

THE SUPREME COURT OF THE REPUBLIC OF PALAU

HANDBOOK FOR TRIAL JURORS

I. Purpose of This Handbook

The purpose of this handbook is to acquaint trial jurors with the general nature and importance of their role as jurors. It explains some of the language and procedures used in court, and it offers some suggestions helpful to jurors in performing this important public service.

Nothing in this handbook is to be regarded by jurors as instructions of law to be applied by them in any case in which they serve. The trial judge will instruct the jury in each separate case as to the law of that case. Jurors must follow only the instructions of law given to them by the trial judge in each particular case.

II. Importance of Jury Service

Jurors perform a vital role in Palau=s system of justice. The protection of our rights and liberties is largely achieved through the teamwork of judge and jury, who, working together in a common effort, put into practice the principles of our great heritage of freedom. The judge determines the law to be applied in the case while the jury decides the facts. Thus, in a very important way, jurors become a part of the court itself.

Jurors must be men and women possessed of sound judgment, absolute honesty, and a complete sense of fairness. Jurors aid in the maintenance of law and order and uphold justice among their fellow residents. Their greatest reward is the knowledge that they have discharged this duty faithfully, honorably, and well.

III. The Courts

If you are chosen to be a juror in the courts of the Republic of Palau, you will be chosen to serve on a criminal case. Typical criminal charges in the Supreme Court of the Republic of Palau are those involving crimes such as violation of narcotics laws and murder.

IV. The Criminal Case

The person charged with a violation of the law is the defendant. The charge against the defendant is brought by something called an information.

An information is the name given to a written charge against the defendant filed by the Attorney General or the Special Prosecutor.

After the information is filed, the defendant appears in open court where

the court advises the defendant of the charge and asks whether the defendant pleads guilty or not guilty. This procedure is called the arraignment.

No trial is needed if the defendant pleads guilty and admits to committing the crime. But if the defendant pleads not guilty, he or she will then be placed on trial.

The judge in a criminal case tells the jury what the law is. The jury must determine what the true facts are. On that basis the jury has only to determine whether the defendant is guilty or not guilty as to each offense charged. What happens thereafter is not for the jury's consideration but is the sole responsibility of the judge. In other words, the sentence is not to be considered in any way by the jury in arriving at an impartial verdict as to the defendant's guilt or innocence.

The jury must consider separately each of the charges against the defendant, after which it may find the person: not guilty of any of the charges, guilty of all the charges, or guilty of some of the charges and not guilty of others.

V. The Voir Dire Examination

To begin a jury trial, a panel of prospective jurors is called into the courtroom. This panel will include a number of persons from whom a jury will be selected to try the case. Alternate jurors may be chosen to take the place of jurors who cannot complete their jury service.

The panel members are sworn to answer questions about their qualifications to sit as jurors in the case. This questioning process is called the voir dire. This is an examination conducted by the judge and sometimes includes participation by counsel. An untruthful answer to any fair question could result in serious punishment to the person making it.

The voir dire examination opens with a short statement about the case. The purpose is to inform the jurors of what the case is about and to identify the parties and their lawyers.

Questions are then asked to find out whether any individuals have a personal interest in the case or know of any reason why they cannot render an impartial verdict. The court also wants to know whether any member of the panel is related to or personally acquainted with the parties, their lawyers, or the witnesses who will appear during trial. Other questions will determine whether any panel members have a prejudice or a feeling that might influence them in rendering a verdict. Any juror having knowledge of the case should explain this to the judge.

Parties on either side may ask that a member of the panel be excused or exempted from service on a particular jury. These requests, or demands, are called challenges.

A person may be challenged for cause if the examination shows he or she

might be prejudiced. The judge will excuse an individual from the panel if the cause raised in the challenge is sufficient. There is no limit to the number of challenges for cause which either party may make.

The parties also have a right to a certain number of challenges for which no cause is necessary. These are called peremptory challenges. Each side has a predetermined number of peremptory challenges. The peremptory challenge is a legal right giving both sides some choice in the make-up of a jury.

Jurors should clearly understand that being eliminated from the jury panel by a peremptory challenge has nothing to do with ability or integrity.

VI. The Jurors= Solemn Oath

Before voir dire, the jury panel will be sworn and will promise to give truthful answers. After the voir dire is completed, the jurors selected to try the case will be sworn in.

The jurors then rise and hold up their right hands. The jurors face the judge or the clerk who is to administer the oath. That official slowly, solemnly, and clearly repeats the oath. The jurors indicate by their responses and upraised hands that they take this solemn oath.

Jurors not wishing to take an oath can affirm instead of swear.

VII. The Eight Stages of Trial

The trial proceeds when the jury has been sworn. There are usually eight stages of trial in criminal cases. They are:

- (1) The lawyers present opening statements. Sometimes the opening statements on behalf of one or more parties are omitted.
- (2) The prosecution calls witnesses and produces evidence to prove its case.
- (3) Defendant may call witnesses and produce evidence.
- (4) Prosecution may call rebuttal witnesses.
- (5) Closing arguments are made by the lawyer on each side.
- (6) The judge instructs or charges the jury as to the law.
- (7) The jury retires to deliberate.
- (8) The jury reaches its verdict.

During the trial, witnesses called by either side may be cross-examined by the lawyers on the other side.

Throughout the trial, the judge may be asked in the presence of the jury to decide questions of law. Usually these questions concern objections to testimony that either side wants to present. Occasionally, the judge may ask jurors to leave the courtroom briefly while the lawyers present their legal arguments for and against such objections. The law requires that the judge decide such questions.

A ruling by the judge does not indicate that the judge is taking sides. He or she is merely saying, in effect, that the law does, or does not, permit a particular question or answer.

It is possible that the judge may decide every objection favorably to the prosecution or the defendant. That does not mean the case should be decided by the jury for the prosecution or the defendant.

The juror takes an oath to decide the case upon the law and the evidence. The law is what the judge declares the law to be. The evidence will consist of the testimony of witnesses and the exhibits admitted in evidence. What evidence is proper for the jury to consider is based upon the law of evidence.

VIII. The Arguments of Counsel

After presentation of the evidence is completed, the lawyers have the opportunity to discuss the evidence in their closing arguments. This helps the jurors recall testimony that might have slipped their memory.

The chief purpose of the argument is to present the evidence in a logical and comprehensible manner. The lawyers fit the different parts of the testimony together and connect the facts to make their argument.

You must remember that each attorney presents the view of the case that is most favorable to his or her own client. Each lawyer=s side appears to be right to that lawyer. Each lawyer=s statement may be balanced by the statement of the lawyers on the other side.

IX. The Charge of the Jury

The charge of a judge to a jury in the Palau Supreme Court is a statement of the rules of law. The judge will state the law related to the facts presented to the jury.

It is the jury=s duty to reach its own conclusion as to the facts. This is done upon the evidence. The verdict is reached without regard to what may be the opinion of the judge as to the facts, though as to law the judge=s charge controls.

X. The Jury=s Verdict

In criminal cases, it is the jury=s duty to decide the facts in accordance with the principles of law laid down in the judge=s charge to the jury. The decision is made on the evidence introduced, and the jury=s decision on the facts is usually final.

XI. Courtroom Etiquette

A court session begins when the court official calls for order. Everyone in the court rises. The judge takes his or her place on the bench, and the court official announces the opening of court. A similar procedure is used when court adjourns.

Common courtesy and politeness are safe guides as to the way jurors should act. Of course, no juror will be permitted to read a newspaper or magazine in the courtroom. Nor should a juror carry on a conversation with another juror in the courtroom during trial. Jurors can bring water with them, but they cannot eat food or chew betel nut while in court.

Jurors will be treated with consideration. Their comfort and convenience will be served whenever possible. They should bring to the attention of the judge any matter affecting their service and should notify the court of any emergencies by writing a note and giving the note to the marshal or the courtroom clerk. In the event of a personal emergency, a juror may send word to the

judge through any court personnel or may ask to talk to the judge.

XII. Conduct of the Jury during the Trial

Jurors should give close attention to the testimony. They are sworn to disregard their prejudices and follow the court's instructions. They must render a verdict according to their best judgment, based on the facts of the case and the law as detailed by the judge.

Each juror should keep an open mind. Human experience shows that once persons come to a preliminary conclusion as to a set of facts, they hesitate to change their views. Therefore, it is wise for jurors not even to attempt to make up their mind on the facts of a case until all the evidence has been presented to them and they have been instructed on the law applicable to the case. Similarly, jurors should not discuss the case with anyone, even among themselves, until it is finally concluded.

During the trial, the jury may hear references to the rules of evidence. Some of these rules may appear strange to a person who is not a lawyer. However, each rule has a purpose. The rules have evolved from hundreds of years of experience in the trial of cases.

The mere fact that a lawsuit was begun is not evidence in a case. The opening and closing statements of the lawyers are not evidence, just as a lawyer's question is not evidence. A juror should disregard any statements made by a lawyer in argument that have not been proved by the evidence. A juror should also disregard any statement by a lawyer as to the law of the case if it is not in accord with the judge's instructions.

Jurors are expected to use all the experience, common sense, and common knowledge they possess. But they are not to rely on any private source of information. Thus, they should be careful during the trial not to discuss the case at home or elsewhere. Information that a juror gets from a private source may be only half-true, biased, or inaccurate. It may be irrelevant to the case at hand. At any rate, it is only fair that the parties have a chance to know and comment upon all the facts that matter in the case.

If it develops during the trial that a juror learns elsewhere of some fact about the case, he or she should inform the court by giving a note to the clerk. The juror should not mention any such matter in the jury room.

Individual jurors should never inspect the scene of any event in the case. If an inspection is necessary, the judge will have the jurors go as a group to the scene.

Jurors must not talk about the case with others not on the jury, even their spouses or families, and must not read about the case in the newspapers. They should avoid radio and television broadcasts that might mention the case. The jury's verdict must be based on nothing else but the evidence and law presented to them in court.

Breaking these rules is likely to confuse a juror. It may be hard to separate in one's mind the court testimony and reports coming from other sources.

Jurors should not loiter in the corridors or vestibules of the courthouse. Contacts may occur there with persons interested in the case, such as reporters or witnesses. If juror identification badges are provided, they should be worn in the courthouse at all times.

If any outsider attempts to talk with a juror about a case in which he or she is sitting, the juror should do the following:

- (1) Tell the person it is improper for a juror to discuss the case or receive any information except in the courtroom;
- (2) Refuse to listen if the outsider persists; and
- (3) Report the incident at once to the judge.

Jurors on a case should refrain from talking on any subject—even if it is not related to the matter being tried—with any lawyer, witness, or party in the case. Such contact may make a new trial necessary.

Some cases may arouse much public discussion. In that event the jury may be kept together until the verdict is reached. This procedure is used to protect the jurors against outside influences.

XIII. In the Jury Room

In Palau, after the jury has been charged and the jurors have retired to the jury room, the jurors will first select the foreperson of their jury.

The foreperson presides over the jury's deliberations and must give every juror a fair opportunity to express his or her views.

Although they may have different reasons for reaching a verdict, all jurors must agree on the verdict.

The jurors have a duty to give full consideration to the opinion of their fellow jurors. They have an obligation to reach a verdict whenever possible. However, no juror is required to give up any opinion that he or she is convinced is correct.

The members of the jury are sworn to pass judgment on the facts in a particular case. They have no concern beyond that case. They violate their oath if they render their decision on the basis of the effect their verdict may have the defendant or on other situations.

XIV. After the Trial

After the jurors return their verdict and are dismissed by the judge, they are free to go about their normal affairs. They are under no obligation to speak to any person about the case and may refuse all requests for interviews or comments. They may also speak to people if they want to. Nevertheless, the court may enter an order in a specific case that during any such interview, jurors may not give any information with respect to the vote of any other juror.

XV. Conclusion

To decide cases correctly, jurors must be honest and intelligent. They must have both integrity and good judgment. The jury system is based on these attributes. The continued vitality of the jury system depends on them.

To meet their responsibility, jurors must decide the facts and apply the law impartially. They must not favor the rich or the poor. They must treat alike all men and women, corporations and individuals. Justice should be rendered to all persons without regard to race, color, religion or sex.

The performance of jury service is the fulfillment of a high civic obligation. Conscientious service brings its own reward in the satisfaction of an important task well done. There is no more valuable work that the average citizen can perform in support of our Government than the full and honest discharge of jury duty.

The effectiveness of the democratic system itself is largely measured by the integrity, the intelligence, and the general quality of citizenship of the jurors who serve in our courts.