

VAN BUREN COUNTY – ALL COURT POLICY

SUBJECT: JURY TRIAL PROCEDURES	SECTION: ADMINISTRATIVE	DATE: 11/7/19
REVISIONS PREPARED BY: Cari Elmore, Joseph Gallmeyer, Frank Hardester, Melissa Williams, Heidi Winkler	NUMBER: VBC-0201	SUPERSEDES: 6/4/17

Renumbered "Policy 2.005" on 9/16/20

REFERENCES:

- LAO C362017-01J, D072017-02J & P802017-01J, Access to Juror Questionnaires
- MCL 600.1344, MCL 768.14; MCR 2.508, MCR 2.513, MCR 2.518, MCR 3.911
- Michigan Model Civil Jury Instructions
- Michigan Model Criminal Jury Instructions
- Section 12 of the Michigan Court Administration Reference Guide
- Van Buren County Court Manual (VBC-900)
- VBC-0200, Jury Allocation Process

DEFINITIONS AND ABBREVIATIONS:

- A. Bailiff: Assists with jurors, prepares jury binders and jury instructions, and takes sworn oath.
- B. Court Clerk: Operates recording equipment in the courtroom and takes notes during the trial, keeps track of seating chart, exhibit list, and witness list, gives sworn oath to jury and bailiff and polls jurors at the end of the trial. In some cases, the court clerk may serve as bailiff.
- C. Courtroom Staff: judicial assistant, bailiff, court clerk, law clerk, and Judge.
- D. Jury Clerk: Sends out summons, prepares paperwork for trial, attends jurors and submits paperwork to get jurors paid.
- E. JMS – Jury Management System
- F. Law Clerk – May assist judge on legal research, prepare jury services, technology and act as bailiff.
- G. SCAO – State Court Administrative Office

BACKGROUND:

The Thirty-Sixth Circuit Court provides jurors for all jury trials conducted in Van Buren County. The court has adopted practices for identifying and summoning jurors, utilizing the court's jury management system. The court adopts the National Center for State Court's "best practices" standards. The selection process has been approved by the jury board, which convenes annually under the supervision of the Chief Judge. This policy is intended to describe the specific procedures used for jury trials in the Van Buren County Courts.

POLICY STATEMENT:

- A. The 36th Circuit Court will comply with all requirements for jury trials in the United States Constitution, the Constitution for the State of Michigan, and the statutes, case law, court rules and administrative orders for obtaining jurors and conducting jury trials.

- B. The jury system for the Circuit, District and Probate Courts is administered by the Circuit Court. Jurors are paid at the current State rate set by statute (MCL 600.1344). According to SCAO requirements, we submit an annual jury statistics report with our jury yield and jury utilization numbers. This report helps to make sure we are utilizing our jurors in an efficient manner.
- C. Attorneys/parties will comply with jury trial directives per MCR 2.508, MCR 3.911 and per scheduling orders.
- D. Procedures for jury trials will be followed as set forth in this policy.

PROCEDURES:

A. Availability of Juror Questionnaires.

1. Juror personal history questionnaires may be obtained from the jury staff by the attorneys or their designated staff one week before the scheduled trial.
 - a. The individual signing out the copies must provide sufficient identification as an authorized person to sign out the copies.
 - b. The individual signing out the copies will acknowledge by affixing his/her signature or initials to the *Juror Personal History Questionnaire Request Form* (VBC-1206), indicating their understanding that:
 - 1) No unauthorized person will be allowed to examine the questionnaires.
 - 2) Juror questionnaires will not be copied.
 - 3) The questionnaires in this packet will be returned to the jury services office immediately following voir dire.
2. On the date and time that the attorneys return the questionnaires, the jury staff will place his/her initials on the *Juror Personal History Questionnaire Request Form* (VBC-1206) to provide proof that the questionnaires have in fact been returned. The jury staff will then destroy the copies of the questionnaires.

B. Juror Check-In and Orientation.

1. As jurors arrive, the courtroom staff will:
 - a. Direct the jurors to the designated check-in area using signage or other wayfinding methods.
 - b. Welcome jurors to the Van Buren County Court and provide them with the following information:
 - 1) Introduce court staff.
 - 2) To let us know immediately if their address has changed since they received the Summons.
 - 3) Thank them for fulfilling their duty.
2. After all jurors are assembled, courtroom staff will inform jurors of the following:
 - a. Courtroom staff will play the jury orientation video.
 - b. Take roll and highlight/scan the juror name on the alphabetical list provided by the jury clerk.

- c. The court clerk will be provided with the roll call sheet once it is complete.
- d. Assisted listening devices are available in all our courtrooms. If anyone needs special accommodations, they should inform a court representative.
- e. As a potential juror, they may be asked to speak in the courtroom. Let them know that there will be microphones amplifying their voice, but that they must still speak loudly to be heard, and that they must speak into the microphone provided.
- f. The Judge may address jurors while they are seated in the gallery regarding hardships, medical issues, whether they know the parties, etc. The court clerk will call several of them at random into the jury box. The Judge and attorneys will then ask questions of those in the jury box. Even if they are not in the box, they need to pay attention to the questions and answers during this process. If they are called into the box the Judge will expect that they have heard the questions he/she has asked. Also, if they are called into the box to please watch their step when entering.
- g. When they are in the jury box, there may be a handheld microphone being passed around as each juror speaks. They must speak into this microphone while in the jury box.
- h. It is important not to try and figure out why a fellow juror was excused and why no reason was given, that this is simply part of the process. If they are excused, to not take it personally. That we certainly appreciate their service and maybe they will be selected next time.
- i. The following are not allowed in the courtroom: No open food, cell phones are to be off or on silent, no hats; beverages provided by the court are okay. You can have reading materials, books/newspapers, just don't read them while Court is in session. Refer to the Court Comprehensive Security Policy (VBC-9000p) for details.
- j. The location of the restrooms, vending machines and water fountain.
- k. If they need juror verification documents for their employer to let court staff know.

C. Conducting Jury Trials

1. The jury clerk will prepare certain forms needed for a jury trial:
 - a. Prior to the start of trial, the jury clerk will provide to the Judge, attorneys, bailiff and court clerk an alpha list (VBC-1242), generated using JMS.
 - b. Prior to the start of trial, the jury clerk will provide to the court clerk a random list (VBC-1243), generated using JMS.
 - c. Prior to the start of trial, the jury clerk will place a copy of the blank juror seating chart (VBC-1205), blank exhibit log (VBC-0002), and blank witness log (VBC-0003) on the attorney tables, Judge's bench and court clerk's desk.
 - d. The court clerk and Judge will each complete a copy of the jury seating chart (VBC-1205) during jury selection. At the end of the trial the court clerk's copy will be placed in an envelope marked confidential and placed in the case file. The Judge's copy will be recycled.
 - e. The court clerk and Judge will each complete a copy of the witness log (VBC-0003) during the trial. At the end of the trial the court clerk's copy will be file

stamped and included in the case file.

- f. The court clerk and Judge will each complete a copy of the exhibit log (VBC-0002) during the trial. At the end of the trial the court clerk's copy will be file stamped and included in the case file.
2. If jurors are assembled in an area other than the courtroom in which the trial is to be conducted, the Judge will inform the court staff when the jurors should be brought into the courtroom.
3. The Judge will greet the jurors and administer the juror oath to the group of jurors (VBC-1249).
4. The court clerk will call jurors to the box using the random list (VBC-1243) provided.
5. To assist the jury clerk with statistical reporting the jury statistics/notes column needs to be filled out on the alpha list (VBC-1242) by courtroom staff.
6. After the jury has been selected, jury seating information has been completed on the jury seating chart and the jury has been sworn in by the court clerk (VBC-1250 or 1251), the Judge will release the jurors that were not selected and provide further call-in instructions as directed by jury staff.
7. The bailiff will then distribute the numbered jury binders to the jury according to their seat number.
8. Prior to letting the jury leave the courtroom with the bailiff, the Judge will give the following reminders:
 - a. Wear their badges during breaks and lunches so people will know that they are a juror and will not talk to them about the case.
 - b. Not to discuss the case with anyone, including their fellow jurors.
 - c. Not to use electronic devices to obtain information about the case.
 - d. Whenever exiting the building, to be escorted by courtroom staff, and whenever entering the building to return directly to the jury deliberation room or as otherwise directed.

D. Jury Binders during Trial

1. The jury binders will be secured at the Judge's discretion.
2. The bailiff will update the jury binders for each individual trial with the specific instructions for that trial regarding the elements and key exhibits.
3. A complete jury binder will have:
 - a. Pen
 - b. Notepad
 - c. Preliminary Jury Instructions
 - d. Witness List

- e. Juror Badge
- f. Juror Witness Question Form (VBC-1201)

E. Breaks

1. Generally, 10 to 15 minute breaks are to be taken at the Judge's discretion. The bailiff will be informed when the jury is due for a break.
2. The bailiff will escort the jurors to the jury deliberation room and the jurors will be reminded:
 - a. To wear their badges at all times so people will know that they are a juror and will not talk to them about the case.
 - b. Obtain permission from the bailiff to exit the jury deliberation room by using the buzzer system, and that the room will be locked from the outside any time the jury is in the room or in court.
 - c. Not to talk about the case, even with their fellow jurors.
 - d. The bailiff will escort the jurors into the courtroom at the Judge's request by having the jurors line up according to their seat numbers.
 - e. When jurors are allowed to take a smoking break, they will be brought to a designated smoking area by the bailiff. NOTE: no smoking is allowed on county property.

F. Lunch

1. The bailiff will be informed when the jurors have been released for lunch.
2. The bailiff will escort the jurors to the jury deliberation room and the jurors will be reminded:
 - a. To wear their badges at all times so people will know that they are a juror and will not talk to them about the case.
 - b. To obtain permission from the bailiff to exit the jury deliberation room by using the buzzer system, and that the room will be locked from the outside any time the jury is in the room or in court.
 - c. Not to talk about the case, even with their fellow jurors.
 - d. Whenever exiting the building, to be escorted by courtroom staff, and whenever entering the building to return directly to the jury deliberation room or as otherwise directed.
 - e. To return at the time designated by the Judge.
 - f. The bailiff will escort the jurors out of the courthouse.
 - g. The bailiff will secure the jury binders at the discretion of the Judge.
 - h. Exhibits will be secured as directed by the Judge.
 - i. Once all jurors have returned courtroom staff will notify the Judge that all jurors have checked in.
 - j. The bailiff will escort the jurors into the courtroom at the Judge's request by having the jurors line up according to their seat numbers.

G. End of Day

1. The bailiff will be informed when the jury has been released for the day. The Judge

will inform the jury what time and day they are to return and advise them that they are to return directly to the jury deliberation room.

2. The bailiff will escort the Jurors to the jury deliberation room to give them any further instruction, will have them gather their personal belongings, and will escort them out of the courthouse.
3. The bailiff will secure the binders for the next day of trial.
4. Exhibits will be secured at the discretion of the Judge.

H. Juror Questions During Trial

1. The Judge will address the jurors several times throughout the trial to see if they have any questions for a witness or in general. Jurors are to write their question on the Juror Witness Question form (VBC-1201) provided in their binder. The court clerk/bailiff will bring the question(s) to the bench wherein the Judge and attorneys will have a bench conference to review the question(s). The Judge and attorneys will then decide if the question(s) will be asked. The Judge will then initial the question and indicate asked or not asked on the question form. The questions will be given to the court clerk who will verify that they are initialed and at the end of trial will assemble them and give them to the County Clerk to be file stamped and included in the case file.

I. Jury Instructions

1. The law clerk or other court staff is to prepare preliminary instructions at the direction of the Judge and place them in the jury binders prior to the start of the trial.
2. The attorney/parties are responsible for preparation of final jury instructions with the Judge and law clerk. The law clerk or other court staff will prepare final jury instructions packets at the direction of the Judge.
3. Civil and criminal jury instructions can be accessed on the Michigan Supreme Court website. All instructions are to be checked against the instructions as provided on this website.

J. Verdict Form

1. Civil cases: The attorneys/parties and/or court staff will prepare the form of verdict and file it with their proposed jury instructions using Michigan Model civil jury instructions. Revisions will be made to the form of verdict at the discretion of the Judge.
2. Criminal cases: The law clerk or court staff will prepare the form of verdict or jury ballot. The attorneys/parties and Judge will review the form of verdict for approval.
3. Following instructions, the law clerk/bailiff will give the original form of verdict to the jurors in the jury deliberation room and a copy to the court clerk.

K. Deliberation:

1. Oath for the bailiff before deliberation. The court clerk (per the Judge's prompt) will administer the oath to the bailiff (VBC-1252).
2. Bailiff will escort the jurors into the deliberation room and provide the form of verdict and the exhibits. The bailiff will also instruct the jurors:
 - a. Turn cell phones off or put in silent mode. Cell phones are only to be used on breaks.
 - b. Do not use a computer, cell phone, tablet, or other electronic devices with communication capabilities during deliberations or to obtain information about the case.
 - c. Do not write on the original verdict form, exhibits, or jury instructions.
 - d. The availability of coffee and water.
 - e. The bailiff is not allowed to talk to the jury about the case. The bailiff can answer questions about breaks, lunch and when the Judge will release them for the day, etc. The bailiff cannot answer legal questions. The Judge must answer all legal questions, and it is the bailiff's responsibility to take their written questions to the Judge.
 - f. The jury room will be locked to prevent others from entering the room while they are in deliberation. The bailiff will provide instructions on exiting the jury room.
 - g. Show/explain the buzzer system:
 - 1) Buzz once if there is a legal question.
 - 2) Buzz twice if they need a break.
 - 3) Buzz three times when they have a verdict.
 - 4) After they buzz the bailiff will come to the jury deliberation room to address the issue.
 - (a) If they have a legal question, the bailiff will inform them that they are to keep deliberating while the court is addressing the question.
 - (b) If they need a break, the bailiff will inform the jury that he/she will request a break from the Judge, but that they are to continue deliberating.
 - (c) If they have a verdict, the bailiff will confirm this. They are not to tell the bailiff what the verdict is, just that they do or do not have a verdict.
 - h. Questions during deliberation; explain that a question for the Judge during deliberation must be written down on the Jury Deliberation Question form (VBC-1202).
 - 1) The bailiff will retrieve the question form from the jury and bring it to the Judge.
 - 2) The Judge will answer the jury question on record or in writing on the jury deliberation form (VBC-1202). A copy of the question with the answer will be provided to the jurors. The original is to be filed at the end of the trial.
 - 3) After the court addresses juror questions, they will be given to the court clerk who will verify that they are initialed and at the end of trial will assemble them and give them to the County Clerk to be file stamped and included in the case file.
 - i. Explain that they are not to walk outside the deliberation room. If they need a

break, they need to buzz the bailiff who will obtain permission from the Judge before a break will be allowed. Breaks are taken together because the jury can only discuss the case when all jurors are present.

- 1) During a deliberation break, the bailiff will escort the jurors that wish to leave the room, and lock in those that wish to remain in the room.
 - 2) Remind the jurors that they are not to discuss the case during the break.
 - 3) The bailiff will secure evidence at the Judge's discretion.
 - 4) Upon their return, the bailiff again locks the jury in the room.
- j. At the Judge's discretion, while the jury is deliberating, the jurors may be allowed to order food at their own expense, or may have a short break to get food and bring it back to the jury room if the jury believes it will expedite their deliberations. The Judge may also decide to provide food for the jury at the cost of the court.
- k. After the trial is complete the bailiff will collect and destroy the notes in the jury binder. Jurors may not keep their notes.
- l. Exhibits:
- 1) During Trial or before deliberation in Jury Trial:
 - (a) All admitted exhibits will be secured by the court clerk unless otherwise directed by the Judge; they will not be left unattended in the courtroom during breaks and/or lunches.
 - (b) At the end of the day's proceedings for the case, exhibits of a sensitive nature (such as contraband or weapons) will be returned to the party that introduced the exhibit. If the exhibit is an admitted exhibit the parties are required to make the exhibit available should the jury wish to see it during deliberations.
 - 2) During Deliberation:
 - (a) All exhibits will be secured in a manner prescribed by the Judge. When exhibits are in the jury deliberation room they must be secured.
 - (b) Contraband and weapons will only be allowed in the deliberation room upon judicial discretion. If it is allowed, it will be secured by the party that admitted the exhibit and will be made available when the jury is ready to view it.
 - 3) Post-Trial:
 - (a) The court clerk will have parties sign a Stipulation and Order to dispose of exhibits (VBC-0005).
 - (b) Exhibits are returned in accordance with the Stipulation and Order (VBC-0005).
- m. Use of Electronic Equipment:
- 1) If electronic equipment is necessary to review testimony or exhibits during deliberation, the sworn bailiff will set up and test the equipment out of the presence of the jury. The sworn bailiff will be the only individual allowed to be present to run the electronic equipment for the jury.
 - (a) During the playing of trial testimony, there is to be no discussion of the case while the bailiff is in the jury deliberation room.
 - (b) Any trial testimony that is re-played in the jury room must be played from start to finish without stopping (jury must watch the entire testimony of the witness; they cannot just pick portions to watch).

- (c) For electronic exhibits, the jury shall select one person to run the electronic equipment. The bailiff will instruct the selected juror on how to use the electronic equipment needed to view the specific exhibit. The jurors are not to discuss the case while the bailiff is in the jury deliberation room. The bailiff will exit the room, and the jury will then view the exhibit at their discretion. If they have any problems operating the electronic equipment they must buzz once for the bailiff. If they have any questions regarding the substance of the exhibits, they must be written down on the deliberation question form (VBC-1202) and buzz once for the bailiff who will deliver the question to the Judge.
- (d) Any technology issues will be addressed accordingly by the Judge, court administrator and bailiff, and, if necessary, the Van Buren County Information Technology Department.

L. Verdict:

1. When the jurors buzz the bailiff three times, the bailiff confirms with the jury that a verdict has been reached, but not the substance of the verdict, and informs the jury that it will be a few minutes while the parties are assembled in the courtroom. The jury foreperson retains the form of verdict.
2. The bailiff will advise court staff that the jury has indicated there is a verdict.
3. The court staff will work to assemble the parties in the courtroom.
4. After the parties are assembled, and the Judge is ready to proceed, the bailiff will retrieve the jurors.
5. The bailiff escorts the jurors into the courtroom guiding them into the jury box. The foreperson brings the form of verdict to the courtroom. The jury binders will remain in the jury deliberation room. After the verdict is returned and the jurors are released, the bailiff will destroy the juror notes in the jury binder.
6. The Judge will have the court clerk address the jury for the verdict using the verdict script (VBC-1253).
7. The Judge then provides the verdict form to the court clerk, who will ensure the document is file stamped for inclusion in the file.
8. The Judge thanks the jury and discharges them, having the bailiff escort them to the jury deliberation room. At the Judge's discretion, the Judge and counsel for the parties, or police officers may be allowed to meet with jurors who are willing to meet in the jury deliberation room. Those who are not willing to meet will be escorted out of the courthouse immediately, while those wishing to stay will be secured in the jury deliberation room.

9. In the event of a high-profile case, additional security may be required to escort jurors to their vehicle after they are released. If this is the case, the court staff will contact security and inform them that their assistance will be needed.

M. Jury Service Exit Surveys

1. Upon the return of the jury to the jury deliberation room, the bailiff will distribute jury service exit surveys (VBC-1209) to be filled out at the juror's discretion. They may be filled out immediately and left in the jury deliberation room, or they may be mailed in.
2. Completed surveys are returned to the court, reviewed by court staff and then given to the jury clerk for compilation.
3. The surveys will be scanned and saved electronically for future reference.

FORMS USED:

- VBC-0002, Exhibit Log
- VBC-0003, Witness Log
- VBC-0005, Stipulation and Order to Dispose of Exhibits
- VBC-1201, Juror Witness Question
- VBC-1202, Jury Deliberation Question
- VBC-1204, Juror Binder Witness List
- VBC-1205, Juror Seating Chart
- VBC-1209, Juror Exit Survey
- VBC-1211, Buzzer System
- VBC-1216, Jury Room Supplies Checklist
- VBC-1240, Juror Qualification Questionnaire
- VBC-1242, Alpha List
- VBC-1243, Random List
- VBC-1249, Jury Oath Before Voir Dire
- VBC-1250, Jury Oath - Criminal
- VBC-1251, Jury Oath - Civil
- VBC-1252, Bailiff Oath
- VBC-1253, Jury Verdict Script

APPROVAL:

Date: 11/18/2019



Kathleen M. Brickley – Chief Judge