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POLICY IMPLICATIONS OF JURY MANAGEMENT TECHNOLOGIES

A driving force behind many of the technological improvements in jury system management has focused on three areas: the integrity of the jury selection process, especially in terms of the fair cross section requirement; the convenience to citizens who are summoned for jury service; and the overall efficiency of the jury management system. In all three areas, these improvements have been enormously successful – so much so, in fact, that they have forced courts to reexamine existing jury policies and procedures that have become obsolete or even counter-productive as a result of improvements in jury technology. For example, technological advances that make it possible to increase the pool of qualified jurors have also allowed courts to make a number of accommodations such as shorter terms of service and increased juror fees, so that those jurors will be able to serve if summoned.

Similarly, Internet and IVR technologies permit prospective jurors to communicate with the court in a variety of ways by providing communication interfaces with a more comprehensive jury management database. Improved memory capacity for computers also makes it possible to collect greater amounts and more detailed information about prospective jurors than was previously possible. The creation of a single electronic record of juror information, however, now makes it necessary for courts to consider how much personal information about jurors should be publicly available and how much should be protected.

Many of the improvements in jury technology have

increased the overall efficiency of the system. But as pressure for greater cost-effectiveness continues to squeeze judiciary budgets, courts have begun to examine juror utilization patterns for areas where further cost savings may be found. As a result, more and more courts are developing better analytical tools to identify potential areas for improvement, and finding that efficient juror utilization requires an efficient interface between jury management functions and case management functions.

Another area that should be considered, which is not a driving force although it should be, is citizen education. Some innovative courts have recognized that focusing on the summoned juror is thinking too narrowly. Expanding that educational process to all citizens takes little additional effort. Finally, courts need to consider how to establish and support these technologies in a way that promotes an effective and efficient jury system.

In this chapter, we discuss each of these broader policy areas, including the most pressing questions that judges and court managers must be willing to confront if they are to make the most effective and appropriate use of emerging jury technologies.

Integrity – Implications of a More Representative and Inclusive Jury Pool

In 1975, the U.S. Supreme Court decided *Taylor v. Louisiana*,¹¹ establishing the constitutional requirement that the pool of qualified, available jurors reflect >>

¹¹ 419 U.S. 522 (1975).

a “fair cross section” of the community. This decision was one of several handed down by state and federal courts interpreting the Sixth and, by extension, the Seventh Amendment right to an impartial jury and the Fourteenth Amendment right to equal protection under the law.¹² These decisions prompted courts to abandon their key-man systems¹³ in favor of random selection of names from a reliable list of citizens in the community. Initially, most courts used voter registration lists, which were by now computerized and consequently more manageable than individual index cards.

The use of random selection techniques eliminated, for the most part, intentional discrimination from jury administration, but it did not address the issue of whether the voter registration lists were themselves representative of their communities or even broadly inclusive of the adult population. Numerous studies documented that older and predominantly white citizens with comparatively high income and education were overrepresented on voter registration lists.¹⁴ As technology developed that was capable of identifying duplicate names in the juror source lists, many courts began to supplement voter registration lists with lists of licensed drivers in an effort to come closer to the fair cross section ideal. This technology has continued to improve and now permits courts to combine multiple source lists and identify and discard duplicate listings with relative ease.

In general, all of these efforts were extraordinarily successful. The master jury lists from which summonses are selected are now far more representative and inclusive than those of 30 years ago. But in doing so, courts have had to recognize the operational distinctions between individuals who are presumably jury-eligible on the master jury list, individuals who are actually qualified to serve as jurors, and those who are able and willing to serve. These are important distinctions for two reasons. First, as the master jury list

became more inclusive of the general adult population, the respective jury yields¹⁵ decreased and the administrative costs of the jury system increased proportionately. Second, and more importantly, the inclusion of individuals who were otherwise qualified to serve, but who were unable or unwilling to serve due to various financial constraints, tended to skew the demographics of the jury pool, undermining efforts to achieve a fair cross section of the community.

Over time, courts have identified two particular stages of the jury selection process that are most likely to contribute to these problems – summoning (including following up on non-responders) and granting exemptions and excuses – and have begun to adjust existing policies and procedures to address these problems. In the summoning stage, undeliverable summonses as a result of inaccurate addresses from the juror source lists are the most significant problem, accounting for nearly half of all summonses mailed in some jurisdictions. Younger, lower-income individuals and minorities are comparatively more mobile than older, higher-income, and White individuals, and thus account for a disproportionately large number of summonses returned as undeliverable. Historically courts have had little success in persuading other state and local agencies (e.g., the Voter Registrar, the Department of Motor Vehicles) to improve the maintenance of these databases solely to improve the accuracy of addresses on the master jury list. As they gained the ability to merge multiple lists, courts have been able to capitalize on the relative accuracy of some source lists as compared to others by programming their jury systems to retain the names and addresses of prospective jurors from the most accurate list when determining which records to delete when duplicates occur. For example, state tax records and unemployment compensation lists, which are updated at least annually, are generally far more accurate than lists of licensed drivers and voter registration lists that are maintained more infrequently. Courts have also found that NCOA¹⁶ services offered

¹² See, e.g., *Casteneda v. Partida*, 430 U.S. 482 (1977); *Duren v. Missouri*, 439 U.S. 357 (1979).

¹³ Under the key-man system, it was the local jury commissioner's task to select persons known to be honest, upstanding persons in the community to form the pool of potential jurors.

¹⁴ See generally Cynthia A. Williams, Note, *Jury Source Representativeness and the Use of Voter Registration Lists*, 65 N.Y.U. L. REV. 590 (1990).

¹⁵ The jury yield is the proportion of persons selected who are qualified and available to serve. G. THOMAS MUNSTERMAN, *JURY SYSTEM MANAGEMENT* 44 (1996).

¹⁶ National Change of Address, see <http://www.usps.com>.

by private vendors are a cost-effective method of ensuring the most up-to-date addresses possible for juror summonses.

A related issue was court follow-up for individuals who did not respond to summonses. Until relatively recently, courts did not generally invest substantial time or resources to investigating the status or availability of non-responders. As the proportion of non-responders gradually increased, however, more courts institutionalized follow-up procedures. Some follow-up programs consisted of relatively gentle reminders, whereas others were more punitive, threatening fines or even jail time.¹⁷

Reduced juror yields also result when large proportions of otherwise qualified jurors are exempted or excused from jury service. Historically, states have offered exemptions from jury service to individuals holding high ranking political offices or public safety occupations (police, fire, physicians and other medical service personnel) on the justification that their time was more appropriately spent on their occupational duties than on jury service. Over time, however, it became a measure of political power for various interest groups to secure exemptions from jury service for their members. Until 1996, when it eliminated all occupational exemptions from jury service, New York State led the country in the highest number of occupational exemptions, relieving an estimated one million persons annually from jury service and imposing the burden on those individuals remaining in the jury pool.¹⁸ Similarly, discretionary provisions to excuse citizens from jury service were used extensively to relieve individuals from serving if doing so would impose an unreasonable financial or medical hardship. Because the individuals

seeking to be excused were disproportionately lower-income and held jobs that were less likely to offer compensation for employees on jury service, the resulting jury venire was again skewed toward a middle-income, white-collar, non-minority composition.

Seeking ways to distribute the burden of jury service more equitably, courts began to explore ways to enable a greater proportion of otherwise eligible citizens to serve. Many states eliminated most, if not all, occupational exemptions. Some courts reduced the term of jury service, many to one day/one trial.¹⁹ Juror fees in some states were increased to offset out-of-pocket expenses and income lost due to jury service. A few jurisdictions have gone even further to address barriers to jury service, such as arranging for free or reduced-cost public transportation for jurors,²⁰ providing compensation for dependent care expenses²¹ or even offering dependent care on site.²² Another effort that is growing in popularity is public outreach, especially to employers, to encourage community support for the jury system.²³

Many of these efforts have made it possible for individuals to serve who would otherwise suffer substantial financial or personal hardship as a result. What the courts are now just beginning to address is the need to accommodate the needs and, more significantly, to respect the contributions of individuals who previously were unable to participate in the jury system. The implications of their participation reaches beyond jury administration, effecting not only courtroom procedure but also tactical decisions by litigants about what cases to try and how to best present those cases to more diverse juries. Examples >>

¹⁷ In terms of return on investment, it is not clear that follow-up procedures beyond second notices substantially increase juror yields because many new responders are either disqualified from jury service or are subsequently excused for hardship. See, e.g., <http://www.state.ma.us/courts/jury/failure.htm#STATISTICS>.

¹⁸ The Jury Project: Report to the Chief Judge of the State of New York 31-34 (March 31, 1994).

¹⁹ Approximately 40% of the U.S. population lives in jurisdictions that operate under a One Day/One Trial term of jury service.

²⁰ St. Paul, MN; Seattle, WA; and San Diego, CA.

²¹ Minnesota is currently the only statewide jurisdiction that reimburses jurors for childcare expenses. MINN. STAT. § 593.48. A small number of courts have implemented local childcare reimbursement programs (Boise, Idaho). Colorado, Connecticut, and Massachusetts will reimburse the expenses of jurors who are unemployed, including childcare expenses.

²² *E.g.*, D.C. Superior Court and the Ninth Judicial Court of Florida.

²³ See G. THOMAS MUNSTERMAN, PAULA L. HANNAFORD & MARC WHITEHEAD (eds.), JURY TRIAL INNOVATIONS 25-28 (1997).

of the policy debates that are currently underway include:

- the legitimacy of peremptory challenges in the contemporary justice system;²⁴
- the availability of tools and resources to aid jurors in their decision-making tasks;²⁵
- the appropriateness of providing judicial guidance to jurors on deliberations, given that large numbers of people today lack experience in conducting effective small group discussions;²⁶
- the potential effects of non-unanimous verdict rules on jury deliberations;²⁷ and
- implications for the criminal justice system of decreased perceptions of police credibility by minority jurors.

How these debates will be resolved in the future is still unknown, but they are unquestionably a direct result of the technological advances that have made jury venires more representative and inclusive.

Privacy – Is Juror Information Public or Private?

Innovations in jury management technology facilitate the compilation of large amounts of information about the citizens who report for jury service. Because modern jury systems are designed as comprehensive management tools, they ease the transition from one step to the next in the jury selection process. For example, modern jury management systems are now capable of creating a master jury list from two or more jury source lists; randomly selecting names from the master jury list and preparing jury summonses; recording qualification information, including

exemption, excusal, and deferral status; tracking juror reporting and service status; and calculating and paying juror fees and mileage.

The advantage of having all of this information in one system is not only the ease of day-to-day operation of the jury system, but also the ability to analyze this information for management purposes, such as evaluation and long-term planning. But the improved ability to collect, record, and analyze personal information about prospective jurors also carries a significant responsibility to use that information in a manner that is consistent with court policies concerning public access to court records. Respecting the legitimate expectations of jurors concerning personal privacy is particularly critical insofar that it affects the willingness of citizens to participate as jurors in the justice system. Jurors report with an expectation of privacy. This section outlines the privacy implications related to innovations in jury management technology and some of the policies and procedures that courts have enacted to address those issues.

The question of whether juror information should be publicly accessible has generated a great deal of debate in recent years, much of which focuses on the tension between the First Amendment right of the press and public to open court records and proceedings and the Sixth Amendment right of criminal defendants to a fair and impartial jury.²⁸ In very few instances does the discussion focus on the discrete types of juror information that are collected by the courts. The brief overview below reveals that courts actually collect and record a great deal of personal information about citizens just from the summoning and qualification phases of

²⁴ See, e.g., Morris Hoffman, *Preemptory Challenges Should Be Abolished: A Trial Judge's Perspective*, 64 U. CHI. L. REV. 809 (1997); JURIES FOR THE YEAR 2000 AND BEYOND: PROPOSALS TO IMPROVE THE JURY SYSTEMS IN WASHINGTON, D.D. 24-27 (1998).

²⁵ B. Michael Dann, "Learning Lessons" and "Speaking Rights": *Creating Educated and Democratic Juries*, 68 IND. L. J. 1229 (1993); MUNSTERMAN et al., *supra* note 23.

²⁶ See Christopher N. May, "What Do We Do Now?": *Helping Juries Apply the Instructions*, 28 LOYOLA L.A. L. REV. 869 (1995); AMERICAN JUDICATURE SOCIETY, *BEHIND CLOSED DOORS: A RESOURCE MANUAL TO IMPROVE JURY DELIBERATIONS* (1999).

²⁷ See Paula L. Hannaford-Agor et al., "Are Hung Juries A Problem?" Final Report to the National Institute of Justice 13-14, 86-88 (September 30, 2002).

²⁸ See, e.g., David Weinstein, *Protecting A Juror's Right to Privacy: Constitutional Constraints and Policy Options*, 70 TEMPLE L. REV. 1 (1997); Nancy A. Novak, *Note, Jury on Trial: Juror's Constitutional Right to Privacy Falls Under Scrutiny of the Courts*, 3 SAN DIEGO JUST. J. 215 (1995); Marc O. Litt, "Citizen-Soldiers" or *Anonymous Justice: Reconciling the Sixth Amendment Right of the Accused, the First Amendment Right of the Media and the Privacy Right of Jurors*, 25 COLUM. J. L. & SOC. PROBS. 371 (1992); Susan L. Greenberg, *Note, Spotlight on the Jury: Trial Publicity and Juror Privacy*, 6 COMM/ENT. L. J. 369 (1983-84); Jennifer S. Buckley, *Note, Press-Enterprise Co. v. Superior Court: A Juror's Right to Privacy*, 2 DETROIT COLL. L. REV. 649 (1985); Michael R. Glover, *Note, The Right to Privacy of Prospective Jurors During Voir Dire*, 70 CAL. L. REV. 709 (1982).

jury selection; additional information is typically solicited during in-court voir dire.

- Source list information: the prospective juror's name, street address, and often the Social Security number and/or date of birth;
- Qualification information: citizenship and residency status, literacy and fluency in English, criminal background, and other disqualification criteria for jury service;
- Demographic information: race/ethnicity, and gender;
- Documentation supporting a statutory exemption, or a request to be excused for medical or financial hardship or to defer jury service to a later term of service;
- Contact information: home and work telephone number, e-mail address; and
- Basic voir dire information: occupation and employer information, education level, marital status, and information about spouses (occupation, employer) and minor children (ages, schools).

A consensus is slowly evolving in the courts community that qualification and administrative information about prospective jurors should be considered internal working documents for court management purposes and should not be publicly accessible,²⁹ while voir dire information should be publicly available.³⁰ To give meaning to these distinctions, however, courts must take steps to develop policies and procedures to secure private information and to ease access to public information.³¹

A useful first step for implementing and enforcing juror privacy policies is to segregate private juror information from public information at every step in the jury management process to minimize the possibility that private information will be inadvertently disclosed with public information. This step requires court staff

to consider both the organization and the content of information before it is collected (e.g., source list variables, summonses, qualification and voir dire questionnaires). Subsequent decisions focus on how the information is entered into and extracted from the jury management system. A couple of examples will help to illustrate the issues involved in segregating public from private information.

The basic information needed from the source list is the name and address of each potential juror for summoning purposes. If more than one source list is used to create the master jury list, many courts supplement the name and address information with the Social Security number or date of birth for the purpose of identifying and removing duplicate names. The use of multiple sources involves two possible complications related to juror privacy. First, federal law permits courts to use Social Security numbers for the purpose of creating the master jury list, but it prohibits disclosure of the Social Security number and restricts its use for all other purposes without the expressed consent of the person to whom the number applies.³² So courts must be careful to delete the Social Security number from the master jury list after the “merge and purge” process is complete, especially in jurisdictions where the master jury list is publicly accessible. If the Social Security number is kept in the juror data file, then access should be carefully limited.

Second, many source lists format names and addresses (e.g., use of initials in names, abbreviations of streets) in a way that makes it possible to identify from which list the name was drawn. In jurisdictions that rely on lists of registered voters and licensed drivers, which do not typically have negative connotations, this does not generate a great deal of concern. However, jurisdictions that use supplemental lists of unemployment or welfare recipients have greater concern about the ability to identify these individuals based on the format of their names and addresses on the master list (and >>

²⁹ See Paula L. Hannaford, *Safeguarding Juror Privacy: A New Framework for Court Policies and Procedures*, 85 JUDICATURE 18 (July/August 2001); ABA JUDICIAL ADMINISTRATION DIVISION, STANDARDS RELATING TO JUROR USE AND MANAGEMENT, Standards 11(c) (1993) and 20(a) (1997)[*hereinafter* STANDARDS]. But see Rose Jade, *Juror Privacy or Court Secrecy*, 85 JUDICATURE 264-65 (2002).

³⁰ *Press-Enterprise Co. v. Superior Court*, 104 S. Ct. 819 (1984).

³¹ See MARTHA W. STEKETEE & ALAN CARLSON, DEVELOPING CCJ/COSCA GUIDELINES FOR PUBLIC ACCESS TO COURT RECORDS: A NATIONAL PROJECT TO ASSIST STATE COURTS (October 18, 2002).

³² 42 USC 405 (c) (2) (E) i and ii.

subsequently on the summons and on panel lists delivered to the courtroom). Courts that use such lists may need to develop an additional step in the creation of the master jury list to reformat all of the names and addresses in such a way that the origin of the name will not be discernible from a visual inspection.

Most jurisdictions include a qualification questionnaire as part of the summons for jury service.³³ This questionnaire asks prospective jurors to indicate whether they meet the eligibility criteria for jury service under state statutes – typically U.S. citizenship; residency in the jurisdiction for a specified period of time; no legal disability (e.g., under the age of 18, felony conviction, or mental incapacity), and ability to speak and understand English. Many jurisdictions also supplement the qualification questionnaire with questions related to administrative information (including demographic information used for statistical reporting purposes) and basic voir dire questions. How these different types of questions are organized on the questionnaire can have a significant impact on the court's ability to seal certain responses from public access. For example, questionnaires on which qualification, administrative, and voir dire information is divided on different parts of the questionnaire can be physically separated along perforation lines, allowing the court to grant public access to some parts of the questionnaire without granting access to all parts. This technique is also useful for courts that use imaging technology to record the returned questionnaires. It is much easier to remove, block out, or tag larger portions of the questionnaire than it is for individual responses to questions.

Once the court has identified which items of juror information should be publicly accessible and which should be restricted, the question becomes how best to secure private information from unauthorized access or inadvertent publication by the court. To do this, courts need to develop policies for data entry, data maintenance, and the retrieval and reporting of information from jury systems.

Data entry of juror information is still done by court

staff in most jurisdictions, however technological advances have greatly improved the efficiency of this process. Source lists are typically delivered to the courts in electronic format, rather than via computer printouts of names and addresses from local Voter Registrar or Motor Vehicle Offices. Imaging technology captures individual items on qualification questionnaires and automatically enters them into the jury management system, rather than having court staff manually enter this information. Some courts are beginning to implement integrated systems that permit prospective jurors to respond to qualification questionnaires and to request exemptions, excusals, and deferrals over the Internet and have the data entered directly into the jury management system.

In most instances, the primary juror privacy issue associated with data entry is the disposition of the original source lists and qualification questionnaires. Are the original source lists (including Social Security number or date of birth) maintained on the court's computer system? Or are they deleted as soon as the master jury list is completed? If the source lists are retained, for how long? Who has access to the original lists? Are the original qualification questionnaires destroyed after the data are entered? If not, where are they stored? For how long are they stored? Who has access to the storage area?

After policies addressing these questions have been developed, secured maintenance of the jury database becomes the next area of concern. Protection from unauthorized access from both external and internal sources should be developed and implemented. The questions related to external access apply to all areas of the court's computer system. Can users gain access to any part of the court's computer system from a remote location? If so, what protections are in place (e.g., computer identification, user passwords) to ensure that access is only available to authorized users? Have firewalls been established to prevent hackers from gaining unauthorized access?

Access by internal users should also be addressed. For example, do all court employees have clearance to access the jury management database? Or is access

³³ In courts using a two-step process, a questionnaire is sent and then the summons.

restricted to jury personnel only? Which users have the ability to modify information in the database (as opposed to simply viewing the information)? Does the computer system have the ability to identify which users have accessed jury files and when? If so, does the court routinely monitor who uses those files?

A great deal of jury information is used exclusively for routine jury operations, such as identifying and summoning prospective jurors, notifying them about when and where to report for jury service, and calculating and paying juror fees and mileage. But some of this information must be extracted from the database and reported to the courtroom and to the attorneys and litigants for the purpose of jury selection. In addition, court management requires periodic reports about jury operations for planning and evaluation purposes. Both of these types of reports are ordinarily a matter of public record, so it is important for court staff to consider the level of detail that will be provided about individual jurors and avoid including superfluous information that is unnecessary for the specific task at hand.

Reports that are generated for jury selection purposes (e.g., alphabetical and randomized lists of prospective jurors in the venire) include the jurors' names and, depending on the jurisdiction, some indication of their place of residence (zip code, neighborhood, or actual street address). In addition, many jurisdictions will provide any basic voir dire information (marital status, occupation) that was included in the qualification questionnaire. As a rule, qualification and administrative information about jurors, including demographic information, should not be routinely provided in reports to the courtroom for voir dire,³⁴ particularly insofar as race, ethnicity, and gender are not permissible criteria for jury selection.³⁵

Jury management reports, such as demographic information about the jury pool, the proportion of responding jurors who are disqualified or excused from jury service, and costs associated with jury operations, can be very helpful for identifying areas in need of improvement and planning for future court needs. In most instances, these reports should provide aggregate

information about their respective subjects, rather than providing identifying information about individual jurors.

In the rare instances when individual qualification or administrative information is included in either a voir dire report or a jury management report, court policies should be in place specifying who may have access to the report, what should become of reports after the intended tasks are complete, under what circumstances those reports can be more widely distributed, and what consequences will follow if restrictions on access are violated. For example, how many copies of these reports should be sent to the courtroom? May lawyers for a criminal defendant share a voir dire panel report that includes juror addresses with their client? May lawyers retain jury questionnaires for citizens who were questioned, but not selected, for the jury? May they retain jury questionnaires for citizens who were not even questioned during jury selection? If those questionnaires are not retained, what becomes of them? Are they returned and destroyed? Who is responsible for ensuring that all copies of the reports are returned? Do the reports become part of the court file? Should the information be sealed? For how long should the information be retained in the court file?

As we saw from the discussion above, the most difficult aspect of protecting the privacy of personal juror information given improvements in jury technology is deciding which items of juror information should be publicly accessible and which items should be deemed personal and inaccessible except to authorized court staff. Once these decisions have been made, the court's data security systems should be set up to provide appropriate levels of protection for private information without unduly hampering the ability of court staff to access and disseminate public information. In addition, routine court management reports and jury selection lists should be designed and formatted with the intent to provide public information in a straight-forward manner and to protect the privacy of personal information. Finally, court staff at all levels should be educated about the purpose of these policies to avoid inadvertent violations. >>

³⁴ See STANDARDS, *supra* note 2.

³⁵ See *Batson v. Kentucky*, 476 U.S. 79 (1986).

Efficiency – Evolving from Jury Operations to Jury Management

As noted earlier, jury operations were recognized almost immediately as a fertile area for automation because the majority of tasks were highly routinized and required little discretionary decision making by court staff. Jury operations were almost exclusively concerned with inventory control – that is, ensuring that a sufficient number of prospective jurors were qualified and available to serve for all trials scheduled during that term of court. Estimates of the number of jurors needed were derived from a fairly stable mathematical formula that incorporated the following:

- the number of jury trials scheduled for a particular period of time;
- the number of jurors and alternates sworn for trial (6 to 12 jurors plus 1-3 alternates, depending on the estimated trial length);
- the estimated number of prospective jurors who would fail to report for jury service on the day of jury selection;
- the estimated number of challenges for cause likely to be granted; and
- the number of peremptory challenges available to the parties (4 to 20, depending on the jurisdiction and type of case).

Typically, jury staff would then add a few more jurors to the total, “just in case.” Based on this calculation, court staff would then estimate the number of summonses to be generated based on known jury yields. The intensive focus on the mechanics of summoning, qualifying, and scheduling prospective jurors for service left little room for thought about whether the actual composition of the jury pool really reflected a fair cross section of the community (and if not, why not), whether the jury system was using its resources as efficiently and effectively as possible, and whether the jury system was being reasonably responsive to the legitimate needs of jurors, including respecting jurors’ time.

In contrast to jury operations, jury management must be attentive to *all* aspects of the jury system: the composition of the resulting jury pool, its overall efficiency,

and its responsiveness to citizens’ needs. This recognition of the distinction between the purpose of jury operations and that of jury management is a relatively recent insight, but has become more important as budgetary pressures continue to prompt courts to identify potential areas for cost savings. In doing so, it has also prompted a reexamination of how jury operations interface with other areas of court operations, especially calendar management. For example, jury managers are now beginning to coordinate more closely with calendar clerks to forecast the number of jury trials that are likely to proceed to trial, rather than simply basing estimates on the number of jury trials scheduled. More accurate forecasting reduces the number of summonses mailed, thereby eliminating excessive postage and administrative costs, avoiding unnecessary qualification of prospective jurors who are never told to report for service (and who are then exempt from jury service for some statutorily defined period of time), and preventing needless disruption to jurors’ lives. Some jury managers are also working with judges to implement policies to discourage “last minute” settlements and plea agreements, such as levying the full amount of jury fees on civil litigants and requiring criminal defendants to plead to the full charge on the indictment if the lawyers fail to notify the court before the jury panel is ordered to report for service.

All of these measures are key components of effective jury management. The development of sophisticated technological and analytical tools for jury management is still underway. Both commercial vendors of jury system software and individual courts are continuing the process of refining data definitions and implementing accurate data collection procedures by court staff to facilitate reliable long-term forecasting and management planning.

Outreach/Public Information

Movies, television and popular fiction seldom portray juries in a realistic way. Even the classic film *Twelve Angry Men* contains many examples of things juries should not do. The jury’s verdict in *To Kill a Mockingbird* was obviously biased. The trials reported on television or in the press are seldom typical. It should not be surprising that citizens have strange ideas of what jury duty is all about.

There are two basic ways to overcome these impressions. The first, and arguably the most effective, is firsthand experience with jury service. Recent surveys indicate that approximately 24% of all adult Americans have served on jury duty.³⁶ Whether this means being a sworn juror or simply reporting is not known. It is known that most persons are more positive after having served.³⁷ The 76% of the population who have not served can be reached by juror outreach programs, and technology provides many mechanisms to facilitate these programs. Among these are court-based websites, many of which provide information on jury service, including such topics as:

- The history of trial by jury;
- The importance of trial by jury in today's society;
- Different types of trials and procedures used;
- Information for jurors about reporting, including when, where, how, parking, and schedules;
- Statutory requirements for employers concerning compensation and treatment of employees summoned for jury service; and
- Streaming video orientation presentations.

Many community cable channels now include an orientation to jury service. In Fairfax County, Virginia, which may have been the first to use this medium for juror orientation, the presentation is different from the in-court orientation that jurors receive when they report. The cable orientation provides the pre-reporting information a juror needs, such as parking and courthouse location, how postponements may be requested, what to expect, and how jurors may be contacted by family members in an emergency. In Massachusetts, interviews are conducted on a local cable channel with judges, clerks, attorneys, and jurors discussing and demystifying the jury trial process, the history of the jury system, and the details of its administration and satisfaction with that jury system. Interviews are recorded, distributed to local cable providers through

out the state, and televised for public information purposes.

Many organizations interested in providing information on the jury system have excellent websites. However, it should be noted that there are many more websites devoted to political views about the jury system than there are that provide unbiased educational information.

System Architecture and Support

The stand-alone jury system, whether purchased off-the-shelf or designed in-house, that operates independently of other technology systems is quickly being eclipsed by more complex systems. Some portions of the jury management process may be outsourced, such as mailing qualification questionnaires and summonses. Other vendors may provide information or services using the Internet, IVR interfaces or document scanners. The state judiciary or another state or local government agency may provide the source list already merged and updated. Another vendor may support an information kiosk that is programmed to dispense juror checks. Orange County, California, is working on a way in which the barcode on the summons would permit the juror to easily enter and exit the county parking garage. All of these technology enhancements make jury service less onerous and more informative for citizens and often more efficient for the courts. This section examines how these jury functions can be supported.

Typically, the first area of outside support consists of providing the source list to the courts. In several jurisdictions the state obtains the source lists, merges the lists, removes duplicate names and performs other administrative tasks such as using NCOA updates or applying suppression files.³⁸ The state then provides the lists to the courts in some machine-readable format. In Virginia, this is the limit of the state's ongoing jury system support. In other states, this is just the beginning. Colorado, New York and South Dakota have developed the entire jury system in house. In these >>

³⁶ HOW THE PUBLIC VIEWS THE STATE COURTS: A 1999 NATIONAL SURVEY 15 (NCSC 1999).

³⁷ Shari S. Diamond, What Jurors Think: Expectations and Reactions of Citizens Who Serve as Jurors, in VERDICT: ASSESSING THE CIVIL JURY SYSTEM (Robert E. Liten, ed.) 282 (1993).

³⁸ See Chapter 2.

states, smaller courts may use a stand-alone version of the system, and larger courts are online with the state system.

The system developed by the Unified Judicial System in South Dakota is noteworthy for several reasons.³⁹ First, it was developed in-house for less than \$50,000. It was originally written by a contractor in Microsoft Access 97, but efforts are underway to convert the systems. As of mid-2002, 10 courts are piloting the web interface modules, and 30 of the state's 62 counties are using the system either as a single user, over the local area networks in the courts, or via the state's wide area network. The system will be expanded in the future. Legislation is pending to permit the state to generate the merged source list, which is now the responsibility of each county auditor.

A number of states have purchased software and make the systems available to the individual courts,⁴⁰ with support and training provided by the state. Missouri provides the ACS Juror Management System to each county. Appendix C describes the system in a

document sent to each county or circuit in advance of receipt of the system. Of particular interest is the discussion of the privacy of the lists and the assurances requested from the counties as to how these lists will be treated. Appendix C also contains models of the qualification questionnaire and summons which are used. These forms are customized for each county, although a consistent format is used. As each new county comes on-line, a team from the Office of Court Administration trains the local staff. The state maintains a Help Desk that the courts can call when needed, and a liaison with the software provider is available through the state for updates or needed revisions. Missouri also provides county-by-county information on the state court web site and links to counties that have their own web sites. The effort in Missouri is a part of a much larger court automation project. The skills in the Office of Court Administration are much broader than simply supporting the jury system, which provides a larger base of skills at all levels and more extensive communications with other portions of the local courts. ■

³⁹ The South Dakota jury system was presented at the Court Technology Conference VII 2001 in Baltimore, Maryland. Portions of the system description presented are provided in Appendix B.

⁴⁰ Virginia and Illinois did this as pilot projects for the rest of the state to observe.

