



December 2, 2005

A Few Corrections

We know that Prof. Groot's class was at 8:00 a.m., not 8:30 as written two weeks ago. The adrenalin (much like a baby) woke us up even earlier.

Also, thanks to those who pointed out the problematic link to the UK story. The trouble is not in your sets--it didn't work for us, either! Some news sites update content without providing access (at least none that we could find) to "old" stories. Sorry for the inconvenience!

- [Philly jurors survive transit strike](#)
- [Sleeping jurors](#)
- [Update your list with SSNs](#)
- [Celebrity jurors](#)
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Philadelphia Jurors Get a Free Ride

Some courts wonder how to get jurors to use public transit. Others waffle about no-shows. During a recent transit strike the [Philadelphia Court of Common Pleas](#) got creative and managed to not only accommodate jurors' transportation needs, but also proceed uninterrupted with jury trials for the week.

Anticipating the strike, the court rented vans a week in advance. Jurors were responsible for getting themselves to court the first day for selection. Thereafter, they could be picked up at central points throughout the city. If a juror missed the bus, so to speak, warrant officers would go fetch them by car. Court concluded by 4:00 p.m. each day so that jurors could return home during daylight hours. Jurors had their own entrance to the court, and were picked up in an enclosed area outside the justice center.

The court uses an automatic phone call-off system, whereby judges "put their order in" for jurors the day before trial. Jurors then call in to see whether they will be needed to serve. The court deals with 300-400 jurors daily, mostly for criminal cases but also for civil. During the week of the strike, 20% fewer jurors than usual responded to the summons. According to Administrative Judge of the Trial Division Judge James J. Fitzgerald, III, "This is not a significant drop-off when you consider the vast majority of jurors use public transportation."

The transit strike and this impromptu service went on for a week and a day. The court held over twenty jury trials without interruption.

Judge Fitzgerald credits the warrant officers with the smooth implementation of the plan. Having people who were familiar with the city and with whom jurors felt safe was paramount to the plan's success. "The important part of the van pickup system was that 100% of our jury trials proceeded and we were able to bring all selected jurors to the Criminal Justice Center by use of the van pickup system. This is quite astounding when you consider all 12 jurors must report each day for a case to proceed to completion. The bottom line is the court was able to proceed without interruption."

Thanks to Judge Fitzgerald and Charles Mapp, and Tom!

The Sleep of Jurors Produces Harmless Misconduct

In Hawai'i, several jurors (the foreperson in particular) closed their eyes during closing. "Just resting" or asleep? Either way, beauty rest is no reason for a new trial, said the state supreme court. See [State v. Yamada](#), No.26506 (October 21, 2005).

Harmless or not, sleeping jurors cause problems. The solution? Be less boring! These folks dropped off during one of the defense's many bullet points. Oscar Wilde once said that people cannot be separated into good or bad, only "charming or tedious."

One judge tells us "I have been a judge almost 26 years and allow juror questioning, juror note taking, and generally we treat our jurors quite well here in Hawai'i. We now let our jurors know to keep each other wide awake."

Using Social Security Numbers to Maintain Your List

Mike Garrahan

Recently I was working on enhancements to our list merger procedures in New Jersey, and needed to track down a US Code section that authorizes access to Social Security Numbers for limited jury list purposes. I think that the Jur-E Bulletin is the appropriate forum to make others in jury management aware of that section and to acknowledge the efforts of those who worked to get that provision added to the Social Security Act in 1993.

The section is 42 USC 405 (c) (2) (E) (i) and (ii). It can be very helpful when dealing with the state agencies responsible for maintaining lists that you're adding to your master list. The section authorizes access to Social Security Numbers for purposes of identifying duplicate records or performing record checks if that data is included in a state list in accordance with applicable law. In other words, if a state agency's list contains Social Security Numbers, this section authorizes those responsible for jury lists to obtain access to that data in order to identify duplicate records or check for criminal records.

The section is helpful to keep available. I wished I'd done so that I didn't have to track it down again after not dealing with it for a number of years. I recalled the approximate year and title but an automated search didn't locate it and I didn't want to wade through US Code sections. I called Tom Munsterman because I knew that he'd been involved, of course. He pointed me to the section but credited the efforts of Judge Taylor Baker and US Representative Andy Jacobs, both of Indiana, who spearheaded the effort (on behalf of the Jury Committee of the ABA Judicial Division) to amend the Social Security Act. I'd like to add my thanks because their efforts can make merging new lists an easier and more valuable procedure.

One of our judges once used a line about being able to reach so high only because we're standing on the shoulders of giants--a saying very appropriate in this instance.

Here is the relevant section:

(E)(i) It is the policy of the United States that--

(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Commissioner of Social Security for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

(ii) The additional purposes described in this clause are the following:

(I) Identifying duplicate names of individuals on master lists used for jury selection purposes.

(II) Identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

More Celebrity Jurors

They're not exactly [Britney and Key](#), but senator John Kerry and talk show host [Diane Rehm](#) both reported for jury duty recently.

See "[Kerry Wins Election...as Jury Foreman](#)," AP,CNN.com (November 23, 2005). No link for Ms. Rehm (just her absence), but she has [covered jury topics before](#) on her show.

Thanks to Maria Mone, Tom, and Ben for keeping track!

And, we learned that [W.](#) has also been summoned. See "[Will Bush Heed His Call to \(Jury\) Service?](#)" Tommy Witherspoon, Waco Tribune-Herald (December 1, 2005), and "[Foreman in Chief?](#)" AP, CNN.com (December 1, 2005). If only he were governor of Florida, then he'd be exempt. (Fla. Stat. § 40.013) Thanks Lexi and Chris!

Dad Duty

So-called "stay-at-home" dads are near and dear to our hearts, so with that bias in mind we are sorry to report that one such dad is not only dealing with flu season, elementary school drama, the terrible 2's, grocery shopping with kids in tow, Sisyphus's laundry, and *possibly* even a crabby and tired wife (ahem!), one such dad is in contempt for not showing up for jury duty.

A current Ohio bill would excuse primary caregivers of children under 12, relatives with disabilities, or elderly relatives, or those who homeschool. If only he were Amish or a cloistered member of a religious organization!

See "[Missing Jury Duty Could Cost Dad](#)," Sheila McLaughlin, Cincinnati Enquirer (December 1, 2005). There's a nice sidebar with Ohio rules on jury duty.

Warm Fuzzies from Alaska

A [first-person account of jury service](#) in Alaska can be found on KTOO radio. "There goes our summer," thought the jurors, because service was scheduled for June and July--the only fleeting bit of summer they see up north. Judges, court administrators, attorneys, and jurors discuss selection, no-shows, juror pay, diversity, and attitudes toward jury duty.

Thanks to Neil Nesheim, Area Court Administrator in southeast Alaska, for the link (and sound byte)!

Show-Me State Excuses

The St. Louis Grand Jury Association recently heard a few good lines from Mike Devereaux.

Best Excuse at Show Cause Hearing: "Your Honor, as you can see I have a prosthetic leg. As I was getting ready to go to jury duty, the foot fell off my leg. This makes it very difficult to get around, so I had to miss jury duty to get that repaired." [She was given a postponement and was able to return to service at that time.]

Best Excuse Not Accepted: Your Honor, I just cannot afford to do this. You will just have to lock me up!" To which the judge replied, "Sheriff, take him into custody!"

Upcoming Events

- **December 7-12:** [COSCA midyear meeting](#), San Diego.
- **January 29-31, 2006:** [NACM 2006 Midyear Conference](#), Colorado Springs.
- **February 22-24:** Seems like a long way off but, like objects in the rear-view mirror, it is closer than it seems. In any case, it's not too early to think about attending the [Court Performance Standards](#) course, brought to you our own [ICM](#) (Portland, Oregon).
- **February 27-March 1:** Another ICM adventure--[Managing Court Financial Resources](#), also in Portland, Oregon. We took this course with Isabel

New Online

Trends!

[KIS](#)'s annual [Future Trends in State Courts](#) is now available [online](#) and in print! The 2005 edition includes an updated scan. Consider this your early holiday gift.

Salary Survey

If only there were a publication that told you the salary of everyone in the country who has a job similar to yours! If you're a judge in the state courts, look no further than the [Survey of Judicial Salaries](#). The latest issue features a special section on retirement plans for judges in courts of general jurisdiction.

New Resource Guides

Several [KIS](#) Resource Guides have received a facelift, just in time for all those holiday parties. Next, they'll have [reindeer sweaters](#). See:

- [Budget Processes](#)
- [Disaster Recovery and Business Continuity](#)
- [Judicial Compensation](#)

Note also that the new [Judicial Salary Survey](#) has been published.

Utah Online

The Utah Supreme Court's Advisory Committee on Model Utah Jury Instructions has comprehensive information on the [Utah State Courts site](#). See the Criminal and Civil committee information on the [Boards & Committees section](#) (see drop down menu).

There's also a nice "[Jury Room](#)," with the video, FAQ, online qualification, and information about Juror Appreciation Week, plus a message from the chief justice.

E-Discovery Guidelines

It's STILL not too late to comment on the CCJ Working Group on Electronic Discovery's September 2005 review draft, "[State Trial Court Guidelines Regarding Discovery of Electronically-Stored Information](#)." But after December 15, it will be. Please send comments to report author [Dick Van Duizend](#) by that time. Note: you must have [Adobe 7.0](#) to access the pdf file. (Trust us, this works!)

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