

JURY NEWS

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Juries Win Again: Citizens Speak

In preparation for Symposium II: Public Understanding and Perceptions of the American Justice System, which was held in February 1999 in Washington, D.C., the American Bar Association sponsored a nationwide survey. The 1,000 respondents, selected to mirror the American population, expressed strong confidence in the American justice system. The report states, "The root of this support seems to lie in the jury system, as more than three-quarters, 78%, say it is the fairest way to determine guilt or innocence, and more than two-thirds, 69%, believe that juries are the most important part of our justice system." The entire report can be downloaded from the ABA Web site, www.abanet.org.

In the Winter 1998 issue of *Court Review* (Vol. 35, No. 4), David Rottman examines a number of public opinion surveys in "On Public Trust and Confidence: Does Experience with the Courts Promote or Diminish It?" He reports a marked increase in the percentage of the public that has experienced jury service, up from about 6 percent in 1977 to between 20 and 30 percent now. Probably related to this result is his finding that the probability that an adult has observed a court proceeding has increased from only 6 percent in 1977 to about half the adult population today. This is no doubt due in large part to the spread of the use of shorter terms of jury service and the elimination of exemptions from service.

The Ultimate Internet Juror Web Site?

Many courts have Web sites where anyone with Internet access may get a variety of court information and in some cases search the court's database of cases. Links to some of these Web sites are available on the National Center's home page at www.ncsc.dni.us. One topic often included on these sites is juror information. Frequently asked questions include: "How

do I get to the courthouse?" "Where do I park?" "How do I obtain an excusal from service?" or "How can I get my service postponed to another time?" A few courts permit prospective jurors to complete their questionnaire or request a new jury service date on their computers. The information is then downloaded to the jury support computer.

Mike Tozzi, jury commissioner and executive officer in Stanislaus County, California, thinks it is time to design the ultimate Internet Web site. He suggests beginning with an image of the questionnaire that the juror is to complete. By moving the cursor to the various questions on the form prospective jurors access drop-down dialogue boxes that give instructions for completing the form. The next step is to have jurors complete the form on their computer with editing and responses given as the form is completed. Or courts could use software similar to tax preparation software in which a fairly simple set of questions could guide jurors through the steps of qualifying themselves, obtaining a new date if necessary, and correcting the information on file. Other innovations include posting of maps on the Web site and use of e-mail for communication with jurors.

I had just written the above paragraph when I received an e-mail from Gary Whitehead, court services director, Information systems, in Riverside County, California. Since February 1999, their Web site has contained the information jurors normally obtain from the call-in system. When a message is put on the phone system it is also posted on the juror Web page. In addition to the group reporting information, the site includes security and parking information, maps, answers to frequently asked questions, and a history of jury duty. The Web address is www.co.riverside.ca.us/depts/courts. In the first two weeks of March it is estimated that 6 percent of the jurors used the Web to obtain their reporting information. The ultimate juror Web site is ever closer.

Looking for Jury Technology Applications

We are looking for new and innovative uses of technology to improve the jury system for a forthcoming project in which we will identify, evaluate, and document the applications and make this material available for others to use. Ideas using IVR, Internet, and scanning technologies are obvious examples. Send ideas to me at tmunsterman@ncsc.dni.us.

Should Lawyers be Jurors?

In many states this may sound like the opening of another lawyer joke. While a majority of the states have eliminated all exemptions from jury service based on profession, ten states still exempt lawyers from serving as jurors. They are not disqualified but may be excused from jury service if they so wish. One of the many changes introduced in New York was the elimination of all exemptions from jury service. That bill, which became effective January 1, 1996, also eliminated exemptions for a myriad of professions including embalmers and orthotists. Chief Judge Judith Kaye and Chief Administrative Judge Jonathan Lippman appointed a committee of twenty lawyers who had been called for jury duty, most of whom had been selected as sworn jurors. The chair was Gregory Joseph, who had led the ABA Litigation Section's Committee on jury trial reform. Committee members were asked to look at the procedural and ethical issues that this change introduced and to recommend improvements to the jury process. They solicited comments from lawyers, bar associations, and jury commissioners. They also surveyed a random sample of over 5,000 lawyers and judges. They found that lawyers can and should be considered for jury duty. As a point of comparison, 16 percent of all lawyers reporting became trial (sworn) jurors versus 18 percent of all citizens reporting. This dispels the myth that lawyers would never be selected to serve as jurors.

The study examined the possibility that a lawyer on a jury would have an undue influence on the other jurors. Judge Alan Marrus, who had presided over trials with lawyers as jurors, reported that he found no report of "kingpinitis" (his term). Of all the lawyers responding to the survey, 61 percent said lawyers would have an undue influence on other jurors, while only 29 percent of lawyers who had been jurors agreed.

Suggestions for further improvement include:

- the need for reduced waiting time,
- juror notebooks,
- special verdict forms for use in complex trials,
- election of the presiding juror (foreman) by the jurors themselves (the common practice in most states), and
- use of preliminary and interim instructions.

The committee addressed the possibility that disciplinary rules are likely to conflict with a lawyer's jury duty. None of the lawyer/jurors reported any such problems. Areas where this might occur would be in reporting juror misconduct. The report examines a number of other possible areas of conflict, all easily handled through voir dire, but none of these occurrences were reported.

Copies of the report can be obtained from the Office of the Chief Administrative Judge, 25 Beaver St., New York, NY 10004.