



BEST PRACTICES IN JURY SYSTEM MANAGEMENT

Each year in the United States, nearly 32 million people are randomly selected and summonsed to serve as jurors in the approximately 150,000 jury trials that take place in state and federal courts. About 1.5 million will ultimately be sworn as trial jurors. More members of the public experience the American justice system as jurors than as litigants, witnesses, or any other way. Their level of trust and confidence in the courts is often a result of this experience. When jurors' experience is positive, which it often is, they leave as a friend of the court. But negative experiences promulgate more quickly than positive experience. When courts fail to offer jurors an educational and satisfying experience, they have squandered a golden opportunity to present the court as a well-run, fair, and effective community institution.

From an internal operational perspective, we know that jury trials are a rare event in most contemporary courthouses. When they do take place, however, they use a disproportionate share of court resources. Moreover, the ability of conduct jury trials necessarily requires courts to maintain a stable pool of prospective jurors that can be summonsed to serve within a relatively short period of time, which is a more costly and labor intensive effort than most courts realize. Best practices in jury system management are those that maximize court performance in all essential components of jury system management by:

- securing an adequate pool of prospective jurors from which to select juries for trial;
- ensuring that the jury pool reflects a fair cross section of the community;
- operating the jury system in an efficient and effective manner; and
- treating citizens with respect and dignity.

All of the practices described below were first developed and implemented in state and local courts across the country. They proved to be so enormously successful at enhancing the experience of citizens that they were soon replicated by other courts. Many of these practices have been formally evaluated and found to reduce costs and improve jury system efficiency. They have also been endorsed by the American Bar Association *Principles for Juries and Jury Trials*.

Master Jury List Creation and Maintenance

- **Use comprehensive and up-to-date source lists.** Most states now combine the list of registered voters and the list of licensed drivers and state identification card holders to create the master jury list. A few states also include additional lists, such as state income tax filers and recipients of welfare and unemployment benefits. When removing duplicate records from combined lists, always retain the record from the source list with the most accurate addresses or, if possible, the most recently updated record regardless from which source list it came. After duplicate records are removed, the resulting master jury list not only has more accurate addresses, but also is very inclusive. The more inclusive the master jury list, the more likely that a random selection will reflect a fair cross section of the community. Moreover, the benefits and burdens of jury service will be more equitably distributed across the jury-eligible population.
- **Use updating technology to obtain most recent addresses.** Before summoning prospective jurors, verify and correct their address using the National Change of Address (NCOA) database available through the U.S. Postal Service.
- **Monitor suppression files.** Before a name is selected from the master list, it is usually compared to a list of individuals who should not be summonsed for jury service called a "suppression file." The individuals listed on the suppression file might include persons who have recently served, persons who are deceased, or persons who are permanently excused due to a medical condition or other reasons. Without adequate supervision, these lists have been known to grow quite large, eliminating substantial portions of the master jury list from consideration for jury service and sometimes skewing the demographic representation of the jury pool. Suppression files should only consist of individuals whose status as a person ineligible to receive a jury summons for a defined period of time is not subject to change. For example, deceased persons do not come back to life and persons who are exempt from jury service for a statutorily defined period of time do not become un-exempt. However, persons who did not previously respond to a jury summons might respond upon receiving a new summons. Any new records added to a suppression file should include documentation as to who added the names and why.

Summoning and Qualification

- **Combine the jury summons and qualification questionnaire into a single document.** One-step summoning and qualification procedures streamline the jury management process and reduce printing and postage costs. When converting from a two-step to a one-step process, the court will need to send enough additional summonses to compensate for those individuals who would normally be disqualified or excused from service.
- **Design the jury summons and qualification questionnaire with the intent to facilitate the evaluation of juror qualifications and data entry.** Ideally, the qualification questionnaire should be in a machine-readable format for automated data entry. Supplemental juror responses to qualification questions should also be viewable on the jury automation system to permit jury staff to verify and confirm qualification status easily.
- **Follow-up on all non-responses to questionnaires and summons.** A jury summons is a court order and its compliance should be enforced as such. State and federal statutes specify the penalties (fees, contempt proceedings) for willful refusal to obey a jury summons, but the primary objective of an effective follow-up program is simply to ensure that those jury-eligible citizens who are summonsed actually serve. A timely second summons or notice typically reduces the non-response or failure-to-appear rate by 24 to 46 percent. More aggressive measures, such as Order-to-Show Cause hearings or bench warrants for the most recalcitrant jurors, require more administrative effort, but, with appropriate notice to local media, can provide an opportunity to educate the public about the importance of responding to a jury summons.

Communicating with Prospective Jurors and their Employers

- **Design the jury summons and questionnaire so that it is easy for jurors to read, understand, and complete.** The first mailing that the prospective juror receives often contains a great deal of information, but all too frequently does not adequately distinguish between essential information (e.g., the date, time and location to report for jury service, instructions for completing and returning the qualification questionnaire) and less essential information (statutory penalties for failure to respond to a jury summons). Essential information should be printed in a conspicuous location and in an adequately sized font. Less essential information can follow, or the court can provide information about secondary sources (e.g., court website or telephone call-in service) to obtain this information.

- **Provide citizens with multiple ways of communicating with the jury office.** People today use a variety of communication technologies to conduct their affairs including Internet, e-mail, telephone, and Interactive Voice Response (IVR) technologies, in addition to written correspondence and face-to-face walk-in communications. Jurors are more likely to comply with jury summons instructions if they are permitted to respond using the communication media with which they are most comfortable. Many jury automation systems can be programmed to interface with online or IVR software, reducing the need for jury staff to respond to routine queries, eliminating the need for manual data entry, and reducing postage and printing costs.
- **Post information for jurors at an easily accessible location on the court website.** Many people routinely use the Internet to obtain information they need. Jury service is no exception. Juror information on the court website should include basic FAQs about jury service, directions to the courthouse including information about parking and transportation options, instructions about materials to bring to the courthouse (e.g., jury summons, positive identification, reading materials) as well as any prohibitions on the use of cellular telephones, laptop computers, and PDAs or other communication devices. The website should also include information for employers including terms of service, juror fees, and employer obligations concerning employee compensation and anti-discrimination policies.

Reporting for Jury Service

- **Permit jurors to defer their service to a more convenient time.** Public opinion surveys consistently report that the American public views trial by jury as the single most important aspect of the American justice system. Nevertheless, it is also recognized that jury service is often burdensome and almost always inconvenient. Rather than excusing jurors from jury service, courts should permit prospective jurors to defer their service to a more convenient date. This practice does not violate principles of random selection. Courts that have implemented such policies report that individuals who select a new service date are far more likely to report for service. The court may impose some restrictions on the deferral policy, such as limiting the period of time in which the person can select a new date (e.g., within 90 days), requiring the person to report on the same day of the week as originally summonsed, prohibiting multiple deferrals, and restricting deferrals on specific dates (e.g., beginning of notorious trials).
- **Reduce juror term of service to the minimum possible.** The time that a citizen gives to jury service should be as short as possible – ideally one day or one trial, but in no event longer than one week or one trial. Shorter terms of service increase the probability that the person can and will serve, thus reducing excusal and failure-to-appear (FTA) rates. The educational benefits of jury service, as well as the time and economic burdens, are more equitably distributed across the widest population of jury-eligible citizens.

- **Provide an orientation on processes and procedures.**

Through contemporary media and entertainment accounts of the justice system, the public has never been more informed about the jury process. Unfortunately, this information may not apply in the court or for the cases they will be asked to help resolve. Courts should provide information that jurors will need for the task at hand, rather than broad political or historical perspectives about jury service. This may include information about the jury selection process (*voir dire*), the trial process, deliberations, and basic legal principles. If the court permits prospective jurors to use cellular telephones, laptop computers, PDAs or other communication devices at the courthouse, the orientations should also include an explanation of *inappropriate use* of those technologies (e.g., communicating trial details to friends or family, conducting additional research on the case, etc.).

- **Provide an environment which is private, comfortable, and convenient for all jurors including those with disabilities.**

Public trust and confidence is not enhanced when jurors must wait in halls without adequate seating or without provisions for making the most of their time. A modern jury assembly room should be clean and sufficiently spacious to accommodate all of the jurors who have been told to report for service. It should also have comfortable seating, convenient access to food and beverages, and appropriate diversions (reading materials, television or DVDs with popular movies, games and puzzles) to occupy jurors until the trials commence. The area should be restricted to prospective jurors and court staff to prevent jurors from overhearing conversations by attorneys, litigants, or witnesses that might potentially compromise jurors' impartiality.

- **Reduce juror waiting time to the greatest extent possible.**

People do not like to wait, especially when the wait appears to be due to the inactivity of others and the waiting serves no obvious purpose. The time that jurors are told to report should be closely related to the time that the trial is scheduled to begin with a sufficient margin for jurors to check-in and for jury staff to conduct orientation.

- **Coordinate call-in with calendar management.**

Calling in jurors based on traditions is efficient only in very high volume courts where the caseflow is reasonably consistent. In other courts, the number of jurors to call in should be estimated based on the most recent information from the courtrooms concerning scheduled trials and the nature of those trials, especially trial length.

- **Have jurors call-in for last minute instructions.**

Having jurors call the evening before their scheduled reporting date allows the court to adjust the number of prospective jurors required to a more realistic level. Some courts also use a morning call-in to schedule jurors to report in the afternoon. Although this practice is preferable to having jurors report unnecessarily, it can cause scheduling problems for home or work activities.

Assignment for Juror Selection

- **Minimize panel sizes through monitoring.** The number of persons sent to a courtroom for jury selection should be set by the recognized need of the court, not by some tradition. Data can help the courts set minimum, yet adequate, requirements for panel sizes based on case type and other distinguishing characteristics such as anticipated trial length, community knowledge of the case, or association conflicts which may increase the number of challenges for cause.
- **Randomize the names of persons on panels.** If the names of those on a panel have been subject to non-random processes, such as being alphabetically listed, then they should be randomized again.
- **Provide juror information only to those who are authorized to view this information and only for the period of time necessary.** After juror selection, the information used by the parties for jury selection is no longer needed and should be gathered as provided in the privacy procedures.
- **Concentrate selections across courts to best utilize the prospective jurors.** In large, high volume courts, reassign jurors who were not selected for one trial to a new jury panel for consideration in a different trial. In smaller courts, consider impaneling multiple juries on the same day for trials scheduled to begin on future dates.

Post Jury Selection

- **Dismiss jurors as soon as possible.** Courts should be mindful of the desire of citizens to return to their usual schedule. If no other court needs prospective jurors for selection on a given day, they should be dismissed. This dismissal could apply to a portion of the jurors if there is a possibility of more selection activity on that day.
- **Ask jurors to complete an anonymous evaluation questionnaire. Many jury system improvements have come from jurors.** Asking them for their opinions on the many aspects of jury service is respectful of their experience and a source of interesting insights. If courts use a questionnaire there is an obligation to review these and make the results known to the courts.
- **Provide payment and proof of service when dismissed.** Some employers will not pay a juror's salary until the employer is aware of the court's payment to the juror.
- **Acknowledge the value of jury service.** If a citizen has served as a trial juror, the experience is indelible in his/her memory. If jury service has been simply sitting and waiting and never seeing the inside of a courtroom, then some explanation is due to the juror.
- **Provide information on post service juror privacy and press contacts.** Most citizens complete their service and return to the normal schedule and few will ever be contacted by the press or by attorneys about the case. Due to public portrayals of jury service, many jurors express concerns that this will happen. Jurors should be provided with an explanation of their rights and remedies possible should an unwanted contact occur.

Additional Post-Verdict Considerations for those Selected as Trial Jurors

- **Dismiss jurors after service on one trial if all possible.** Dismissing jurors after completing service on a trial helps distribute jury service across more people and permits the trial judge to discuss issues that might not be discussed if the person may be a juror in another case of that term. It also prevents the confusion of the instructions on the law from one case to another.
- **Provide information on post verdict stress services if appropriate to the case.** Some cases expose jurors to evidence that must be considered as beyond any juror's consideration of reality, and they may be asked to make decisions, as in death penalty cases, that are beyond any decision they have ever considered before. Yet we expect them to set this aside and return to their daily life as if this can be rationally put behind them. Many courts provide for juror debriefing by mental health professionals in these extreme cases.
- **Caution jurors about discussing certain topics.** Deliberations are carried out with a reasonable expectation of openness in the deliberation room and privacy beyond the deliberation room. Jurors should be reminded of this situation as they are now free to discuss the details of the case.

Ongoing Jury Management Functions

- **Document procedures with references to statutes, caselaw and court rules.** Every jury office should compile and maintain a Jury System Manual that documents all applicable statutes, court rules, and case law concerning jury management as well as operational procedures and key management reports. This manual should be kept up-to-date, especially for use in addressing potential legal challenges to the jury system.
- **Maintain reports on services provided by outside agencies such as Information Technology.** This would include the results of these computer runs such as number of records on the master list, the categories and number in these categories on the suppression files and the results of NCOA processing.
- **Evaluate list coverage and random selection.** Use U.S. Census Bureau information to compare the jury-eligible population (e.g., adult, citizens who speak and understand English) to the size and zip code distributions of the master jury list and the list of individuals summonsed for jury service. The master jury list should contain at least 85 percent of jury-eligible population.
- **Periodically evaluate the efficiency of reporting, call-in rate, yields, deferral rates and juror use.**
- **Establish privacy rules for all juror information.** The balance between the defendant's right to know juror information and citizens' expectations of privacy can be met if the courts establish rules for the access by time and content of juror information. A lack of respect for the citizen's expectation can result in less than a candid disclosure of information.

References and Additional Resources

- Gregory E. Mize, Paula L. Hannaford-Agor & Nicole L. Waters, *State-of-the-States Survey of Jury Improvement Efforts: A Compendium Report* (April 2007) (available at <http://www.ncsc-jurystudies.org>).
- G. Thomas Munsterman, Paula L. Hannaford-Agor & G. Marc Whitehead (eds.), *Jury Trial Innovations* (NCSC 2nd ed., 2006).
- G. Thomas Munsterman & Paula L. Hannaford-Agor, *The Promise and Challenges of Jury System Technology* (NCSC 2003).
- G. Thomas Munsterman, *Jury System Management* (NCSC 1996).
- The NCSC Center for Jury Studies posts a great deal of additional information including research and technical assistance reports at <http://www.ncsc-jurystudies.org>.
- The NCSC Institute for Court Management sponsors a 2.5-day workshop on jury system management. See the *Course Offerings* pages at http://www.ncsonline.org/D_ICM/icmindex.html.

For More Information

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