

Why Won't They Come?

*A Study of Juror Nonresponse and Failure-to-Appear
in Harris County, Texas*

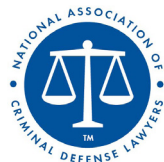
Report and Recommendations to
the Harris County District Clerk

December 2023

Strengthening
the **sixth**
JUSTICE FOR ALL



ASSOCIATION OF
PROSECUTING
ATTORNEYS



Acknowledgements and Disclaimers

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Introduction

A persistent challenge in jury system management are people who fail to respond to their jury summons or fail to appear (FTA) on their reporting date. High nonresponse and FTA rates greatly undermine system efficiency by making it necessary to summon more jurors to compensate for those who fail to respond or appear. Nonresponse also increases the burden on citizens who do respond and appear for service rather than distributing service equitably across the entire jury-eligible population. Nonresponse and FTA rates are often highly correlated with lower socioeconomic status; consequently, nonresponse and FTA rates often result in jury pools that underrepresent people of color and other marginalized communities.¹

The last time juror nonresponse and failure to appear rates were studied was in 1998 by Robert Boatright at the American Judicature Society (AJS Study). The study followed up on non-responders and FTA jurors in four jurisdictions and found that the most common reason for nonresponse was that jurors never received the jury summons, usually because they had moved to a new address. Individuals who received their jury summons but failed to respond or appear were not inherently hostile to jury service, but differed from jurors who did respond or appear in several significant ways. For example, non-responders were less informed about what jury service entailed, including the term of service, procedures to be excused or deferred from service, and the consequences of nonresponse.² The AJS Study recommended improved public outreach and education prior to receipt of a jury summons in addition to effective master jury list maintenance and summons enforcement efforts to minimize nonresponse and FTA rates.

The AJS Study was conducted a quarter-century ago and much in society has changed, making it possible that the factors that contributed to nonresponse and FTA rates have also changed, especially following COVID-related disruptions to court operations. Since the start of the pandemic, average nonresponse and FTA rates increased from 14% in 2019 to 16% in 2022, with some courts reporting rates exceeding 33%.³ The Harris County District Court (Houston, Texas) reported especially high rates: 37% in 2019 and 48% in 2022.

In 2023, the Strengthening the Sixth project team partnered with the Harris County District Clerk's office, which oversees jury operations for the Harris County District Court, to investigate the extent to which factors identified by AJS were still relevant and applicable in the greater Houston area. This report describes the study data and methods, findings, conclusions, and recommendations for jury operations in the Harris County District Court. The findings will inform the District Clerk's efforts to improve public outreach and education about jury service.

¹ Paula Hannaford-Agor, *Systematic Negligence in Jury Operations: Why the Definition of Systematic Exclusion in Fair Cross Section Claims Must be Expanded*, 59 Drake L. Rev. 761, 774 (2011); Robert Boatright, *Improving Citizen Response to Jury Summons: A Report with Recommendations* 68 (1998).

² *Id.*

³ NCSC State-of-the-States Survey of Jury Improvement Efforts (forthcoming 2023).

Data/Methods

The Harris County District Clerk randomly selected 5,000 jurors who failed to respond or failed to appear for jury service from July 1 to December 31, 2022 to receive one of two surveys exploring beliefs, attitudes, and experience with jury service. Half of these individuals received a letter from the Harris County District Clerk directing them to log on to an online survey platform that asked them explicitly why they failed to respond/appear (Version 1). The other half received a letter asking jurors to log on to the online survey platform to assist the District Clerk in learning why some people don't respond/appear for jury service (Version 2). The first version of the survey was designed based on the findings from 1998 AJS Study and on discussions with court staff in several state courts. Survey questions in the second version were designed to parallel those in Version 1. To mitigate participants' possible concerns about repercussions from the court for their non-response, the second version asks in a more general manner about reasons for not responding.

Letters were sent to participants on March 1, 2023. Five percent of letters (244) were returned by the US Postal Service (USPS) as undeliverable. Six percent of jurors (158) responded to Version 1 and 2% (56) responded to Version 2. Twenty-two respondents called the National Center for State Courts (NCSC) to receive a paper survey but were instead surveyed by telephone (21 respondents for Version 1 and one respondent for Version 2). The project team anticipated more responses to Version 2, due to the more generalized language and nature. Unexpectedly, Version 1 received over three times more responses than Version 2.

Both surveys invited jurors to participate in a brief interview with project staff to learn about their views of jury service. For Version 1, 79 (48%) individuals indicated willingness to be interviewed. For Version 2, 10 (19%) individuals indicated willingness to be interviewed. The information for those willing to be interviewed was forwarded to RTI International (RTI). Three RTI interviewers contacted these 81 individuals beginning on March 22 and ending on April 23. Three attempts were made to reach a person before considering them an interview nonrespondent. Ultimately, 51 (63%) of the individuals were nonrespondents; eight (10%) indicated they were not interested in completing the interview; and 22 (27%) completed the interview. The calls lasted about 10 minutes and covered topics such as the reasons for nonresponse, their thoughts about jury service and barriers to service, and ways to improve jury summons response rates.

Demographic information was collected in both versions of the survey. Table 1, below, shows the demographic composition of the survey and interview samples compared to the jury-eligible population of Harris County, Texas according to the 2020 U.S. Census. Although there were some proportional differences, no racial, ethnic or age categories were conspicuously missing from the survey and interview samples. In addition, most respondents reported that they had previously been summoned for jury service and most of those had appeared for service in response to the previous summons.⁴

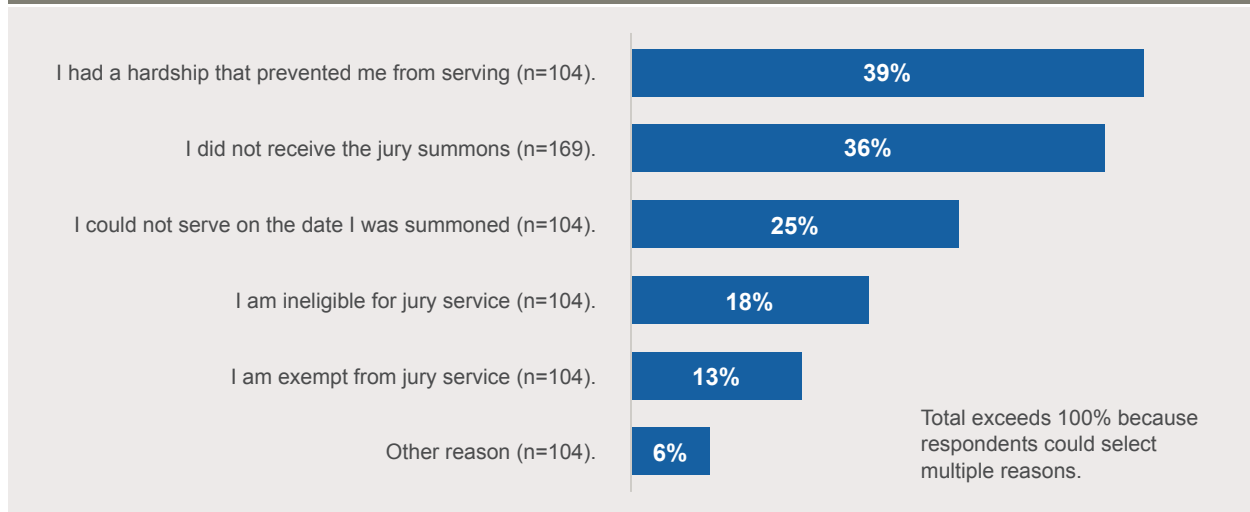
⁴ This rate of having ever been summoned is consistent with other studies of people residing in Harris County who respond to surveys. For example, Rose and colleagues published a study of jury service histories of people living in Texas. Mary Rose, Shari S. Diamond & Marc Musick, Selected to Serve: An Analysis of Lifetime Jury Participation, 9 J. Empir. Leg. St. 35 (2012). At our request, Rose re-analyzed the data to examine just Harris County and found that, among people who responded to the survey, 71% reported having received a summons.

Table 1: Selected Demographics of Study Participants

	Total Harris County Adult Population*	Survey Version 1 n=158	Survey Version 2 n=56	Interviews (n=22)
Age				
18 to 25	9%	17%	20%	23%
26 to 35	15%	14%	8%	5%
36 to 45	15%	15%	4%	14%
46 to 55	13%	15%	20%	18%
56 to 65	11%	24%	28%	36%
Over 65	11%	15%	20%	5%
Hispanic/Latinx				
	40%	43%	36%	45%
Race				
White	38%	58%	58%	55%
<i>White, Not Hispanic</i>	30%	33%	40%	9%
Black / African American	19%	20%	20%	14%
Native American / Alaskan Native	1%	1%	2%	5%
Asian	8%	10%	4%	5%
Hawai'ian / Pacific Islander	<1%	<1%	-	0%
Other Race	18%	13%	14%	23%
2 or more races	16%	3%	2%	0%
Previously summoned for jury service				
	n/a	68%	78%	62%
If previously summoned, appeared for service				
	n/a	77%	61%	54%
* US Census Bureau, 2020 Decennial Census, Table P3 (Race for the Population Age 18 and Over); Table P4 (Hispanic/Latino for the Population Age 18 and Over); Table P005 (Sex by Age)				

Survey Version 1 Findings

When asked why they did not respond to their jury summons, respondents offered a variety of reasons; some offered multiple reasons. Figure 1 displays the proportion for each response. Most commonly, respondents reported having a hardship that prevented them from serving or not receiving the jury summons. Other reasons respondents provided included that they were unable to serve on the date they were summoned, they were ineligible, they were exempt, and other reasons.

Figure 1: Reasons for not responding for jury service

Hardships

Many individuals reported hardships as the reason they did not report for jury service. Of the individuals responding to the survey, 33 selected 'hardships' as the reasons for their nonresponse and an additional seven responses were recoded from "other reason for not serving" because the explanation indicated a hardship of some kind. The reported hardships can be grouped into five categories:

- **Poor Health** (16): Of the individuals that indicated a health-related hardship, only half knew about the process for submitting a doctor's affidavit to be excused. Further, three individuals indicated that they did submit an affidavit and requested to be permanently excused from jury service.
- **Employment** (10): Most individuals stated that either their employer would not pay them for jury service, their employer could not spare them for jury service, or their employer would fire them if they skipped work to appear for jury service. One respondent listed unemployment as their hardship.
- **Transportation** (8): Of the individuals that listed transportation as a hardship, seven indicated that they did not know about the free Metro Service for jurors provided in Harris County.
- **Childcare** (6): Six individuals responded that childcare, or lack thereof, was the hardship preventing them from reporting for jury service.
- **Other hardship** (3): Other individuals cited parents in hospice care, the recent death of a child, and a recent divorce that caused a mental health crisis as hardships that hindered their ability to report for jury service.

Did not receive summons

The second most common reason respondents gave for not responding to the jury summons was that they never received it. Given that 5% of the letters were returned marked undeliverable, the single biggest reason that jurors fail to respond or appear for service is arguably because they never received the jury summons.

Of the 5,000 letters sent for the study, an additional 244 letters were returned to the District Clerk's Office marked undeliverable by the USPS.

Of those responding, 71% indicated that they had lived at the same address for more than 24 months, which suggests that inaccurate addresses on the master jury list or inadequate service by the USPS may be a major factor.

Inability to serve on reporting date

Approximately 25% of respondents indicated that they were unable to serve on the reporting date. Of these respondents, 83% were unaware that they could reschedule the reporting date if necessary.

Ineligibility

Some individuals reported they did not appear for jury service because they were ineligible. Of the 17 individuals that indicated ineligibility, the most common disqualification was limited English proficiency (LEP) (53%). Other disqualifications included physical or mental disabilities (24%), nonresident status (18%), and felony backgrounds (6%). No respondent reported lack of citizenship status as a reason for disqualification, despite 37% of Harris County's adult Hispanic population being noncitizen. The lack of responses referring to citizenship begs the question of whether these individuals simply declined to disclose this information, or they are not on the master jury list, and thus not being summoned, or if they are a significant number of FTA jurors and likewise failed to respond to the survey.

Exemption

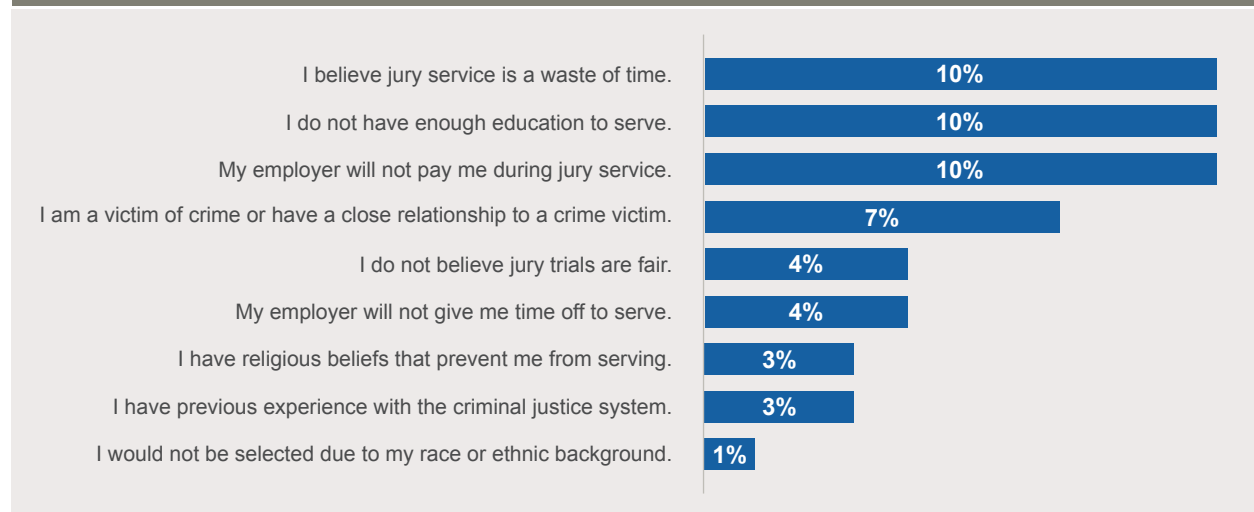
Other participants believed that they were exempt from jury service (13%). These individuals indicated that they were full-time students, over the age of 70, or full-time caregivers for a minor or incapacitated adult.

Other reasons

Participants also indicated that they forgot about jury service (2), they served on a different date (2), and they didn't have faith in the justice system (1). One participant gave no reason but indicated that they were disappointed they couldn't serve. Several respondents selected "other" in the survey, but their answers were recoded to fit into the above categories.

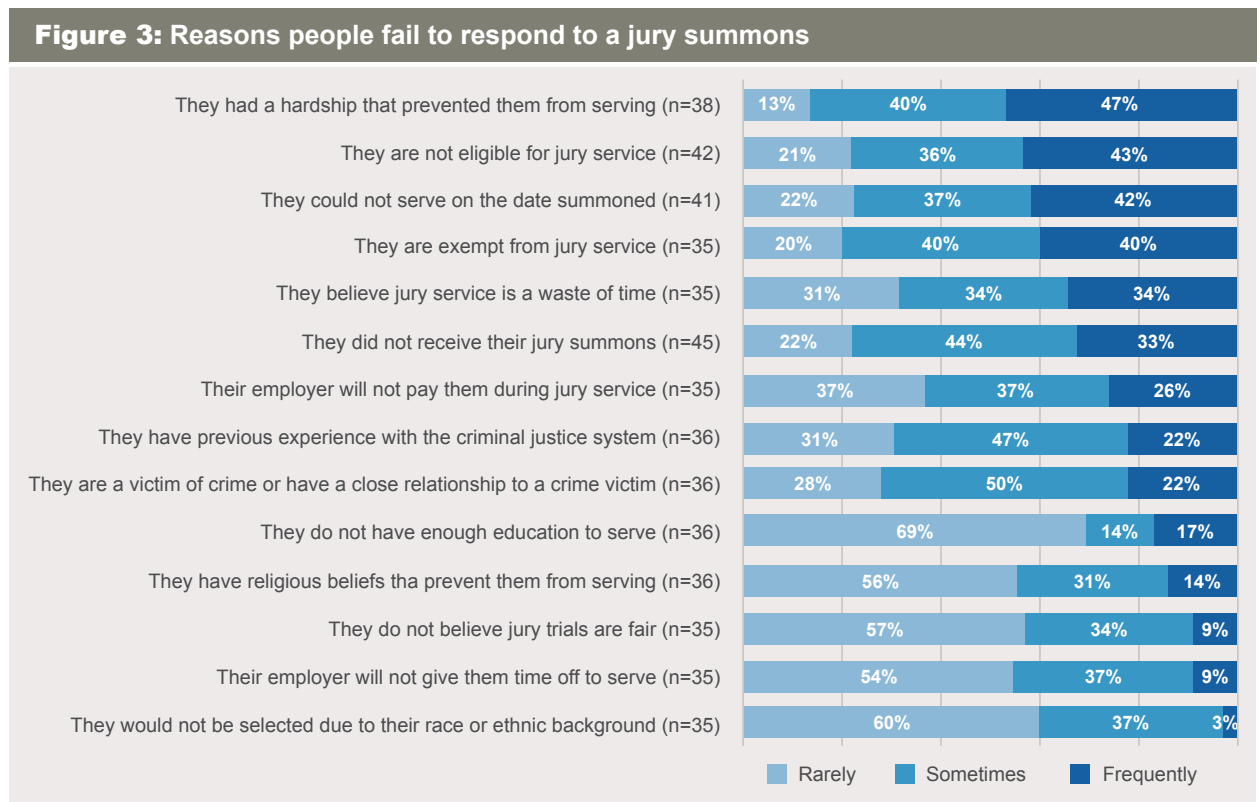
Version 1 respondents were also given a list of statements that are often offered for nonresponse/FTA and asked if they applied to them. It is notable that none of these "other reasons" were selected more often than the barriers identified above. Statements that jury service is a waste of time, that they did not have enough education to serve, and that juror compensation was inadequate were the statements endorsed by survey respondents. Less common answers included having previous experiences with the criminal justice system and feeling like they would not be selected due to race or ethnic background.

Figure 2: Other reasons the person could not serve (n=104)



Version 2 Findings

Respondents in Version 2 answered a set of questions that paralleled the questions in Version 1, except the questions were generalized to ask about someone that did not appear for jury service. Figure 3 visualizes the variety of answers provided, with no reason standing out with a clear majority of “frequent” responses.



With slight variety in the order, the responses in Version 2 were similar to the responses in Version 1. The most prevalent reason was hardships (47%). Eligibility (43%), not being able to serve on the reporting date (42%), and exemption (40%) were also prevalent answers among respondents.

Version 2 respondents also answered open-ended questions about why people don't respond to jury summons, some of which may reflect their own reasons. In their responses, seven participants reiterated the issue of physical or mental health hardships; five participants referenced ineligibility due to nonresident status, LEP, and criminal history; five participants mentioned a fear or dislike of driving downtown; and five participants described experiences problems with mail, including late notice. Others mentioned burnout from multiple summons, indifference to or unwillingness to serve, forgetting to appear, inadequate pay that doesn't make up for lost income or parking, lack of education, and jury service not making a difference.

Insights from Interviews

The individuals who participated in interviews with RTI staff largely mirrored the survey respondents with respect to their reasons for failing to respond to the jury summons. Eight reported that they did not receive a jury summons or received it after the reporting date had passed. Six indicated that they had a hardship of some type. Others indicated their belief that they were not qualified (2), that they had a conflict with the reporting date (1), that they simply forgot (1), or offered a different reason or no reason (6). Notably, most individuals who received the summons believed that they didn't need to respond to the summons if they were unable to serve.

Respondents offered a variety of suggestions to encourage response rates, including increasing the per diem amount, reimbursing parking expenses, providing translation services for LEP individuals, providing transportation such as a metro pass or bus voucher, providing childcare, and fining people who fail to appear for service.

Two respondents indicated that the courthouse needed to be more accessible, noting that it was not designed “for older people and those with health issues” and that is “stressful to get there and get in and out.” Further, one respondent explained, “I live in the outskirts of Houston and it's hard for me to get around. More money wouldn't change my mind.”

Respondents indicated secondary concerns about the safety of downtown Houston, even if transportation barriers were addressed, and two people suggested allowing jury service at a variety of locations throughout the area. One respondent suggested providing door-to-door car shuttle service and/or reimbursing expenses for a rideshare service (e.g., Uber or Lyft).



Conclusions and Recommendations

It is perhaps ironic that a study of factors related to juror nonresponse and failure-to-appear rates suffered from a disappointing survey response rate. Project staff had hoped for at least a 10% response rate, which was achieved, but only if the letters that were returned undeliverable by USPS are included in the tally. In terms of the demographic characteristics of the survey respondents, there were no conspicuous demographic distortions that might suggest that the views of discrete categories of age, race, or ethnicity were insufficiently represented in the findings. But there is a lingering question about whether the views and experiences of individuals who responded to the survey can be reliably generalized to those of individuals who not only failed to respond or appear for jury service, but also failed to respond to the survey.

To address this possibility, the District Clerk should consider administering Survey 2 to court users who appear in person for other court proceedings or to conduct other court business. A larger sample size would either validate the study findings or bring to light new insights that were not identified in the current study. Using interns or court volunteers for this purpose would also provide additional opportunities for impromptu interviews with court users about their experience with jury service and their suggestions for improving response rates.

The findings from this study of juror nonresponse and failure-to-appear were similar in most respects to the 1998 AJS Study. In particular, problems related to the delivery of jury summonses by USPS appear to be significantly related to nonresponse and failure-to-appear rates in Harris County. Nearly 5% of the survey letters were returned and marked undeliverable, leading to the reasonable conclusion that those individuals likewise did not receive the jury summons. More than one-third of Survey 1 respondents reported not receiving a jury summons, despite having lived at their address for more than 24 months. A similar proportion of Survey 2 respondents cited not receiving the summons as a frequent reason why jurors fail to respond or appear for service. Thus, a sizeable proportion of the nonresponse and FTA rate may be unreturned undeliverable summons rather than recalcitrant jurors.⁵ In addition, several respondents and interviewees reported that the summons

Recommendations to Increase Response and Participation in Jury Service in Harris County

- Minimize the impact of untimely and undelivered mailings by **adjusting timeframes** and **improving address accuracy**.
- **Improve design and content of jury communications** including the summons and jury information website to increase comprehension.
- **Minimize transportation barriers** through collaborations with Justice of the Peace Courts

⁵ The undeliverable rate for jury summonses for the Harris County District Court was 15% in 2022, which is somewhat higher than the national average of 11%, but comparable to the undeliverable rate for one-step jury operations in urban areas.

was received too late for them to make arrangements to serve, including after the reporting date had already passed. Timely mail delivery also appears to be problematic with respect to documentation (doctor's affidavits, for example) that were mailed back to the court. As a result, some survey respondents were misidentified as jurors who failed to respond or appear for jury service when, in fact, the documentation to be exempt or excused from jury service was not received by the court in a timely manner.

The Office of the Inspector General for USPS routinely reports on the quality of postal service delivery in the United States.⁶ While service delivery improved overall in 2023, Texas Postal Division 2, which includes the Houston metropolitan area, is approximately 3 percentage points lower than its target of 93% delivery for first class mailing within 2 days. This poses an ongoing challenge to the District Clerk with respect to timely delivery of jury summonses. In the near term, it may require the District Clerk to increase the timeframe for mailing jury summonses to allow sufficient time for jurors to receive and respond to their summons, including the return and processing of required documentation related to disqualification, exemption, or hardship.

Because inaccurate and stale addresses contribute both to the known undeliverable rate for jury summons and to at least some portion of the nonresponse and FTA rates, the District Clerk should also confirm whether the Secretary of State routinely employs practices intended to ensure the accuracy of addresses, including refreshing the master list at least annually and employing an NCOA^{Link} vendor to update addresses for individuals who have filed a forwarding address with USPS. If these practices are not routinely employed during the master jury list creation process, the Harris County District Clerk should implement them locally before summoning jurors from the new list. In addition, the District Clerk should explore the feasibility of maintaining a database of record changes reported by jurors (e.g., name changes, address changes) as well as jury summonses returned as undeliverable by the USPS. This information can then be used to ensure that correct information is not replaced by incorrect information when the master jury list is refreshed.

Both Survey 1 and Survey 2 respondents indicated that personal hardships involving poor health, employment, transportation, childcare, or a conflict with the reporting date were the most frequent reasons for failure to respond or appear for service. Many of these hardships appeared legitimate and the jurors would likely have been excused from service, but most seemed unaware about how to request an excusal, deferral, or other assistance. Although information about seeking an excusal from jury service is included with the jury summons and on the District Clerk's website, the information may not be communicated clearly enough for most jurors to understand.

For example, the FAQ webpage includes the question "Who can be excused from jury service?" The answer, however, refers only to persons who have been convicted of a felony, are on probation, or are under indictment; it offers no information about individuals seeking to be excused for hardship. Information about medical exemptions appears much further down the list of FAQs, but it is not

⁶ An interactive dashboard of USPS service performance by Postal District and Division is available at <https://www.uspsog.gov/our-work/service-performance>.

phrased as a question, so individuals may not understand that they must click on the FAQ to access the medical exemption form. To improve jurors' comprehension of website information, the FAQs should be written as plain English questions. For example:

- **I have a physical or mental impairment that prevents me from serving. How can I be excused from jury service?**
- **I cannot drive to the courthouse. Can the Court help with transportation?**
- **Can I reschedule my jury service to a more convenient date?**

About one-quarter of Survey 1 respondents believed that they were either ineligible for jury service or could claim an exemption, but they nevertheless failed to inform the court. Some may believe that the District Clerk already possesses that information, making it unnecessary for them to expressly notify the Court. The single most important directive expressed in the jury summons is that the prospective juror must respond to the jury summons, ideally by preregistering on the District Clerk's Jury website or alternatively by returning the completed juror qualification questionnaire by mail or in person. Completing this fundamental step, which includes providing contact information for future communication, provides Jury Services staff with sufficient information to follow up on incomplete or missing documentation in a timely manner. All other information contained in the jury summons is secondary, including recognition that some jurors may have a hardship that prevents them from service and the Court will make reasonable accommodations (deferrals, other assistance) to address those hardships.

Over the past two decades, many courts have adopted the use of postcards to summon jurors, rather than full letter-sized jury summonses. In addition to reduced postage costs, these courts often report improved response rates, ostensibly because the limited space on the postcard provides only enough room to inform recipients that they must appear for jury service at a specified date and location and directs them to the court's website to confirm their eligibility before reporting. Prospective jurors are less likely to become confused compared to jurors who must read lengthy instructions and information about qualifications, exemptions, other deferrals or accommodations for hardship, and other information about jury service. The District Clerk should consider a pilot test to determine whether this approach would improve response rates.

Finally, many jurors who agreed to be interviewed expressed reservations about having to travel to downtown Houston, even if juror compensation and other travel barriers were addressed. To assuage their concerns, the District Court might consider implementing a cooperative agreement with Harris County Justice of the Peace Courts, which are located in heavily populated areas throughout the county, to allow qualified jurors to serve in those courts rather than having to travel to downtown.⁷

⁷ Jury operations for the Justice of the Peace Courts in Dallas County, Texas, including summoning and qualification, are managed by the Dallas County District Clerk's Office.



OFFICIAL JURY SUMMONS

MARILYN BURGESS, HARRIS COUNTY DISTRICT CLERK



SHERIFF ED GONZALEZ HEREBY SUMMONS YOU TO APPEAR FOR JURY SERVICE



MARILYN BURGESS DISTRICT CLERK
1201 CONGRESS AVE
HOUSTON TX 77002

HC 00000000

JUROR # 6001-14

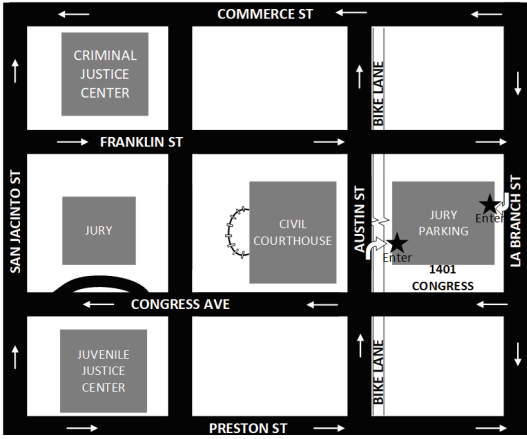
DATE: Apr 14, 2022	Jury Room Opens at 7:00am
TIME: 2:25 PM	
PLACE: 1201 CONGRESS AVE, HOUSTON TX 77002	

REGISTER WITHIN 10 DAYS OF RECEIVING THIS SUMMONS.
www.hcdistrictclerk.com/jury

- **STEP 1:** Login on to www.hcdistrictclerk.com/jury or scan the QR code.
- **STEP 2:** Review the qualifications to determine if you are qualified to serve.
- **STEP 3:** Review the optional exemptions and decide if you wish to claim.
- **STEP 4:** Review the date assigned and reschedule if needed.

If you have any questions or need any assistance, call the Jury Room staff at 713-755-6392 Monday – Friday 10:00 a.m. - 4:30 p.m.

This jury summons is for an essential matter and requires your immediate action.




Exempt or Disqualified?

Claim exemptions or disqualifications online at hcdistrictclerk.com/jury

OR sign this form and Email: jury@hcdistrictclerk.com, Mail: 1201 Congress Houston, TX 77002, Fax: 832-927-0132

You may be exempted from jury service if:

Check any box that applies to you if you wish to claim an exemption

- 
- 1. You are over 70 years of age.
 - 2. You have legal custody of a child younger than 12 and service on the jury requires leaving the child without adequate supervision.
 - 3. You are a student of a public or private secondary school.
 - 4. You are enrolled and in actual attendance at an institution of higher education.
 - 5. You are an officer or employee of the Texas Senate, the Texas House of Representatives, or any department, commission, board, office, or other agency in the legislative branch of the State of Texas.
 - 6. You have served as a petit juror in Harris County during the current jury wheel reconstitution period, which began September 14, 2018. A summons prior to that date does not qualify for this exemption. This exemption does not apply to federal and municipal court jury service.
 - 7. You are the primary caretaker of a person who is unable to care for themself. This does not apply to health care workers.
 - 8. You are a member of the United States military forces serving on active duty and deployed to a location away from the person's home station and out of the person's county of residence.

The following reasons disqualify you from jury service.

Check any box that applies to you:

- 1. You are not 18 years of age or older.
- 2. You are not a citizen of the United States.
- 3. You are not a resident of the State of Texas or Harris County.
- 4. You have been deemed not of sound mind and good moral character. (Signed medical form required.)
- 5. You are not able to read or write.
- 6. You have served as a petit juror for six days or more during the preceding three months in the county courts or during the preceding six months in the district courts.
- 7. You have been convicted of a misdemeanor theft or a felony.
- 8. You are under indictment or other legal accusation for misdemeanor theft or felony.

- You are not required to claim an exemption.
- Business reasons do not exempt you from jury service.
- Claiming the lack of citizenship or residency in the county will make you ineligible to vote unless proof of citizenship/residency is subsequently provided.

I do hereby certify under penalty of law that I am EXEMPT or DISQUALIFIED because of the reason marked above.

Signature: _____

Date: _____

JUROR'S RIGHTS AND RESPONSIBILITIES

Right to Reemployment: A private employer may not terminate the employment of a permanent employee because the employee serves as a juror. An employee whose employment is terminated in violation of this Section is entitled to return to the same employment that he or she held when summoned for jury service if the employee, as soon as practical after release from jury service, gives the employer actual notice that he or she intends to return. (Civil Practice and Remedies Code section 122.001)

Proper Attire Required: All persons entering the courtroom should be dressed in clothing reasonably befitting the dignity and solemnity of the court proceedings. (e.g., shorts, tank tops, or t-shirts with derogatory images or messages are not permitted).

Claiming Health Exemptions: If you have health issues that would prohibit you from serving, you must mail or fax proof of disability or a statement from your physician. Forms are also available on our website.

Persons claiming the lack of citizenship will no longer be eligible to vote if the person fails provide proof of citizenship.

Persons claiming the lack of residency in the county might no longer be eligible to vote in the county. (Gov't. Code 62.0142)

ADDITIONAL QUESTIONS? PLEASE CALL US AT 713-755-6392

Phone lines open from 10:00am-4:30pm