

Commentary: My attempt at jury duty failed — because I'm a nursing mother



A mother breastfeeds her baby. (Getty Images)

By **Judith P. Miller**

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A Monday morning, 8:10 a.m. I step out into a gorgeous, sunny day, stressed out that I'm running late for jury duty at the Daley Center. It was going to be a whole day away from my newborn, the longest time we'd spent apart in the 11 weeks since he was born. I'd already gotten up extra early to nurse him, burp him, change him, and, of course, snuggle him before gathering up my breast-pumping equipment for my day away.

I was excited. As an attorney, I've been on the other side of the jury box, and I couldn't wait for the chance to see jury service as a juror. (I'll also admit that I was excited to have a few hours to wear professional attire without any spit-up.)

Little did I know that I'd have no chance at being on the jury. Not because I'm an attorney, and not because I'm a law professor, but because I'm a nursing mother.

Because I breast-feed my son, I have to express milk with a breast pump every few hours when I'm away from him. Failing to pump lowers my milk supply (making it harder to feed my baby with breast milk in the future)

and also causes terrible pain for me and the possibility of mastitis — a serious infection — as the milk backs up in my breasts.

Pumping at the courthouse should have been straightforward. Trials take breaks more frequently than I would need to pump. And, according to the Cook County Circuit Court's website, the Daley Center has a lactation room with a door that locks. You can't reserve the room in advance, but it's available for "persons reporting for jury service" (that's me!) and jurors.

I came to find out, however, that pumping at the courthouse was not straightforward. In fact, it was basically impossible. The clerk who was responsible for reporting jurors had never heard of the lactation room didn't know where it was, or how to get me access. Instead, he could offer me only a restroom — the men's restroom. The clerk explained that although the waiting room for jurors has a women's restroom, the electrical outlet in it didn't work.

I'm a pushy lawyer, and I wanted to serve. I showed him the court's website promising the lactation room and encouraged him to call the chief judge's chambers to get the outlet problem resolved. A father himself, he seemed to empathize. He even tried to get the outlet fixed, but no one would come to repair it — and pumping in the bathroom is far from ideal anyhow. As for the mythical lactation room, it remained so during my call to jury duty. However, my need to pump gave me only one choice: I had to leave — ironically, just as the loudspeaker called my panel into a courtroom.

We call jury service a civic duty because it's a right and privilege of citizenship. It is an awesome responsibility — no less of one than voting or holding office. Historically, the law excluded women from jury service because we were understood to "do" citizenship through motherhood and family life; jury service, like much of public life, was reserved for men. The courts rejected this view by ruling in favor of women who wanted to serve on juries.

However, excluding nursing women from juries violates our rights as citizens.

And it isn't just a matter of the juror's right to serve. The Constitution guarantees criminal defendants the right to a jury of one's peers — in technical terms, to a jury selected from a "fair cross section of the community." Excluding lactating women from the jury pool means the cross section isn't fair at all. That harms not just defendants but everyone who cares about the integrity of our court system.

To be sure, our state and federal governments have done a lot to make sure mothers can be in public without giving up nursing. Over the past 16 years, legislation has protected women's rights to nurse in public and to pump in workplaces, airports and, starting next year, schools as well.

But Illinois' laws don't yet cover government buildings, even though they are the site of core civic functions — like jury duty. And, as the saga of the mythical lactation room shows, good intentions aren't enough. Illinois should extend its lactation legislation to government buildings. Since 2006, Illinois has allowed nursing women

to be excused from jury duty. But that doesn't help those of us who want to serve. Motherhood and citizenship are not incompatible; Illinois courts shouldn't treat them as if they are.

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