

# JURY NEWS

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## New York Launches Grand Jury Project

Given the success that New York's jury project has had with improving its petit jury system, we can expect great things from the just-begun grand jury project. At the first meeting, the project chair, Stephen Kaufman, and chief administrative judge, Jonathan Lippman, described the mandate for the project: examine and recommend improvements for the management of the grand jury.

As with the petit jury project, the emphasis is on the experience of the citizen called to serve on the grand jury. Three subcommittees were formed. The first will be concerned with summoning and selection, including excusing, orienting, and internally managing the selection of the presiding juror and that person's duties. The second will be concerned with the term of service of the grand juries and the use of jurors' time. In states still using grand juries, terms are usually very long compared to those of petit juries due to the ongoing need to consider cases from session to session. In New York the terms vary from as short as six weeks to as long as six months. Federal grand jury terms are usually six months and often longer. As a result of these long terms, the cross-section of the persons serving on grand juries is usually highly skewed to older persons and the retired. Those serving, even if not reporting daily, can suffer a great financial loss.

The third subcommittee will examine the grand jury experience and consider such factors as facilities, compensation, disqualification periods, instructions, use of notes and written materials, and the participation of the jurors in the process. The issues of the use of the grand jury versus the preliminary hearing, the secrecy, and the rights of witnesses, topics previously examined by several national standards projects, will not be examined in the New York project.

Quite coincidentally, the ABA Subcommittee on Jury Standards began the process of considering Grand Jury Standards at its meeting in early February in Nashville. It looked at each of the nineteen Standards Relating to Juror Use and Management and found that seventeen were directly on point to the grand jury experience. The subcommittee is now examining the grand jury practices in a number of states to gain a better understanding of the variation in the practices and level of use of the grand jury. Only thirteen states require a grand jury indictment for all felonies, but others, such as New York, use the grand jury for all crimes in which there is not an early guilty plea. In some states the use of the grand jury can vary across the state.



Of the nearly \$70 million spent by the federal courts on jurors, 25 percent is for grand jurors. The federal courts have been monitoring grand juror use for years by reporting the average number of hours per grand jury session and the average number of people in attendance per session. Other courts that have examined their grand jury use and management practices are asked to let me know so that I can forward these on to these new grand jury activities.

## Helping Jurors Deliberate: A Call for Ideas

When asked about their experience as trial jurors, persons usually will comment on the difficulties of the deliberation and the associated problem of understanding the judges' instructions. The latter problem can be helped by providing the jurors with written copies of the instructions, instructing the jurors as early in the trial as possible, and by making the instructions as understandable as possible. However, how do or can we help the jurors conduct the deliberations or just get them started? The American Judicature Society and the Maricopa County Superior Court, with funding from the Office of Justice Programs, Bureau of Justice Assistance, have begun a program to see how we can help jurors deliberate. The project will produce a resource manual for judges and a pamphlet for the jurors on suggestions for conducting deliberations. The project will draw upon the ideas of innovative courts and the results of a survey, the legal and social science literature on jury deliberations, and the assistance of an advisory committee. The materials will be tested in four courts to determine the effectiveness of the materials in helping the jury. While shorter deliberations may result, the primary focus will be on the improvement in the organization and participation of the jurors in the deliberation process. Although the project knows that some judges give instructions on advice to the jury—as to letting all jurors speak, avoiding early open votes—and the need to listen and agree on the elements in question, many other judges use other suggestions. Courts or organizations with ideas are asked to call the project director, Sue Orem, at 312-558-6900, ext. 109 or via email to [sorem@ajs.org](mailto:sorem@ajs.org)

## The District of Columbia Jury Project Report is Released

The D.C. jury project has released its report "Juries for the Year 2000 and Beyond: Proposals to Improve the Jury Sys-

tems in Washington, D.C.” This effort differed from other jury improvement projects in two ways. It included both the state and the federal courts, and it was sponsored by an organization outside of the courts, the Council for Court Excellence. The nonprofit Council was founded in 1982 to improve the administration of justice in local federal courts and related agencies. The project was cochaired by Judge Gregory Mize, of the D.C. Superior Court, and Judge Thomas Hogan of the U.S. District Court for the District of Columbia. The thirty-four members of the project included judges from both courts, court officials, members of the bar, and representatives of the prosecutorial and defense bars, business leaders, academics, and, most important, several jurors. Their thirty-two recommendations fall into six areas summarized below.

- **Educate the Public about Jury Service** – focus on positive means such as developing new orientation videos and improving information on the summons and establishing a jury pride task force.
- **Broaden the Scope of the Jury Pool** – improve the source lists. Both courts are asked to recognize service in the other as a basis for a two-year respite from service.
- **Accommodate Jurors in the Courthouse** – make recommendations for reduced waiting, improved facilities, an ongoing feedback mechanism for jurors’ concerns, and provision of meaningful expressions of gratitude for the jurors’ service.
- **Improve Jury Selection Procedures** – reform the voir dire. Recommendations included the use of a questionnaire to provide better information to the parties; that parties should be given the opportunity for a meaningful voir dire; expanding the latitude of challenges for cause and reducing or eliminating peremptory challenges. Needless to say this recommendation created a great deal of discussion in the project’s deliberations. A minority view on this recommendation is included in the report, and is the only such minority opinion which was needed.
- **Provide Jurors with Tools to Make Better Decisions** – allow jurors to take notes; permit jurors to submit questions to the judge; reduce the number

of bench conferences; manage exhibits to reduce wasted time in the trial and reduce juror confusion; give jurors notebooks of trial materials; permit interim summations; and give jury instructions as early and as extensively as possible.

- **Enhance the Effectiveness of Jury Deliberations** – instruct the jury on how to deliberate (see previous story); give each juror a copy of the instructions; and help juries that are at an impasse by giving them appropriate additional instructions.

Copies of the 112-page report are available from:  
Council for Court Excellence  
1150 Connecticut Ave. NW  
Suite 620  
Washington, D.C. 20036-4104  
e-mail to: jury@courtexcellence.org

### A “Must Read” for Jury Reformers

In the discussions within the D.C. Jury Project, the recommendation on voir dire, which contains a provision for reducing or eliminating peremptory challenges, prompted the greatest discussion of the many topics considered by the members. Several participants cited an article by Judge Morris Hoffman, of Denver, Colorado, as the source of information for changing their minds and favoring this position (*Peremptory Challenges Should Be Abolished: A Trial Judge’s Perspective* 64 U. Chi. L. Rev. 809 [1997]). Judge Hoffman’s article is very informative not only because he shares the thinking that led to his position, but also because it provides some little-known history of the peremptory challenge. It is also one of the most readable law review articles I have ever read.

I would like to hear from you.  
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