary (except for the option of those over 70 to decline service if they choose): citizenship, age, inability to speak English, service within the last three years,

relocation from the district, and the like. With corroboration from a physician, a potential juror can also be disqualified for medical reasons, or on the basis of caring for a disabled person.

A judge still has the authority to *excuse* a prospective juror upon a showing of hardship, but no one is *exempt* and only a limited number of persons are eligible to be *disqualified*. By creating a system under which virtually everyone is presumed to be eligible to serve, and reserving the right to excuse to judges who consider the jurors' hardships on an individual basis (after they have reported to the courthouse to serve), Massachusetts jury pools are among the most diverse and representative in the country.

By law, the Office of Jury Commissioner tracks the demographic makeup of the jury pools in each county. Comparisons with federal census data show that statewide, Massachusetts jury pools are made up of a demographic mix that closely parallels the racial and ethnic percentages found by the federal government (except in the case of disqualifications due to lack of citizenship or English language skills, such as Asians or Hispanics).

The courts and the Office of Jury Commissioner make every effort to communicate information about the advantages of the Massachusetts system to prospective jurors, with good results. Jurors often comment appreciatively on the flexibility of choosing their own service date, and frustrated jurors who wonder why they have been called again when their spouse or neighbor has not yet served are generally satisfied when the principle of random selection is explained to them. Although much of this information is available in the materials sent with the summons, it is often the judge at the courthouse who is most effective in explaining these principles during the judge's welcome to the waiting jurors, when their attention is most focused on the task at hand.

The Massachusetts system of summoning and qualifying jurors is perhaps the best in the country, based as it is on the unique annual census, and supported by some of the best jury management technology available today. For these reasons, the citizens of the Commonwealth can feel confident that their justice system continues to protect them and their constitutional right to a trial by jury, almost 400 years after their Pilgrim forebears first brought that important right to the New World. ■