

**Final Report and Recommendations  
of the  
Arizona Supreme Court  
Ad Hoc Committee to Study Jury Practices and  
Procedures**



**Sheri Newman, Chair**

August 2002

# **THE ARIZONA SUPREME COURT AD HOC COMMITTEE TO STUDY JURY PRACTICES AND PROCEDURES**

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**Report and Recommendations  
of the Ad Hoc  
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# **Report of the *Ad Hoc* Committee to Study Jury Practices and Procedures**

## **I. The Committee's Charge:**

The committee was created by an administrative order of the Chief Justice on July 11, 2001.<sup>1</sup> This order charged the committee to examine and develop recommendations on the following:

- The quality of source lists used for summoning jurors statewide;
- The efficacy and cost savings realized by centralizing jury list preparation;
- The processes of how courts enforce their summonses and excuse or postpone prospective jurors from jury service;
- An increase in juror pay to keep in step with inflation;
- The feasibility of implementing "one-day/one trial" reforms statewide; and,
- Any other such issues considered by the committee to be related to improving jury service.

## **II. Committee Membership:**

The committee brought together a diverse group of perspectives and experiences. The membership included judges and court administrators from both superior and limited jurisdiction courts, a clerk of court, jury commissioners, public members and Administrative Office of the Courts (AOC) staff.

The committee originally consisted of 13 members. Two appointees resigned due to other obligations. Rick Lewis, former Mohave County Superior Court Administrator resigned after accepting the position of State Court Administrator for the Montana Supreme Court in Helena, Montana. Additionally, following the first meeting, Hon. Michael Lester informed staff he had received a special assignment which precluded him from actively participating in committee meetings. To fill the vacancies and give depth to the membership, three new designees joined the committee for the meetings that resulted in this report: Hon. George Logan, III, Phoenix City Court, Ms. Sarah Shew, Director of Jury Management, Superior Court in Maricopa County and Mr. Bob James, Judicial Services Administrator, Superior Court in Maricopa County.

## **III. Committee Structure:**

The committee held seven four-hour meetings between August 16, 2001 and July 26, 2002. In addition several conference calls of varying lengths were scheduled to address specific issues. Members were given a considerable amount of reading material to help them make informed decisions in each meeting. To supplement their literature review, updates on past statewide efforts to improve jury practices as well as current local and statewide endeavors were also provided. Finally, some members were tasked with conducting local pilot projects while others were assigned to obtain information from other states and to report their findings to the committee.

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<sup>1</sup> Administrative Order No. 2001-69 is attached as Appendix A.

In addition to the committee members' own expertise, George Diaz, Jr., AOC Legislative Officer, was also called upon for advice on legislative strategy. The committee also invited Richard Travis, Government Relations/Public Information Officer, AOC, to discuss the possibility of capitalizing on the nation's current wave of patriotism by developing public service announcements to promote jury service.

#### **IV. Committee Focus:**

##### **A. Background**

The first comprehensive review of Arizona's jury system was initiated in the spring of 1993 under the auspices of the Arizona Supreme Court Committee on the More Effective Use of Juries. This committee submitted its first report in the fall of 1994.<sup>2</sup> In late 1996, the committee reconvened to consider a dozen additional issues. Following the submission of a second report in June 1998, the committee disbanded.

The Supreme Court's recent renewed focus on jury issues can be traced to a small group of energized individuals who attended *Jury Summit 2001* in New York in January 2001. Their experience made these local attendees realize that although Arizona is well respected for its jury reform efforts in the area of courtroom procedures, work still needs to be done on streamlining the administrative process statewide. The Arizona Judicial Council (AJC) agreed with their assessment. Accordingly, at their June 2001 meeting the council moved to establish the Committee to Study Jury Practices and Procedures to study a variety of jury issues.

##### **B. Status of reform**

At its first meeting, the committee concluded that there were complex answers to the questions they would be examining. Therefore, members did not interpret their charge to solve all of the problems facing jury management staff in Arizona. Instead the committee focused their attention on studying Arizona's fifteen counties' jury system processes and examining whether standardizing jury administration procedures statewide was feasible.

As a springboard for its recommendations, the committee reviewed the status of jury system reforms related to its specific charges that were covered in *Jurors: The Power of 12*. The committee specifically focused on reasons why some recommended reforms had not been implemented. By reopening dialogue on previous jury recommendations, the committee hoped to offer updated solutions that would inspire further progress and improvement in Arizona's jury system.

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<sup>2</sup> *Jurors: The Power of 12* (November 1994)

## **V. Annotated Recommendations**

### **Preamble**

*The report that follows consists of 15 specific recommendations applying to jury management and administration. The committee believes the judicial branch has a responsibility to improve every aspect of its jury system. Accordingly, each recommendation was formulated with the aspiration of improving jury service for all of Arizona's citizens. In the committee's deliberations, a consensus on all issues was reached.*

*Due to the fundamental importance of the jury system to public respect for the judicial branch, the committee recommends that the Arizona Judicial Council and trial courts statewide support and adopt its recommendations.*

### **Comment:**

When developing its recommendations, the committee paid particular attention to how jurors are managed by the court, the process of how courts enforce their summonses, the efficacy of the current source lists for summoning jurors, excuse/postponement policies, and citizen education campaigns. Considerable attention was also given to revising and codifying the jury management standards adopted by Administrative Order No. 92-23. Another significant action taken by the committee was revising the 1994 Juror Bill of Rights proposed originally by the Arizona Supreme Court Committee on the More Effective Use of Juries.

The committee would like to thank the Arizona Judicial Council for its support of the committee's efforts and the Council's willingness to allow additional time to permit more conclusive recommendations. The committee believes its recommendations are fundamentally sound and well-reasoned and, furthermore, are necessary to effectuate statewide changes that will improve the jury system.

### **Quality of source lists**

1. *Based on the results of Maricopa County's test with the Department of Revenue, the committee recommends that the state income tax filers' list not be considered as an additional source list. The committee further recommends that appropriate language be included in the Arizona Code of Judicial Administration specifically mandating that counties periodically test their master source list for inclusiveness.*

### **Comment:**

One of the biggest issues currently facing many jury management offices statewide is getting adequate minority representation in their jury pool. At committee meetings, extensive discussions took place about how to determine whether the state's current source lists provide adequate inclusiveness and representation.

According to *Jury System Management* (1996) the recommended standard for inclusiveness of a jury source list is to capture 85% of the eligible population. Typically, the two lists

currently used (i.e., voter registration and driver's license rolls), provide about 80% efficiency when compared to the most recent census information.<sup>3</sup>

To increase inclusiveness of Maricopa's jury pool, Mr. Thomas Munsterman, noted national jury expert, proposed the Maricopa Superior Court Jury Management Office test the utility of adding the state income tax filers' list to their current source lists. Accordingly, in its December 2001 Report and Recommendations, the committee recommended that Maricopa County pursue a pilot project with the Department of Revenue (DOR) to determine whether adding the state income tax filers' list would provide the additional 5% of the eligible population in Maricopa needed to meet the Jury System Management standard.

If the pilot project succeeded in expanding Maricopa's source list inclusiveness, members agreed they would then address how to obtain DOR's confidential list for statewide purposes. The test with DOR was designed to meet one objective – to determine what percentage of names might be added by including names from DOR's list. To accomplish that objective, DOR was asked for:

- < The number of names and addresses on the court's current source lists that are exactly duplicated by the DOR list.
- < The number of names that are duplicated but the person has a different address that is still in Maricopa County.
- < The number of names that are duplicated but the person has a different address that is not in Maricopa County.
- < The number of names on the current jury source lists that are not on the DOR list (i.e., persons who do not file income tax returns).

Two separate tests were conducted in February 2002. Unfortunately, neither of the tests were deemed conclusive. This was attributed to the absence of basic matching criteria (i.e., last name, first name, middle initial). Other obstacles encountered included: complications with matching names due to the fact that names and addresses on the DOR list are not entered in a standard format; and, suffixes and prefixes are not entered consistently in DOR files.

The pilot's secondary aim was to use the DOR list to increase the number of minorities who may not be included in either voter or driver lists. Had testing demonstrated that a significant percentage of names were missing from Maricopa's source file, there may have been reason to pursue adding the DOR list as an additional source of names, given the requirement that everyone in Arizona earning income above a certain threshold must file a state income tax return. However, in the absence of such a showing, it was concluded that nothing further would be gained by subsequent testing and members determined there was no need to pursue obtaining this confidential list at this time.

The committee also discussed the possibility of adding other lists such as welfare rolls, unemployment compensation or Arizona Health Care Cost Containment System (AHCCCS) customers. Members agreed while these lists may add a small increase, individuals on these lists typically will be excused for financial hardship. The committee decided not to recommend that these lists be added to the current jury source lists.

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<sup>3</sup> Based on data provided by Maricopa and Pima county (July 2001).



## **Centralizing jury list preparation**

2. *Centralizing jury list preparation in the Administrative Office of the Courts or a particular county would be difficult at this time due to economic and logistical constraints. The committee recommends that discussion of this topic continue based on the findings of the pilot project conducted by LaPaz and Pima counties.*

### **Comment:**

The committee concurs with Thomas Munsterman who suggests centralization is “the right thing to do.” Mr. Munsterman argues centralization saves the court time and money, while adding the benefit of standardizing the jury list preparation process, assuring citizens statewide are treated equally.

Currently, nineteen states centralize their jury list preparation.<sup>4</sup> Members contacted individuals in four states using a centralized process to learn more about the pros and cons of implementation. The states contacted included: Colorado, Hawaii, Minnesota and Missouri.

Because all four states had utilized a centralized process for so long, staff involved in the implementation process were no longer available to provide a historical perspective. Cost savings figures were also not readily available.

Therefore, to generate local information, in its December 2001 Report and Recommendations, the committee recommended that Pima and LaPaz Counties pilot a combined merge/purge process. The test combined Pima and LaPaz counties’ two lists in the merge/purge, cleansing, and suppression aspects of the source lists. Pima and LaPaz jury management staff conducting the pilot agreed to examine the efficacy and cost savings of centralization as well.

The LaPaz/Pima pilot program began in January 2002. The process was completed in March 2002. The main benefits of the pilot project were:

1. LaPaz’s master jury list contained 6,707 names, compared to approximately 8,000 names on the last updated list. This reduction is most likely due to a more thorough duplicate removal process. This should result in fewer duplicate summonses being sent.
2. The LaPaz County names were processed through National Change of Address (NCOA) program at a minimal cost. Undeliverable mail should, therefore, decrease.
3. With a more accurate list of names and addresses, LaPaz’s mailing and printing costs should decrease.

As is the case with most pilot projects, problems were encountered during the process. For instance, the format of the La Paz County voter list was incompatible with the Pima County processing software. In addition, the type of tape used by La Paz for the list of motor vehicle

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<sup>4</sup> Information obtained at ICM Jury Management Conference.

names was also incompatible with Pima County's computer system tape. These factors, along with other challenges, added delays to the process.

The results of the pilot project suggest that the day-to-day activities associated with moving the process along (i.e., identification of problems and dealing with unexpected problems) is laborious. Therefore, after considerable deliberation, members agreed that processing the merge/purge correctly for all Arizona counties twice a year would be too time consuming for one jury department to handle.

Alternatively, while a centralized process conducted by the state or an outside vendor was feasible, after lengthy discussion, the committee did not recommend this approach either. Attention to detail is required throughout the process and it is necessary to have someone reviewing the files who knows what to look for to end up with a quality list (i.e., individual conducting the review needs to be familiar with the data as well as possible errors), simply having a vendor conduct the process may not improve the quality of a court's master jury list. The committee was also hesitant to recommend this approach due to the state's financial crisis.

It should be noted, for a more thorough evaluation, Pima county agreed to conduct the merge/purge for LaPaz county again in June/July. Specific statistical data obtained from LaPaz County regarding returned summonses, duplicate summoning, and cost savings, will be tracked and documented for future consideration.

In the interim, the committee supports the efforts of the Commission on Technology's Centralized Processing Ad Hoc Committee. Members believe the ad hoc committee's goal to establish a set of criteria to be used in assessing a project as a candidate for centralization is warranted. Only by working together to review current practices and procedures and collaborating on design system modifications will it be possible to make the jury system changes required to centralize all or some of the merge/purge process in the future.

### **Enforcement of summonses**

3. *The committee recommends that the enforcement procedure provided by A.R.S. §21-331(B) be strictly complied with and facilitated through the use of automation and enforced through education of jury management staff.*

### **Comment:**

The challenge still remains to convince citizens to respond to their jury summons. Research indicates that different citizens have different reasons for being apprehensive about jury service.<sup>5</sup> The committee recognized that being sensitive to juror needs and attempting to meet those needs is imperative and, accordingly, debated whether or not "hard-ball" tactics for enforcing compliance should be recommended.

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<sup>5</sup> Boatright, Robert G., *Improving Citizen Response to Jury Summonses: A Report with Recommendations*, American Judicature Society, 1998.

Overall, the committee decided they would like to avoid a failure to appear (FTA) hearing process for jurors. Members felt strongly that uniformly sending a second summons to those individuals who fail to appear for service would improve statewide return. Currently, Pima County sends a postcard which notifies non-respondents that records indicate they failed to appear for service. Pima reports 40-45% of those who receive the card respond to the second notification.

On November 8, 2001, Maricopa Superior Court Jury Management Office implemented sending a second summons to those individuals who failed to appear. Maricopa's second summons cites the sanctions which may be imposed for failure to respond, such as a \$100 fine. Maricopa jury management staff agreed to monitor the effect of sending second summonses and to report the results to the committee.

Assuming the numbers provided to the Maricopa Jury Management Office were valid, of the 150,000 summonses sent in the first quarter:

- < 12,000 prospective jurors did not respond to their first summons;
- < After a second notice was sent, approximately 600 summonses were returned as "undeliverable";
- < Approximately 4,000 provided a legitimate reason and were eliminated; and,
- < Another approximately 7,000 prospective jurors did not respond to their 2<sup>nd</sup> notice.

Maricopa's FTA statistics appear positive and in keeping with other states (i.e., an initial non-response rate of approximately 10%). Moreover, the results realized by Maricopa after implementing the policy of sending a second summons appear to indicate prospective jurors are paying attention to their second notices and support the committee's recommendation.

#### **Excuse/postponement policy**

4. *The committee recommends that standardized excuse/postponement guidelines be developed by the Jury Management Reference Manual Workgroup established by the committee chair. These guidelines should be included in the jury management reference manual, being developed by the workgroup, as a model for the local courts. The committee further recommends that the presiding judge of each county should subsequently issue a specific administrative order implementing the local excuse/postponement policy. This policy should be consistent and in furtherance of the recommended guidelines.*

#### **Comment:**

The committee felt that developing standardized guidelines for granting releases from jury service would help reduce the incidences of discriminatory, inconsistent, or arbitrary standards statewide. However, the committee also felt that guidelines alone were not sufficient. Equally important was mandating that all courts adopt their own written rules for excusing individuals from jury service. To ensure that releases from service are granted only under very limited circumstances, the committee agreed particular classes of persons should not be automatically excused from jury service. Ultimately, releases should be based on true hardship, not inconvenience.

While the committee wanted to ensure that each county used the proposed guidelines, it acknowledged there could be issues that affected one county differently than another. Accordingly, the committee agreed that nothing in the guidelines should be deemed as limiting the additional documentation a judge or jury commissioner may choose to require. Ultimately, the task of crafting a local excuse/postponement policy which conforms with the state guidelines is placed on each county.

As this recommendation requires additional work prior to implementation, the committee recommends that the Jury Management Reference Manual Workgroup be responsible for developing standardized excuse/postponement guidelines. This workgroup is composed of jury commissioners and experienced jury management staff from around the state.

### **Juror pay and compensation**

5. *The committee recommends that the judicial branch form a joint task force -- composed of representatives from the legislative and judicial branches, the counties and municipalities, and the public -- to explore creative ways to increase juror compensation.*

#### **Comment:**

The committee reviewed the juror pay proposals submitted in past legislative sessions and the difficulties encountered by the court in its attempts to secure such legislation. In light of recent failed attempts to increase juror pay, the committee determined that trying to move forward again in this area was a political decision and therefore outside its scope, but members firmly maintained the philosophy "if the court does not speak up on behalf of jurors, no one will."

The committee fears that the present juror compensation system could significantly threaten the very fabric of Arizona's jury system statewide. The financial hardship of jury service is adversely affecting the ability of all courts to empanel juries representative of their entire communities. Had juror pay been adjusted for inflation since 1977, jurors would now be receiving \$35.43 per day. Conversely, the buying power of the \$12 per day set in 1977 is \$4.06 today. Statewide, financial hardship is one of the most common excuses among citizens summoned as potential jurors. For many of those who do serve, the financial burden is onerous.

The committee believes an increase in juror pay would improve the inclusiveness and diversity of the jury pool by decreasing the number of persons excused for financial hardship. It was also argued this would reduce the number of "no shows" attributed to persons who have a genuine financial hardship yet fail to obtain a formal excuse from the jury commissioner. While the committee's intent is not necessarily to make every juror whole, members believe more equitable juror compensation shows that the court recognizes the value of a juror's service, and likewise increases juror satisfaction.

Members recognize the current fiscal crisis in Arizona and believe the needs of the citizenry and their right to a fair trial by jury make this issue a continuing top priority. This challenge calls for creative solutions. The committee believes this can best be accomplished by a task

force composed of representatives from the legislative and judicial branches, the counties and municipalities, and the public.

### **One-day/one-trial**

6. *The committee recommends that the Supreme Court adopt the proposed Arizona Code of Judicial Administration Section 5-203: Trial Jury Management which includes the mandate that all courts implement a one-day/one-trial term of service in their jurisdiction unless an exception is granted pursuant to Arizona Code of Judicial Administration Section 5-203.*
7. *The committee recommends that the Administrative Office of the Courts with the assistance of jury commissioners develop a curriculum that extols the benefits of implementing a one-day/one-trial system and that provides participants with the improved juror management techniques that will allow them to implement a One-day/one-trial term of service in their jurisdiction. This educational program should be provided to all key stakeholders at all trial courts.*
8. *The committee recommends the creation of an implementation task force which shall be responsible for overseeing implementation of the committee's recommendation in regards to one-day/one-trial. Like membership of the committee, the task force's membership should be broadly representative of the diverse perspectives about the jury system. The task force should be formed within six months of the approval of the committee's final report and the adoption of the Arizona Code of Judicial Administration Section 5-203.*

### **Comment:**

*Jurors: The Power of 12 recommendation: "In fairness to potential jurors and others, report dates should be limited by law to two in counties where the term of service is one day-one trial."*

Today, approximately 40 percent of all U.S. citizens live in jurisdictions that use one-day/one-trial systems.<sup>6</sup> A recent jury survey conducted in Arizona included a question aimed at determining which counties have a true one-day/one-trial system. Currently, five counties do not use the one-day/one-trial process. The concerns voiced by counties not using a one-day/one-trial process included lack of funding for the additional costs associated with management and administration of the process and not having enough eligible jurors to make the process work.

While these concerns could be valid, members overwhelmingly felt that statewide implementation was workable. Some members argued these counties' positions were likely based on mis-perceptions associated with the term "one day/one trial." Others were concerned that tradition and common practices were preventing these courts from making reforms that would improve the way they do business. Additionally, it was believed some courts may actually be using a one-day/one-trial process and not know it. To address all these

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<sup>6</sup> Munsterman, G. Thomas, Paula L. Hannaford and G. Marc Whitehead, eds., *Jury Trial Innovations*, National Center for State Courts, State Justice Institute, 2000:29.

concerns, the committee felt that an educational curriculum which promotes the concept of a one-day/one-trial system should be developed and included at judicial training.

It was agreed that an appropriate forum to present the proposed curriculum would be the joint meeting of presiding judges, clerk of courts and court administrators. It was strongly recommended that jury commissioners also be included at this meeting/training opportunity. Additionally, to capture those municipal courts and justice courts for which summons are provided by the various superior court jury offices, it was recommended that this curriculum also be presented at New Judge Orientation, the Arizona Justice of the Peace Association Conference, the Arizona Magistrates Association Conference, the Judicial Conference and the Judicial Staff Conference.

Arizona courts have already been encouraged to implement a one-day/one-trial system via Administrative Order and, as the committee noted, this approach did not effectuate statewide compliance. Members debated whether to propose legislation mandating implementation of a one-day/one-trial system statewide. Ultimately, members felt this was not a wise plan and instead opted to mandate statewide adoption in the Arizona Code of Judicial Administration (ACJA). It was argued this approach would provide the necessary authority to compel courts to establish their own implementation plan.

To determine how this mandate would impact Arizona's limited jurisdiction courts, a survey was given to limited jurisdiction court administrators regarding their jury systems. This survey also revealed that varied terms of service were in place in justice and municipal courts across the state. To help eliminate varied interpretations of how a one-day/one-trial system should be administered and to ensure a one-day/one-trial system is employed consistently statewide, members used California's court rule and Colorado's statute as models when drafting a new term of service section to be included in code.<sup>7</sup>

Members acknowledged that implementation of this recommendation is a long-term project that may not be fully completed for several months or years. The committee was concerned that without continuing oversight, statewide implementation of a one-day/one-trial system may not be fully and/or promptly accomplished. For these reasons, the committee believes it would be advisable to create a task force to oversee implementation of the committee's recommendations in this area.

Finally, it should be noted that because inefficient use of juror time by courts using a one-day/one-trial system can result in a wasted day and a poor jury experience for the individual summoned for jury service, the committee also discussed the need to ensure that judges maintain appropriate juror utilization statistics. Whether judicial education aimed at improving judges' use of jurors to increase yield was necessary was debated. Ultimately, members felt this issue would be better dealt with at the local level and recommend that presiding judges discuss the topic of case predictability and late settlements with the local bench and bar.

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<sup>7</sup> ACJA Section 5-203: Trial Jury Management is attached as Appendix B.

## **Other Issues Considered by the Committee:**

### **Juror Bill of Rights**

9. *The committee recommends that trial courts statewide adopt the proposed Bill of Rights for Arizona Jurors included in this report. The committee further recommends that the Chief Justice issue an administrative order to such effect.*

#### **Comment:**

Jurors are called upon each day to make significant decisions affecting life, liberty, property and other issues of great public importance. Because all too often the obligations of jurors have been taken for granted, members unanimously agreed that a Juror Bill of Rights should be adopted. Members felt that the gesture would not only effectively demonstrate the Judiciary's respect for jurors as persons but illustrate the fact that all jurors are valuable to the system. Moreover, by publicly proclaiming that the court cares about jurors' experience in the system and values jurors' time, the Arizona court system will send a strong message to all citizens that they are an integral component in the justice system.

Alternatively, concern was voiced about promulgating them as originally proposed in *Jurors: The Power of 12*. Specifically, the committee felt that many courts would not be able to comply with all points included in the original Juror Bill of Rights. Therefore, the committee modified the document to avoid setting counties up for noncompliance. The committee's proposed Juror Bill of Rights is attached as Appendix B.

### **Juror anonymity**

10. *The committee recommends that when polling the jury under Rule 49(f) of the Arizona Rules of Civil Procedure or Rule 23.4 of the Arizona Rules of Criminal Procedure, the court and clerk shall not identify the individual jurors by name but shall use such other method or form of identification as may be appropriate to ensure an accurate record of the poll.*

#### **Comment:**

Members felt that recommending the practice of using anonymous juries might help ease jurors' fears of retaliation by a party for potentially unpopular verdicts. In their second report, The Arizona Supreme Court Committee on the More Effective Use of Juries addressed this issue and concluded:

...the decision to proceed with juror numbers rather than names ought to be left to the individual trial judge's sound discretion, and that there is no present need for a formal recommendation, rule or policy.

Alternatively, The Jury Committee of the Superior Court in Maricopa County, a standing committee which reports to their Judicial Executive Committee, arrived at a slightly different conclusion regarding jury anonymity. The Maricopa committee found that reports from jurors indicating they felt uncomfortable having their name read during voir dire were less frequent than reports made by jurors whose names were used when polling the jury at the end of a trial.

As a result of this local observation, the Maricopa committee crafted language to address their juror's concerns which protect their privacy during polling only.

Members of the Committee to Study Jury Practices and Procedures concurred with their Maricopa counterparts' position. Accordingly, the committee has forwarded the Maricopa Jury Committee's language for consideration and recommends it be adopted statewide.

### **Jury Management Reference Manual**

11. *The committee recommends that a statewide jury management reference manual be prepared. The reference manual should be disseminated and utilized as part of the curriculum at training sessions developed to educate jury commissioners and their staffs. To achieve this goal, the committee further recommends supporting the continued efforts of the Jury Management Reference Manual Workgroup established by the committee chair.*

### **Comment:**

AOC staff conducted a survey in March 2001 to determine whether Arizona had any standard jury management practices or procedures. The results of this survey concerned the committee as it revealed no apparent uniformity exists. Additionally, there were a sizable number of questions answered with the response "do not know." These responses could have been provided by front line/data entry workers who maintain little knowledge of some of the most fundamental jury processing questions. This suggests to the committee that some jury managers and staff may be overlooking important issues, such as who is not showing up for service or whether their county has a problem with undeliverable summonses.

As a result of the survey's findings, members agreed that standardizing jury administration procedures needed to be a priority. The committee felt that standardizing practices would help to ensure a more effective use of jurors. Moreover, for example, it would help guarantee that jury commissioners are able to determine if adequate minority representation is being achieved in their county.

Currently, jury commissioners and staff have no single source to cite when faced with legal challenges to their system. A jury management reference manual typically includes: legal and administrative information (i.e., constitutional provisions, state statutes, relevant case law, rules of court and local court policy), jury operations information (i.e., process flowcharts, sample documents, administrative policy and procedures, summary statistical reports, and computer system documentation), and demographic data, as well as other resources.

The committee also felt that a training session using the proposed reference manual should be developed to serve as a vehicle for further discussion of jury management principles. The training session would also be an appropriate forum to encourage participants to adopt statewide standards.



## **Jury Management Standards**

12. *The committee recommends adoption of the proposed Arizona Code of Judicial Administration Section 5-203: Trial Jury Management.*

### **Comment:**

The Arizona Jury Management Standards were approved in an administrative order signed on August 4, 1992. The standards mirror in large part the American Bar Association's (ABA) Standards Relating to Juror Use and Management.

Analysis conducted by AOC staff identified that some of the ABA language was omitted from the Arizona Standards and some of it was reworded. Additionally, new concepts were added. However, the standards do not reflect some of the 1995 amendments to procedural rules concerned with voir dire, assisting jurors who are at an impasse, and jury discussions prior to deliberations.

Although current Jury Management Standards are permissive, not mandatory, members unanimously felt they were worth preserving in some kind of official form. At the Chair's request, AOC staff was recruited to assist the committee with revising and codifying the current standards. Members put considerable time and energy into appropriately modifying the standards for Arizona. Particular attention was given to crafting language to mandate all trial courts implement a one-day/one-trial term of service in their jurisdiction. The proposed ACJA Section 5-203: Trial Jury Management drafted by the committee is attached as Appendix C.

## **Public awareness/outreach campaign**

13. *The committee recommends the AOC Public Information Officer continue his efforts to develop positive messages on jury service and to make contacts for a larger, statewide public relations campaign on jury service.*

### **Comment:**

The Arizona Supreme Court has played a key role in developing and implementing many reforms in the jury system. However, publicizing the importance of jury service and promoting it as a rewarding experience has not occurred in any systematic way on a statewide level. Members feel a key to turning around the "no show" problem in jury service is to work with the media to develop positive messages about jury service.

At their November meeting, the committee viewed a video tape which included four, 30-second jury service public service announcements (PSAs). The existing PSAs were produced by the Supreme Court in 1997 and it is believed received only limited air time. Overall, the committee liked the PSAs' content. It was agreed the scripts were generic (i.e., showed jury service as a patriotic/civic duty) and therefore, had an enduring message that could still be used. However, the committee did not like the PSA entitled "Volunteer." It was argued this piece sent the wrong message and could exacerbate the problem of individuals seeking an excuse from service based on their participation in other volunteer activities. The committee recommended using celebrities, more minorities and former jurors in future PSAs.

Unfortunately, there is no money budgeted for a public relations campaign. Therefore, AOC staff is currently exploring the possibility of partnering with Arizona State University (ASU) to have talent, tape and studio time donated. In the interim, members agreed the use of existing PSAs should be encouraged.

Members also recommended exploring Arizona's involvement in a national jury campaign to be advanced by a consortium of organizations to take advantage of the continuing momentum from the Jury Summit held in New York in February 2001. The consortium consists of the National Center for State Courts, The American Judicature Society, The Council for Court Excellence, and the Trial Leadership Center of the Maricopa Superior Court. The national jury program will promote public awareness and understanding of jury service. A preliminary budget of \$500,000 has been established for year one that will provide direct technical assistance to six courts.

### **Issues for Future Consideration:**

#### **Grand Jury Process**

14. *The committee recommends establishing a multi-disciplinary committee to examine and develop recommendations on reforms for the state and county grand jury systems especially, but not limited to, the burden of juror service on citizens.*

#### **Non-English-speaking jurors**

15. *The committee has discussed extensively the issues associated with utilizing non-English-speaking citizens as prospective jurors. The committee makes no recommendation in regard to changing current lawful practices or court policies at this time.*

## **VI. Summary List of Recommendations**

### **Preamble**

The report that follows consists of 15 specific recommendations applying to jury management and administration. The committee believes the judicial branch has a responsibility to improve every aspect of its jury system. Accordingly, each recommendation was formulated with the aspiration of improving jury service for all of Arizona's citizens. In the committee's deliberations, consensus on all issues was reached.

Due to the fundamental importance of the jury system to public respect for the judicial branch, the committee recommends that the Arizona Judicial Council and trial courts statewide support and adopt its recommendations.

### **Quality of source lists**

1. Based on the results of Maricopa County's test with the Department of Revenue, the committee recommends that the state income tax filers' list not be considered as an additional source list. The committee further recommends that appropriate language be included in the Arizona Code of Judicial Administration specifically mandating that counties periodically test their master source list for inclusiveness.

### **Centralizing jury list preparation**

2. Centralizing jury list preparation in the Administrative Office of the Courts or a particular county would be difficult at this time due to economic and logistical constraints. The committee recommends that discussion of this topic continue based on the findings of the pilot project conducted by LaPaz and Pima counties.

### **Enforcement of summons**

3. The committee recommends that the enforcement procedure provided by A.R.S. §21-331(B) be strictly complied with and facilitated through the use of automation and enforced through education of jury management staff.

### **Excuse/postponement policy**

4. The committee recommends that standardized excuse/postponement guidelines be developed by the Jury Management Reference Manual Workgroup established by the committee chair. These guidelines should be included in the jury management reference manual, being developed by the workgroup, as a model for the local courts. The committee further recommends that the presiding judge of each county should subsequently issue a specific administrative order implementing the local excuse/postponement policy. This policy should be consistent and in furtherance of the recommended guidelines.

### **Juror pay and compensation**

5. The committee recommends that the judicial branch form a joint task force -- composed of representatives from the legislative and judicial branches, the counties and municipalities, and the public -- to explore creative ways to increase juror compensation.

### **One-day/one-trial**

6. The committee recommends that the Supreme Court adopt the proposed Arizona Code of Judicial Administration Section 5-203: Trial Jury Management which includes the mandate that all courts implement a one-day/one-trial term of service in their jurisdiction unless an exception is granted pursuant to Arizona Code of Judicial Administration Section 5-203.
7. The committee recommends that the Administrative Office of the Courts with the assistance of Jury Commissioners develop a curriculum that extols the benefits of implementing a one-day/one-trial system and that provides participants with the improved juror management techniques that will allow them to implement a One-day/one-trial term of service in their jurisdiction. This educational program should be provided to all key stakeholders at all trial courts.
8. The committee recommends the creation of an Implementation task force which shall be responsible for overseeing implementation of the committee's recommendation in regards to one-day/one-trial. Like membership of the committee, the task force's membership should be broadly representative of the diverse perspectives about the jury system. The task force should be formed within six months of the approval of the committee's final report and the adoption of the Arizona Code of Judicial Administration Section 5-203.

### **Other Issues Considered by the Committee:**

#### **Juror Bill of Rights**

9. The committee recommends that trial courts statewide adopt the proposed Bill of Rights for Arizona Jurors included in this report. The committee further recommends that the Chief Justice issue an administrative order to such effect.

#### **Juror anonymity**

10. The committee recommends that when polling the jury under 49(f) of the Arizona Rules of Civil Procedure or Rule 23.4 of the Arizona Rules of Criminal Procedure, the court and clerk shall not identify the individual jurors by name but shall use such other method or form of identification as may be appropriate to ensure an accurate record of the poll.

### **Jury management reference manual**

11. The committee recommends that a statewide jury management reference manual be prepared. The reference manual should be disseminated and utilized as part of the curriculum at training sessions developed to educate jury commissioners and their staffs. To achieve this goal, the committee further recommends supporting the continued efforts of the Jury Management Reference Manual Workgroup established by the committee chair.

### **Jury Management Standards**

12. The committee recommends adoption of the proposed Arizona Code of Judicial Administration Section 5-203: Trial Jury Management.

### **Public awareness/outreach programs**

13. The committee recommends that the Administrative Office of the Courts, Public Information Officer continue efforts to develop positive messages on jury service and to make contacts for a larger, statewide public relations campaign on jury service.

### **Issues for future consideration:**

#### **Grand jury process**

14. The committee recommends establishing a multi disciplinary committee to examine and develop recommendations on reforms for the state and county grand jury systems especially, but not limited to, the burden of juror service on citizens.

#### **Non-English-speaking jurors**

15. The committee has discussed extensively the issues associated with utilizing non-English-speaking citizens as prospective jurors. The committee makes no recommendation in regard to changing current lawful practices or court policies at this time.

## APPENDIX A

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
ESTABLISHMENT OF THE	)	Administrative Order
COMMITTEE TO STUDY JURY	)	No. 2001- <u>69</u>
PRACTICES AND PROCEDURES	)	
_____	)	

Juries play a fundamental role in our judicial process. Often, jury service is a citizen's first or only encounter with the courts and, therefore, can be an experience which shapes an individual's perception of the justice system, for better or worse. Regrettably, more and more individuals are trying to avoid jury service. This is a concern to the judicial department because without a jury system that ensures diversity and representativeness of our society, public trust and confidence in the justice system is jeopardized.

In accordance with Arizona Code of Judicial Administration §1-104, the Chief Justice may establish advisory committees to the Arizona Judicial Council to assist the Council in carrying out its responsibilities. Therefore, on June 4, 2001, in keeping with prior Supreme Court efforts and the Court's continuing desire to improve the jury experience, the Arizona Judicial Council deemed it necessary to revisit ways to promote fairer, more efficient, and more effective use of citizens as jurors.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that The Committee to Study Jury Practices and Procedures is established as follows:

1. PURPOSE:

The Committee shall examine and develop recommendations on the following:

- The quality of source lists used for summoning jurors statewide;
- The efficacy and cost savings realized by centralizing jury list preparation;
- The process of how courts enforce their summons and excuse or postpone prospective jurors from jury service;
- An increase in juror pay to keep in step with inflation;
- The feasibility of implementing "one-day/one trial" reforms statewide; and,
- Any other such issues considered by the committee related to improving jury service.

2.     **ORGANIZATION:**  
The Chief Justice shall appoint the chairperson of the Committee and other leadership as needed to organize committee affairs.
3.     **MEMBERSHIP:**  
The membership of the Committee is attached to this order as Appendix A. The Chief Justice or the Chair of the Committee may appoint additional members as may be necessary.
4.     **MEETINGS:**  
Meetings shall be scheduled at the discretion of the Committee Chair. All meetings shall comply with the Arizona Judicial Department open meeting requirements.
5.     **REPORTS:**  
The Committee may, but need not, submit an interim report of its findings and recommendations to the Arizona Judicial Council at the Council's October 18, 2001 meeting. A final report shall be submitted to the Council at the December 13, 2001 meeting.
6.     **STAFF:**  
The Administrative Office of the Courts shall provide staff for the Committee and, as feasible, may conduct or coordinate research as requested by the Committee.

Dated this   11<sup>th</sup>   day of  July , 2001.

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THOMAS A. ZLAKET  
Chief Justice

**ATTACHMENT: Appendix A**



## APPENDIX B

## **A PROPOSED BILL OF RIGHTS FOR ARIZONA JURORS**

JUDGES, ATTORNEYS AND COURT STAFF SHALL MAKE EVERY EFFORT TO ASSURE THAT ARIZONA JURORS ARE:

1. Treated with courtesy and respect.
2. Afforded privacy and security safeguards.
3. Randomly selected for jury service without regard for race, ethnicity, gender, age, religion, physical disability, sexual orientation or economic status.
4. Provided with comfortable and convenient facilities, with accommodations to address the special needs of jurors with physical disabilities.
5. Informed of trial schedules as often as possible.
6. Informed of the trial process and of the applicable law in plain and clear language.
7. Permitted to take notes during trial and to ask questions of witnesses or the judge, as permitted by law, and to have them answered where appropriate.
8. When the law permits, told of the circumstances under which they may discuss the evidence during the trial among themselves in the jury room, while all are present, as long as they keep an open mind until a verdict is rendered.
9. Given answers, as permitted by law, to questions and requests that arise during deliberations regarding the law as it relates to their specific case.
10. Offered assistance if they experience serious anxiety, stress, or trauma as a result of jury service.
11. Permitted to express concerns, complaints and recommendations to courthouse authorities.
12. Compensated in a timely manner for jury service.

## APPENDIX C

# **ARIZONA CODE OF JUDICIAL ADMINISTRATION**

## **Part 5: Court Operations**

### **Chapter 2: Programs and Standards**

#### **Section 5-203: Trial Jury Management**

**A. Use of These Standards.** These standards are intended in part as mandates and in part as guidelines. The language of the standards distinguishes required standards from those described in advisory terms, for which either absolute adherence is not possible in every court, such as the standards relating to jury facilities, or because the subject matter of the standard does not lend itself to mandatory requirements, such as when to grant requests to postpone jury service.

#### **B. Selection of Prospective Jurors.**

1. Opportunity for jury service. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or sexual orientation.
2. Master jury list.
  - a. The master jury list shall be as representative and as inclusive of the eligible adult population in the jurisdiction as possible. The court should review and update the master jury list periodically. A master jury list is representative of the population to the extent the percentages of cognizable group membership in the list equal the corresponding percentages in the population. A master jury list is inclusive of the population to the extent it includes all eligible members of the entire population in the jurisdiction.
  - b. The names of potential jurors should shall be drawn from a master jury list in accordance with statute (A.R.S. §§21-311, -312 and -313).
3. Random selection procedures.
  - a. Random selection procedures shall be used throughout the juror selection process. Any automated or manual method that provides each eligible and available person with an equal probability of selection may be used, except when a court orders an adjustment for underrepresented populations.
  - b. Random selection procedures shall be employed in:
    - (1) Selecting persons to be summoned for jury service;
    - (2) Assigning prospective jurors to panels; and
    - (3) Calling prospective jurors for voir dire.

c. Departures from the principle of random selection are appropriate:

- (1) To exclude persons ineligible for service in accordance with subsection (B)(4);
- (2) To excuse or postpone prospective jurors in accordance with subsection (B)(7);
- (3) To remove prospective jurors for cause or if challenged peremptorily in accordance with subsections (C)(2) and (3).

4. Eligibility for jury service. A.R.S. §21-201 establishes an individual's eligibility for jury service as follows:

Every juror, grand and trial, shall be at least eighteen years of age and meet the following qualifications:

1. Be a citizen of the United States.
2. Be a resident of the jurisdiction in which he is summoned to serve.
3. Never have been convicted of a felony, unless the juror's civil rights have been restored.
4. Is not currently adjudicated mentally incompetent or insane.

5. Term of trial jury service. By July 1, 2005, courts shall adopt a term of service for trial jurors of one day or the completion of one trial, whichever is longer.

a. An individual's jury service obligation is fulfilled when the person:

- (1) Serves on one trial until excused or discharged;
- (2) Appears at court but is not assigned to a trial division for selection of a jury before the end of the day;
- (3) Is assigned on one day to one or more trial divisions for jury selection and serves through the completion of jury selection or is excused;
- (4) Complies with a request to telephone a court or check a court's Web site to determine whether to report on a particular day, for four days within a 30-day period; or
- (5) Provides the court with a valid phone number and stands ready to serve on the same day, for a period of two days.

b. If a court is not in compliance with subsection (B)(5)(a) by July 1, 2005, the presiding judge in coordination with the jury commissioner shall apply to the supreme court for exemption from the one-day one-trial system for a specified period of time. An application under this section shall include either a plan to fully comply with this system by a specified date or an alternative plan that would provide the benefits of a one-day one-trial system to the maximum extent possible, given the conditions in the county. To qualify for exemption, the court must demonstrate that:

- (1) The cost of implementing the system is so high that the trial court would be unable to provide essential services to the public if required to implement such a system; or
- (2) The requirements of subsection (B)(5)(a) cannot be met because of the size of the population in the jurisdiction compared to the number of jury trials.

6. Term of grand jury service.

- a. County grand jurors. The term of service for county grand jurors shall be determined pursuant to A.R.S. §21-403, which provides:

. . . a term designated by the presiding judge of the superior court which shall not exceed one hundred twenty days, unless at the end of such period the grand jury is serving in connection with unfinished inquiries or investigations, in which event the term may be extended by the presiding judge, upon petition by the county attorney stating the reasons therefor, until the conclusion of the investigation.

- b. State grand jurors. The term of service for state grand jurors shall be determined pursuant to A.R.S. §21-421(c), which provides:

The regular term of the state grand jury shall be six months. The term may be shortened by the assignment judge at the request of the attorney general. The term may be extended by the assignment judge for a specified time period upon a verified, written petition by the attorney general stating that an extension is needed to conclude a grand jury inquiry begun prior to the expiration of its term.

- c. Frequency of service. In no event shall either a county or state grand juror be asked to serve more than two days per week.

7. Exemption, excuse, and postponement. The following procedures shall apply to exempting, excusing and postponing jury service:

- a. No automatic excuses or exemptions from jury service shall be permitted unless specified by statute.
- b. Upon timely application to the court or upon the court's own motion, the court shall excuse eligible persons from jury service for either of the following reasons:
  - (1) Absence from the prospective juror's regular place of employment would, in the judgment of the court, tend to affect materially and adversely the public safety, health, welfare or

interest; or

(2) Service as a juror would impose an undue financial, physical, emotional, or other hardship.

- c. A judge or duly authorized court official may excuse eligible persons from jury service upon their timely application to the court, if they have been sworn as a juror in any court in Arizona during the two years preceding their summons.
- d. A judge or duly authorized court official may postpone jury service for reasonably short periods of time for the convenience of a juror.
- e. The presiding judge shall adopt specific uniform guidelines for determining requests to postpone service and to be excused from service. Prospective jurors seeking to postpone their jury service should be permitted to submit a request by phone, mail, in person, or electronically if the court offers this option. Prospective jurors seeking to be excused from jury service shall be required to submit a written request that complies with the court's specific guidelines. Court officials shall promptly respond to requests to postpone service or to be excused from service. Any time a juror is granted a postponement or is excused from service, the court shall make an appropriate record of its decision.

### **C. Selection of a Particular Jury.**

- 1. Voir dire. The following procedures shall apply to voir dire:
  - a. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to exercising peremptory challenges.
  - b. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel for each party on the day on which jury selection is to begin.
  - c. The judge shall control the voir dire examination. The judge may permit counsel to question panel members for a reasonable period of time.
  - d. Where appropriate to further the purposes of voir dire, the judge may permit questionnaires to be submitted to the prospective jurors, in addition to oral examination. Before submitting them to the jurors, the judge shall review and approve the questions.
  - e. The judge shall ensure that the privacy of prospective jurors is reasonably protected, that the questioning by counsel is consistent with the purpose of the voir dire process, that voir dire proceeds expeditiously, and that jurors receive courteous treatment.

- f. In courts of record, the voir dire process shall be held on the record in criminal cases. In civil cases, the voir dire process shall be held on the record unless waived on the record by the parties.
2. Removal from the jury panel for cause. If the judge determines during voir dire that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, the judge shall remove that individual from the panel. Such a determination may be made on motion of counsel or on the judge's own initiative.
3. Peremptory challenges. The number of and procedure for exercising peremptory challenges shall comply with Arizona law.

#### **D. Efficient Jury Management.**

1. Administration of the jury system. The judicial department shall be solely responsible for administering the jury system in compliance with statute and this section.
2. Notification and summoning. The following procedures shall apply to notifying and summoning jurors:
  - a. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person shall be phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems.
  - b. A summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond. The summons shall also contain clear directions on where to report for service.
  - c. A summons shall clearly state the process for a prospective juror to seek excuse or postponement of their jury service.
  - d. The questionnaire shall be phrased and organized to facilitate quick and accurate screening, and should request only information essential for:
    - (1) Determining whether a person meets the criteria for eligibility;
    - (2) Providing basic background information ordinarily sought during voir dire examination; and
    - (3) Efficiently managing the jury system.
  - e. Written policies and procedures shall be established for monitoring failures to respond to summons and for taking appropriate action when failures occur.



3. Monitoring the jury system. Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to ensure:
  - a. The representativeness of the master jury list;
  - b. The inclusiveness of the master jury list;
  - c. The effectiveness of qualification and summoning procedures;
  - d. The responsiveness of individual citizens to jury service summonses;
  - e. The efficient utilization of jurors;
  - f. The cost effectiveness of the jury system; and
  - g. The court's ability to meet jurors' needs.
4. Juror utilization. Courts should implement the following practices relating to the number of jurors summoned to the courthouse:
  - a. Courts should employ practices that achieve optimum juror utilization with a minimum of inconvenience to jurors.
  - b. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury service and the number assigned to jury panels.
  - c. Courts should coordinate jury management and calendar management for effective juror utilization.
5. Jury facilities. Courts shall provide an adequate and suitable environment for jurors where possible. This should include:
  - a. Safe, convenient and free parking;
  - b. Entrance and registration areas that are clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse;
  - c. A pleasant and safe waiting facility furnished with suitable amenities;

- d. Safe and secure jury deliberation rooms with space, furnishings and facilities conducive to reaching a fair verdict; and
  - e. Juror facilities arranged to minimize contact between jurors, parties, counsel, and the public.
6. Juror compensation. Persons called for jury service shall be promptly compensated for fees and mileage pursuant to statute and local court policy. Every effort shall be made to compensate jurors within two weeks of termination of service.

#### **E. Juror Performance and Deliberations.**

1. Juror orientation and instruction. The following practices should be observed in orienting and instructing jurors:
  - a. Courts should provide some form of orientation or instructions to persons called for jury service at all the following points:
    - (1) Upon initial contact prior to service.
    - (2) Upon first appearance at the courthouse.
    - (3) Upon reporting to a courtroom for voir dire.
    - (4) Directly following empanelment.
    - (5) During the trial.
    - (6) Prior to deliberations.
    - (7) After the verdict has been rendered or when a proceeding terminates without a verdict.
  - b. Orientation programs should be designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors and presented in a uniform and efficient manner using a combination of written, oral, electronic and audiovisual materials.
  - c. In instructing a jury, the judge should:
    - (1) Give preliminary instructions directly following empanelment of the jury that explain the jury's role, the trial procedures including note-taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles in the case at issue;
    - (2) Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be recorded or reduced to writing and made available to the jurors during deliberations; and
    - (3) Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system.

- d. Before dismissing a jury at the conclusion of the case, the judge should:
    - (1) Release the jurors from their duty of confidentiality;
    - (2) Explain their rights regarding inquiries from counsel, the media or any person;
    - (3) Either advise them that they are discharged from service or specify where they must report; and
    - (4) Express appreciation to the jurors for their service.
  - e. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.
- 2. Jury size and unanimity of verdict. In determining jury size and number of jurors required to return a verdict in criminal and civil cases, courts shall comply with Arizona law.
  - 3. Jury anonymity. When polling a jury at verdict, the judge and clerk shall not identify the individual jurors by name, but shall use such other methods or form of identification as may be appropriate to ensure an accurate record of the poll and to accommodate the jurors' privacy.
  - 4. Jury deliberations. The following conditions and procedures should be observed to ensure impartiality and to enhance rational decision-making during jury deliberations.
    - a. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with subsection (E)(1)(c).
    - b. The deliberation room should conform to the recommendations set forth in subsection (D)(5)(d).
    - c. The jury should not be sequestered except under the circumstances and procedures set forth in subsection (E)(5).
    - d. A jury should not be required to deliberate after normal working hours unless the judge after consultation with counsel and the jury determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interests of justice.
    - e. Personnel who escort and assist jurors during deliberation should receive appropriate training.
  - 5. Sequestration of jurors. The following practices should be observed in sequestering a jury:

- a. A jury should be sequestered only for the purpose of insulating its members from improper information or influences.
- b. The judge has the discretion to sequester a jury on the motion of counsel or on the judge's initiative. The judge also has the responsibility to oversee the conditions of sequestration.
- c. Training should be provided to personnel who escort and assist jurors during sequestration. Use of personnel actively engaged in law enforcement for escorting and assisting jurors during sequestration is discouraged.