

VAN BUREN COUNTY – ALL COURT POLICY		
SUBJECT: JURY ALLOCATION AND SUMMONING PROCESS	SECTION: ADMINISTRATIVE	DATE: 05/11/2021
REVISIONS PREPARED BY: Cari Elmore, Joseph Gallmeyer, Frank Hardester, Melissa Williams, Heidi Winkler	NUMBER: Policy 2.004	SUPERSEDES: 6/5/17, 11/5/19

REFERENCES:

- Appendix A, White pages for Mersenne Twister number generator
- Appendix B, Board of Commissioners meeting minutes and Board of Commissioners resolution 06/26/2012
- MCL 600.1300, et seq.
- MCL 600.1715
- MCL 768.14
- MCR 2.510 - 2.518
- MCR 3.911
- MCR 6.410 – 6.420
- LAO C362017-01J, D072017-02J & P802017-01J, Access to Juror Questionnaires
- SCAO Jury Utilization Performance Measures
- Section 12 of the Michigan Court Administration Reference Guide
- Van Buren County Jury Manual (VBC-0900)

DEFINITIONS AND ABBREVIATIONS:

- A. BOC - Board of Commissioners
- B. CHT – Courthouse Technologies
- C. JDW – Judicial Data Warehouse
- D. JMS – Jury Management System
- E. Jury Staff – Jury Clerk, Law Clerk/Bailiff
- F. LAO – Local Administrative Order
- G. Mersenne Twister Random Number Generator – Produces the random stream for Jury Selection.
- H. NCOA – National Change of Address

BACKGROUND:

The Van Buren County jury system, which includes qualification and selection of jurors used in Circuit, District and Probate Courts, is administered by the Thirty-Sixth Circuit Court and is a unified system. On May 7, 2015, the court wrote a memorandum requesting approval of the new JMS. The memorandum and contract agreement with Tyler Technologies offered a new system while using Berrien County’s infrastructure at no cost. Van Buren County BOC approved the contract on June 9, 2015 with a resolution during an open meeting. In an effort to ensure consistent practices across the Court this jury policy was developed.

POLICY STATEMENT:

- A. It is the intent of the court to maintain a jury allocation process that will ensure the maximum opportunity for an optimum, random cross section of jurors from the names furnished by the Michigan Department of State. The opportunity for jury service will not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation or any other factor that discriminates against a cognizable group or individual in the jurisdiction.
- B. Random selection procedures are to be used throughout the jury selection process to obtain an impartial jury representing a cross-section of the community. Any method used must provide that each eligible and available person has an equal probability of selection. Pursuant to MCL 600.1304a, the court establishes that all random selections of jurors shall be done by automated means using electronic or mechanical devices. The court’s JMS uses the Mersenne Twister Random Number Generator as its random method (See Appendix A).

- C. MCL 600.1300, et seq. governs the responsibilities of the jury board for each county and the methods used to qualify and summon jurors for service in Michigan trial courts. The jury board (with the approval of the BOC) has the authority to employ assistants to fulfill these responsibilities (MCL 600.1303). The Circuit Court Judges in each circuit may establish rules to carry out the provisions of these statutes (MCL 600.1353). With the advent of technology, the qualification process has become automated and requires less direct involvement by the jury board.
- D. The jury board provides oversight of the court jury qualification and selection process. An annual meeting of the jury board is set in May of each year to monitor and make recommendations regarding the court's JMS (MCL 600.1304). SCAO Jury Utilization performance measures will also be discussed. Van Buren County Courts with the approval of the Chief Judge and the BOC employ a jury clerk (and a back-up) as the assistant to the jury board to perform the qualification process.
- E. The Chief Judge authorizes the jury clerk to excuse, disqualify and defer jurors as the statutes allow. Jurors are only disqualified for statutory reasons (MCL 600.1307a).
- F. The court has adopted a one-trial or two-week term of service. Jurors will not serve on more than one case during their term of service. If selected for a trial that is longer than two weeks, the term of those jurors will end after the trial is completed.
- G. In accordance with MCR 2.510, prospective jurors are allowed to complete and return questionnaires electronically and the court is able to maintain them electronically.
- H. Citizens are expected to obey a summons to appear for jury duty or risk contempt proceedings as provided by law. The court initiates a show cause proceeding when summoned jurors do not report or fail to return his/her questionnaire MCL 600.1715.
- I. The Trial Court Administrator is responsible for developing procedures that will ensure that all Van Buren County courts work together and comply with the policy.
- J. Procedures developed will ensure compliance with statutes listed in the reference section of this policy.
- K. Information regarding excusals/disqualifications, deferments and transfers will be recorded in JMS.

PROCEDURES:

A. Load Process.

1. Obtain Annual Eligible Juror List. By April 30 of each year the Michigan Department of State mails a new compact disc with a list of names to the court's jury management vendor and the jury clerk for Van Buren County. The disc contains a random list of the total population of names with addresses in Van Buren County that are over the age of 18 and have a Michigan driver's license or personal identification card. The disc will be maintained by the jury clerk for a period of three years. The Secretary of State will also send a password that will allow us to access our county specific information.
2. Database Load. The disc is typically loaded in May but the load date needs to be agreed upon by all counties sharing the JMS server in Berrien County. The vendor loads the new data into the JMS. The vendor updates the addresses utilizing the National Change of Address (NCOA) system both at the time of the load and again before sending a Summons out to potential jurors. With the exceptions noted below, no other changes are made to the information.
 - a. Exception: In accordance with MCL 600.1300 and MCL 600.1307a, names that fit the following rules are not loaded into the system:
 - Individuals who have served within the last 12 months
 - Individuals who have a duplicate name, address and date of birth on the disc

- Individuals without a Van Buren County zip code

B. Creating Pool.

1. The jury clerk will send out an email to all Van Buren County Judges and their Judicial Assistants to see if they have any trials or potential trials scheduled for the two-week time period in question. Based on the responses received, if there are trials scheduled for both weeks the numbers will be adjusted accordingly (See manual, section 1 on sending email).
2. The jury clerk will prepare pools on the Wednesday, 6 weeks prior to the report date. (See manual, tab 2, VBC-1205JA, for steps to create pool)
3. On the Friday after the pool was created, the vendor will review the jury pool, run the names of the candidates in the pool through the NCOA system and prepare and send out the *Juror Summons & Questionnaire Form* (VBC-1240).

C. Summoning/Questionnaire Process.

1. The unified jury system utilizes a one-step process. As allowed by MCL 600.1313 and in accordance with MCR 2.510(B) & (D), the questionnaire and summons are sent together in one mailing to prospective jurors: *Juror Summons & Questionnaire Form* (Form VBC-1240). Based on past usage history, mailings are initiated bi-weekly to ensure that there are sufficient jurors for trials in Circuit, District and Probate Courts. The juror’s specific term beginning and end dates are reflected on the Summons.
2. Jurors are given 7 days to complete the questionnaire and mail it back to the court. As noted in the policy jurors can also complete the questionnaire electronically.
3. Jurors are instructed on the summons to call in the night before or to check the court’s website after 5:30 p.m. to receive specific instructions on where and when to appear if they are needed.
4. Based upon our experience we have created the following formula to determine how many jurors we need to call in to net the number of jurors we need to appear in the courtroom on the day of trial:
 - # of jurors summoned x 50% = # of jurors qualified and confirmed x 90% = # of jurors who appear in court on average.
 - For example, our Judges have agreed upon the following summoning ratios:

	Summoned	Called In	Appear
Circuit Court			
Capital Felony Case	132	66	60
Non-Capital Felony Case (CSC)	100	50	45
Non-Capital Felony Case	77	39	35
Family/Probate/Civil Case	68	34	30
District Court			
	56	28	25

5. By default, unless there is a high-profile case, the numbers that we use to create pools are as follows for the two-week term:
 - a. South Haven Location – 60
 - b. Paw Paw Location – 150
6. Upon return of the questionnaires, in accordance with MCR 2.510(C), jury staff will do the following:
 - a. For questionnaires that are mailed in/dropped off at the court, the jury staff will enter any phone numbers and/or email addresses into the JMS manually and scan the questionnaires

electronically into the JMS. The JMS will move any special requests to the online excusal que. This que will be viewed and answered daily or weekly by jury staff. The questionnaires will be maintained electronically for a period of three years by the Court per MCL 600.1428, MCR 2.510 (C)(3) and MCR 8.119 (K).

- b. For questionnaires that are completed online by prospective jurors using our JMS website, any special requests made by jurors will be moved to the online excusal que. This que will be viewed and answered daily or weekly by jury staff. The questionnaires will be maintained electronically for a period of three years by the Court per MCL 600.1428, MCR 2.510 (C)(3) and MCR 8.119 (K).

D. Excusals/Disqualifications.

1. Potential jurors may be excused/disqualified if they do not meet the qualifications as set forth in MCL 600.1307(a) and therefore may be released from jury duty (See manual, tab 12 VBC-1250JA, & Tab 13 VBC-1255-JA). Jury staff is delegated authority by the jury board and Chief Judge to excuse/disqualify jurors.
2. The Chief Judge may excuse a juror from serving when it appears that the interests of the public or of the individual will be materially injured by the juror's attendance, or the health of the juror or the health of the juror's family requires the juror's absence from court. Once a juror is selected for a jury and sent to the courtroom, only the Judge presiding over a trial may excuse a juror from that trial. The Chief Judge may excuse any juror or jurors from attendance without pay for any portion of the term (MCL 600.1334).

E. Deferrals.

1. Jurors may be deferred to another date as set forth in MCL 600.1335 if they contact the jury services office. The best interests of the public and the individual juror and the juror's family will be taken into consideration. Due to the short length of time of jury service, a person may defer no more than one time to accommodate personal schedules (See manual, tab 14, VBC-1260JA).
2. If the potential juror is a full-time high-school student, upon request, the court will postpone his/her service until the end of the school year.
3. If the potential juror is a full-time college student, upon request and upon receipt of a class schedule, the court will postpone his/her service until the end of the academic year.

F. Transfers.

1. Jurors may be transferred from one location to another (South Haven and Paw Paw) if it is in the best interest of the individual or as needed by the court (See manual, tab 15 VBC-1265JA).

G. Procedures during Trial.

1. Refer to Policy 2.005 – Jury Trial Procedures.

H. Show Cause for Failure to Appear for Jury Duty and/or Failure to Return His/Her Questionnaire (See jury manual tab 20, VBC-1290JA)

1. Chief Judge will assign a Judge to the juror show cause hearings (See LAO, Assignment of Cases).
2. Juror show-cause hearings are held once every two months minimum or once per month maximum (date and time to be determined by the assigned juror show cause Judge).
3. Every 6 weeks reports are run to find out which jurors failed to appear and/or failed to return his/her questionnaire.
4. Jury staff reviews the report to verify that none of the individuals are:
 - Over the age of 70 (verified using JMS)
 - Active duty military (verified using SCRA) <https://scra-w.dmdc.osd.mil/scra/#/login>

- Deceased (verified by the County Clerk's office or JDW)
<https://nsa.courts.michigan.gov/nsa/cram2/CRAMReportMain.aspx>
 - Convicted of a felony (verified using JDW)
<https://nsa.courts.michigan.gov/nsa/login.aspx?mode=timeout&ReturnUrl=%2fnsa%2fDataSnapShot.aspx>
5. The remaining individuals left on the report are sent a Motion and Order to Show Cause Notice (Form VBC-1230) with a hearing date determined by the assigned juror show cause Judge.
 6. If no response is received before the date of the Order to Show Cause Hearing and it is determined that the potential juror does not qualify for an excusal under statutory requirements, jury staff will proceed with the show cause hearing.
 7. If a juror inappropriately answers the questionnaire, refuses to answer the questionnaire or falsely answers the questionnaire, jury staff may also initiate a show cause hearing and the Judge may hold the juror in contempt in accordance with MCR 2.510(B)(2).
 8. Prior to the show cause hearing, jury staff will provide the Judge with the following:
 - *Juror History Report* – See manual, tab 20, VBC-1290JA
 - *Motion and Order to Show Cause* (VBC-1230)
 - *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245) that contains the juror's name and address.
 9. The Judge may determine that the juror is excused, may reschedule the juror for another date and/or impose a fine (\$50.00 fine or as determined by the Judge). As stated in MCL 600.1715 punishment for contempt may be a fine of not more than \$7,500.00 and/or up to 93 days in jail. This fine is not a penal fine, the funds raised are kept local and go to the funding unit (MCL 600.1715). The Judge will use the *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245).
 - a. Any juror sent to the clerk's office to pay a fine should be provided with a copy of the *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245), which will inform the County Clerk's office of what is owed.
 - b. Any juror deferred or excused by the Judge shall be given a copy of the *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245), which will state what transpired in the courtroom.
 - c. The original *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245) will be entered by jury staff into the JMS and filed with the County Clerk.
 10. Once a month the jury clerk will print a report to determine if the imposed fines were paid to the County Clerk's office (See manual, tab 20, VBC-1290JA).
 11. If a juror fails to appear at the show cause hearing, the Judge may authorize a bench warrant.

I. Bench Warrant Process.

1. At the show cause hearing the Judge will indicate authorization of the bench warrant and the amount of the bond (\$50.00 cash bond or as determined by the assigned Judge) on the *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245).
2. Jury staff will prepare the *Motion, Affidavit and Bench Warrant* (MC 229), including the show cause date for which the juror failed to appear and the bond amount set by the Judge; and obtain the Judge's signature.
3. Upon the Judge's signature the jury clerk will enter the warrant into the JMS and will take the warrant to the County Clerk's office for filing.
4. The Sheriff's Department will pick the bench warrant up from the County Clerk's office. Upon

receipt of the bench warrant, the Sheriff's Department will enter the information into LEIN.

5. The bench warrant can be resolved in one of two ways:
 - a. Juror arrest:
 - If bond is not posted, the Sheriff's Department will inform the court, via the jail list and/or telephone or email and will arrange for the juror's appearance in front of the Judge for an arraignment.
 - If bond is posted, the law enforcement agency will release the juror and tell them they need to report to the court at 1:00 p.m. on the next business day. The law enforcement agency will then notify the court via telephone and/or email.
 - b. Juror turns themselves in:
 - The assigned Judge will conduct an arraignment or if the Judge is unavailable a date and time will be set for the arraignment.
6. At the arraignment on the bench warrant, the Judge may:
 - Determine whether the juror is in contempt of court
 - Reschedule the juror for jury service and/or impose a fine
 - Excuse the juror from jury service
 - a. The Judge will address bond, indicating whether a posted bond will be returned to the juror.
 - b. The Judge will use the *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245) to reflect the decisions of the court.
 - If the juror is in the sheriff's custody, courtroom staff will provide a copy of the *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245) to the Sheriff's Department.
 - Courtroom staff will provide any juror with a copy of the *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* (VBC-1245), which will inform them of what transpired in the courtroom.
 - The original *Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment* will be given to jury staff, who will enter the order into the jury management program and file the order with the County Clerk's office.
7. Following the arraignment of the Juror, the jury clerk will verify with dispatch that the warrant is no longer in LEIN. If it remains in LEIN a Recall of Warrant (MC-220) will be filed. Verification of the recall will be scanned in to the juror's file in JMS.

J. Payment of Jurors.

1. Pursuant to the County BOC Resolution (See Appendix B), Jurors are paid \$30.00 for one full day; \$45.00 each subsequent full day; \$15.00 for the first half day; \$22.50 for subsequent half days of service, plus the current IRS rate per round trip (See jury manual, tab 10, VBC-1240JA).
2. Jurors will receive a check for the total amount, within two weeks after their term ends.

K. Payment of the Jury Board.

1. Pursuant to the County BOC Resolution (See Appendix B), jury board members are paid \$55.00 per meeting for attendance, not to exceed two meetings per day, plus mileage (use IRS mileage rate) from their home to the courthouse and return.
2. Jury board members will receive a check for the total amount, within two weeks after the meeting date.

L. Records Retention.

1. The court will keep Juror Summons & Questionnaire form (VBC-1240) for a period of three (3) years electronically.
2. The court's local administrative order "Access to Juror Personal History Questionnaires" (LAO C362017-01J, D072017-02J & P802017-01J) governs access to information on the *Juror*

Personal History Questionnaire.

M. Statistical Records and Reports.

1. The court will maintain statistical records to achieve centralized and effective management of its JMS.
2. The court will follow SCAO jury performance measures in order to report jury yield and utilization rates annually.

FORMS USED:


- MC- 220, Recall of Warrant/Order to Apprehend
- MC-229, Motion, Affidavit and Bench Warrant
- VBC-1230, Motion and Order to Show Cause Why a Juror Should Not be Found in Contempt of Court
- VBC-1240, Juror Summons and Questionnaire
- VBC-1245, Order After Juror Show Cause Hearing/Juror Bench Warrant Arraignment

EFFECTIVE:

Date: 05/11/2021

APPROVAL:

Date: 05/11/2021



Chief Judge

Judge Kathleen Brickley P41930