

Suggested Standardized Procedures for Jury Selection in Pennsylvania



**The Pennsylvania Interbranch Commission
for Gender, Racial and Ethnic Fairness
Jury Service Committee**

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INTRODUCTION

Since the early days of the republic, jury service has been a mark of citizenship and a touchstone of civic duty. Indeed, for those who are called, jury service can be what Thomas Jefferson referred to as “the only anchor, ever yet imagined by man, by which a government can be held to the principles of its constitution.”¹ Widespread public participation in the jury system is critical to establishing public confidence in the system. Without that confidence, the rule of law, as well as the health of our democracy, is endangered.

In 2003, a committee appointed by the Supreme Court of Pennsylvania found, in its study of the state justice system, widely differing jury selection procedures in judicial districts across the state. These procedures not only differed from one another but were often found to be ineffective and inefficient. In some jurisdictions, jury commissioners or administrators regularly summoned far more jurors than were needed, at great expense to the counties; the jury source lists tapped far too few minority jurors; and thousands of summons are returned on a daily basis with outdated addresses.

With this in mind, Pennsylvania Supreme Court Chief Justice Ralph J. Cappy requested that the Interbranch Commission for Gender, Racial and Ethnic Fairness search for the best practices among judicial districts in Pennsylvania and nationally, and provide recommendations to the Court incorporating those practices in a standardized set of procedures for selecting juries across the state. The goals are to improve the efficiency of the process of jury selection and to increase public participation and diversity on juries statewide.

The following report is the result of this study. It represents the combined effort of the Jury Service Committee of the Interbranch Commission and the Commission for Justice Initiatives. The Commissions consulted national experts and studies on jury service, reports on jury reform produced by other states and information about practices utilized by individual counties in Pennsylvania. The report covers thirteen areas of jury practice, including the Juror Summons Process; Juror Utilization; Jury Source Lists; Juror Qualifications; Juror Exemptions, Deferrals and Excusals; Juror Failure to Appear; Juror Compensation; Terms of Jury Service; Jury Voir Dire; Peremptory Challenges; Juror Privacy; Juror Security; and Jury Education and Appreciation Campaigns.

This report addresses the elements of the process most likely to influence citizens' willingness to serve and to determine who is selected to serve. Our goal was to uncover the most efficient and progressive practices in jury selection around the country and apply that knowledge to the development of a standardized system for Pennsylvania.

¹ Evan R. Seamone, *State Inaction to Increase Jury Compensation and the Need to Identify Forward-Looking Standards*, N.Y.U.J.Legis.& Pub. Pol'y, Vol. 5, Number 2, 291 (2002).

SECTION ONE

Juror Summons Process

A juror summons is often confusing and difficult for the layperson to understand. This lack of clarity contributes to the failure of potential jurors to respond to summonses. In addition to the need for clarity, a juror summons must contain the most recent contact information for the potential juror in order to maximize juror turnout. Using correct addresses also reduces the costs associated with jury operations by decreasing the incidence of returned summonses due to expired addresses.

Recommendation One

It is recommended that the Pennsylvania Supreme Court require each judicial district to draft clear¹ and practical jury summonses that avoid appearing overly “legalistic” and include the following:

- Jury summonses and qualification questionnaires should be mailed to prospective jurors at the same time - the “one-step process” of summoning prospective jurors.²
- The summons materials should include information about the manner in which jurors are to respond to the summons, including address of courthouse, telephone numbers, and the exact time and date of their appearance.
- The materials should also include a pamphlet or notice with introductory court information, such as appropriate dress, court amenities, and frequently asked questions, allowing for a more attractive and open layout for the summons itself.³
- The qualification questionnaire should be tailored to meet the screening and information needs of the jurisdiction.
- There should be standards for disqualification, deferral, and possible excusal from jury service.
- The summons should include a notice indicating that compliance with the juror summons is not only an obligation of citizenship, but is required by law. In addition, the summons should make clear the consequences for failing to respond to the jury summons and/or failure to appear for jury service.⁴ (See Section Six, Juror Failure to Appear)

In addition, it is recommended that the Supreme Court require each judicial district to establish procedures for resending the summons to those citizens who do not respond initially to a jury summons, as well as procedures for updating and maintaining accurate source lists (such as linkage to and usage of the National Change of Address System [NCOA] and the national deceased list) to help reduce the number of undeliverable summonses.⁵ (See Appendix A for a sample Juror Summons).

Endnotes

¹ Robert G. Boatright, *Improving Citizen Response to Jury Summonses: A Report with Recommendations* (1998).

² Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p.15 (April 2006).

³ Task Force on Jury System Improvements, Judicial Council of California, *Final Report*, pp. 15-16 (April 2004).

⁴ G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations*, p. 47 (National Center for State Courts, 4th Ed., 2006).

⁵ *Id* at 49; American Bar Association, *Principles for Juries & Jury Trials*, p. 53 (2005); If the pending legislation regarding the creation of a statewide master jury list is enacted into law, the state administrative office of courts would be responsible for updating the lists used to create the master jury list. However, if a county decides to opt out of that system or if it supplements the master jury list with other source lists, it is recommended that such a county be held responsible for updating and maintaining the source lists that it uses.

SECTION TWO

Juror Utilization

The most effective way to obtain the cooperation of all citizens in fulfilling their obligation to perform jury service is to minimize the inconvenience to those citizens who are summoned. Our recommendation for a “one day/one trial” jury system supports that goal because it is more efficient than a week-long term system and minimizes the time that jurors must spend at the courthouse. At the same time, however, that system requires more potential jurors to be called into the jury selection process. This has the unfortunate effect of calling more jurors than actually will be needed and costing the court system more money. One way to address this problem is to require standardized panel sizes in combination with a reduction in the term of service for jurors.

Recommendation Two

It is recommended that the Pennsylvania Supreme Court require each judicial district to reduce the number of jurors summoned for a voir dire panel in order to decrease the number

of excess prospective jurors summoned. Specifically, it is recommended that the Supreme Court follow the recommendation of the Jury Task Force of the Pennsylvania Association of Court Management (“PACM”) that studied this problem and concluded in its Best Practices Report¹ that no more than 40 jurors per case be empanelled in a criminal case. This would allow the court to rule comfortably on ten challenges for cause. In a civil matter, a panel size of 30 is recommended by PACM. This would also give the court the potential for ten challenges for cause. Having ten successful challenges for cause in a civil or criminal matter would be extremely unusual. This system would permit the courts to plan more precisely for the proper number of jurors to be summoned to the courthouse on any one day. The judge should provide advance notice to the jury administrator to enable him or her to summon more persons in the event that more jurors are necessary for a particularly notable or complex case.

Endnotes

¹ Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p. 8-9 (April 2006).

SECTION THREE

Jury Source Lists

The exclusive use of voter and vehicle registration lists for juror selection often leads to a panel of prospective jurors that is over-representative of older, middle and upper-income, well-educated, and non-minority members of the community.¹ Therefore, reliance on these lists alone leads to jury panels that may not be reflective of the community-at-large, particularly the minority community.²

Recommendation Three

In order to produce a jury pool that is more diverse, inclusive, and reflective of the community from which it is drawn, it is recommended that the Supreme Court encourage judicial districts throughout the Commonwealth to obtain their lists of prospective jurors from a statewide master jury list,³ drawn from the following sources:

- Department of Public Welfare
- Department of State
- Department of Revenue
- Department of Transportation⁴

This statewide master jury list will be generated by the Administrative Office of Pennsylvania Courts, and will include the most recent addresses of potential jurors. The list will be distributed to each judicial district on an annual basis.⁵

It is also recommended that the Supreme Court allow each judicial district to supplement its primary juror source lists with additional source lists that may include the following:⁶

- Lists of property owners
- State census lists
- Lists of state unemployment recipients
- Lists of newly naturalized citizens
- Lists of recently graduated high-school seniors
- Persons listed in telephone, city/municipal directories and similar directories
- Lists of holders of hunting and fishing licenses
- Lists of local tax payers

Endnotes

¹ G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations*, p. 29 (National Center for State Courts, 4th Ed., 2006).

² *Taylor v. Louisiana*, 419 U.S. 522 (1975) (stating that the selection of a jury from “a cross-section of the community is fundamental to the American system of justice”); *People v. Harris*, 679 P.2d 433 (Cal. 1984) (the state’s exclusive use of a voter registration list, which did not represent a fair cross-section of the community, deprived the defendant of his right to a jury trial).

³ Task Force on Jury System Improvements, Judicial Council of California, *Final Report*, p. 11 (April 2004).

⁴ *See Salameh v. Spossey*, 731 A.2d 649 (Pa. Comwlth 1999) (concluding that the state’s use of other lists besides the mandatory voter registration list is only discretionary but that the use of other lists to find potential jurors is clearly statutorily permitted).

⁵ On July 17, 2007, after unanimous passage by both the Pennsylvania Senate and House, Senate Bill 116, Printer’s Number 1038, which provides for such a master list and distribution scheme, was signed into law by Governor Rendell.

⁶ Task Force on Jury System Improvements, Judicial Council of California, *Final Report*, p. 10 (April 2004); G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations*, p. 91 (National Center for State Courts, 4th Ed., 2006); The Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, *Final Report*, p. 97 (March 2003).

SECTION FOUR

Juror Qualifications

In order to demonstrate that all citizens are not only required but welcome to participate in the jury process, the qualifications for juror service should be presented in an inclusive manner and should be narrowly drawn. Pennsylvania's juror qualification statute generally meets that standard with the exception of the lifetime exclusion of those convicted of crimes punishable by imprisonment of more than one year. Such automatic exclusions excise a significant share of the citizenry from jury panels, including at least 30% of all African-American males.¹ Such wholesale exclusions often lead to jury panels unreflective of the community-at-large.

Recommendation Four

It is recommended that the present juror qualification statute in Pennsylvania [42 Pa.C.S.A.

§ 4502(a)]² be revised to reflect the following policy regarding juror qualifications:

- Eligibility for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, sexual orientation, or any other objective or subjective factor³ that discriminates against a cognizable group⁴ in the jurisdiction other than those people set forth in the section below.⁵
- All persons are eligible for jury service except those who:⁶
 - 1) Are less than eighteen years of age; or
 - 2) Are not citizens of the United States; or
 - 3) Are not residents of the jurisdiction in which they have been summoned to serve; or
 - 4) Lack sufficient command of the English language to be able to effectively communicate in it.

In the past ten years, there has been a dramatic shift among states to permit citizens with criminal records to serve on juries. In particular, seventeen states and the District of Columbia have lifted their lifetime bans for felons.⁷

Currently, in Pennsylvania, any person who has been convicted of a crime punishable by imprisonment for more than one year and who has not been granted a pardon or amnesty is banned for life from serving as a juror. Thus, not only are felons banned for life in Pennsylvania but those convicted of misdemeanors of the first or second degree are banned, as well. Such a stringent law is counter to the national trend away from felon disenfranchisement and toward promoting increased general participation on juries.⁸

Consequently, we join in the recommendation of the Jury Task Force Report *Best Practices Recommendations* of the Pennsylvania Association of Court Management⁹ that section (a) (3) of the present jury qualification statute in Pennsylvania banning felons and those convicted of misdemeanors of the first or second degree from juror service be replaced by a more inclusive statute that is more consistent with those of surrounding states and the nation in general.

In particular, it is recommended that the following sections (a) (5) and (6) be added to the proposed statute set forth above:

- 5) Have been convicted of a felony of any degree or a misdemeanor of the first degree;
- 6) Have been convicted of a misdemeanor of the second degree and have been confined or on probation, parole, or otherwise under court supervision within the previous five years.¹⁰

These reasons should be the exclusive bases for juror ineligibility. Preliminary information regarding juror qualification should be obtained via the Juror Qualification form mailed to prospective jurors along with the Jury Summons (the one-step juror summons process). (See Appendix A for a sample Juror Summons and Juror Qualification Form)

Endnotes

¹ Christopher Uggen, et al., 2006. *Citizenship, Democracy and the Civic Reintegration of Criminal Offenders*, *The Annals of the American Academy of Political and Social Science* 605: 281, 283.

² (a) General rule.--Every citizen of this Commonwealth who is of the required minimum age for voting for State or local officials and who resides in the county shall be qualified to serve as a juror therein unless such citizen:

- (1) is unable to read, write, speak and understand the English language;
- (2) is incapable, by reason of mental or physical infirmity, to render efficient jury service; or
- (3) has been convicted of a crime punishable by imprisonment for more than one year and has not been granted a pardon or amnesty therefor.

(b) Definition.--For purposes of this section, "convicted of a crime punishable by imprisonment for more than one year" does not include a conviction for any offense under or violation of the former act of May 1, 1929 (P.L. 905, No. 403), [FN1] known as The Vehicle Code, or the former act of April 29, 1959 (P.L. 58, No. 32), [FN2] known as The Vehicle Code, which offense or violation, if it had been committed after July 1, 1977:

- (1) would have been substantially similar to an offense currently graded as a summary offense under 75 Pa.C.S.A. (relating to vehicles); or
- (2) would not have been a violation of law.

1980, June 26, P.L. 266, No. 78, § 3, imd. effective. Amended 2001, Dec. 17, P.L. 944, No. 113, § 2, imd. effective.

³ Only three states (Alabama, Arkansas, and Illinois) retain any vestiges of the once prominent use of subjective factors in selecting jurors. Only fifty years ago, it was commonplace for there to be bans on "the wrong type of person" for jury service. Jurors were once required to be of "good character," and "high integrity," and to be free of "vicious habits" or "unclean thoughts." See Brian C. Kalt, *The Exclusion of Felons from Jury Service*, 53 *Am. U. L. Rev.* 65, 188 (October 2003).

⁴ *U.S. v. Duran De Amesquita*, 582 F. Supp. 1326 (S.D. Fla. 1984) (In determining whether a group is cognizable for the purposes of a challenge to a jury selection plan, the following considerations are pertinent: (1) there must exist some quality or attribute which defines or limits the alleged group; (2) there must exist cohesiveness of attitudes, ideas, or experience which distinguishes the group from the general social milieu; and (3) a community of interest must be present which may not be represented by other segments of the population).

⁵ See 28 U.S.C.A. § 1862: No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States or in the Court of International Trade on account of race, color, religion, sex, national origin, or economic status.

(June 25, 1948, c. 646, 62 Stat. 952; Mar. 27, 1968, Pub.L. 90-274, § 101, 82 Stat. 54; Oct. 10, 1980, Pub.L. 96-417, Title III, § 302(c), 94 Stat. 1739.)

⁶ G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations*, p. 35 (National Center for State Courts, 4th Ed., 2006).

⁷ Brian C. Kalt, *The Exclusion of Felons from Jury Service*, 53 *Am. U. L. Rev.* 65, 150-57 (October 2003).

⁸ *Id.*

⁹ Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p. 8 (April 2006).

¹⁰ Interbranch Commission member Judge Elizabeth Doyle does not concur with the portion of this recommendation regarding this modification of the present juror qualification statute in Pennsylvania to lift the lifetime ban on jury service on those convicted of second degree misdemeanors.

SECTION FIVE

Juror Exemptions, Deferrals, and Excusals

While the justice system is required to provide defendants and litigants with an unbiased jury reflective of their community, many “real-world” factors impact whether potential jurors actually participate in the system. Potential jurors often have personal responsibilities, such as child or elder care, or health conditions which render them temporarily unable to perform jury service; others ask to be removed from jury service for reasons of inconvenience or perceived hardship. These conflicts commonly lead to juror dismissals which disproportionately affect low-income and minority individuals, undermining the diversity of many jury pools.¹ Having clearly established and communicated criteria for granting releases from jury service reduces the incidence of discriminatory, inconsistent, or arbitrary standards.

Recommendation Five

It is recommended that the Supreme Court require each judicial district in the Commonwealth to adopt standard procedures to be followed in the event of a request by a juror for an exemption, deferral, or excusal from jury service. Such standard procedures should be guided by the following principles:

- The deferral of jury service shall always be preferred to excusing a prospective juror for a temporary or marginal hardship.²
- Mere inconvenience to a prospective juror or his or her employer is not an adequate reason to be excused from jury duty.
- A prospective juror's responsibility for providing care for her/his children or elderly parents should not result in an automatic exemption or permanent removal of the person from the list of possible jurors.
- Financial burden, unless significant, is not sufficient.

Suggested standard procedures should include the following (in order of preference):

- **Deferrals** - Individuals scheduled to appear for jury service have the right to one automatic six-month deferral of each appearance, provided all of the following apply:
 - 1) The juror has not previously been granted a deferral in that trial term.
 - 2) The prospective juror appears in person or contacts an appropriate court official by telephone, electronic mail or in writing to request a deferral (See Appendix B for a sample Request for Deferral or Excusal Form).
 - 3) Prior to the grant of a deferral with the concurrence of an appropriate court official, the prospective juror fixes a date certain on which he or she will appear for jury service that is not more than six months after the date on which the prospective juror originally was called to serve and on which date the court will be in session.

Note: A subsequent request to defer jury service may be approved by a judicial officer only in the event of an emergency, such as a death in the family, grave illness, a natural disaster or a national emergency in which the prospective juror is personally involved, that could not have been anticipated at the time the initial deferral was granted. Prior to the grant of a second deferral, the prospective juror must fix a date certain on which the individual will appear for jury service within six months of the deferral on a date when the court will be in session.

Note: An individual who fails to appear in person on the date scheduled for jury service and who has failed to obtain a deferral in compliance with the provisions for requesting a deferral or who fails to appear on the date set is subject to civil contempt and/or sanctions. See Recommendation Six.

- **Excusals** - In cases of undue or extreme hardship,⁴ instead of seeking a deferral,

an individual may apply in writing to be excused from jury service for a period of up to 24 months (See Appendix B for a sample Request for Deferral or Excusal Form) if:

- 1) The prospective juror has a mental or physical condition that causes him or her to be incapable of performing jury service. The juror or the juror's personal representative must provide the court with documentation from a physician on his/her letterhead verifying that a mental or physical condition renders the person unfit for jury service for a period of not less than the 24-month period for which the excuse is sought.
- 2) Jury service would cause undue physical or significant financial hardship to the prospective juror or a person under the prospective juror's care or supervision:
 - a. A judge of the court for which the individual was called to jury service shall make determinations of undue or extreme physical or significant financial hardship. The authority to make these determinations is delegable only to court officials.
 - b. A person asking to be excused based on a finding of undue or extreme physical or significant financial hardship must take all actions necessary to obtain a ruling on that request by no later than the date on which the individual is scheduled to appear for jury duty.
 - c. Undue or extreme physical or significant financial hardship is limited to circumstances in which an individual would:
 - (i) Be required to abandon a person under the individual's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury;
 - (ii) Incur costs that would have a substantial adverse impact on the payment of the individual's necessary daily living expenses or on those for whom the individual provides the principal means of support; or
 - (iii) Suffer physical hardship that would result in injury or illness.
 - d. Undue or extreme physical or significant financial hardship does not exist based solely on the fact that a prospective juror will be required to be absent from the prospective juror's place of employment.
 - e. Persons asking a judge to grant an excusal based on undue extreme physical or significant financial hardship may be required to provide the judge with documentation, such as, but not limited to, medical statements from licensed physicians, proof of dependency or guardianship and similar documents to support the request to be excused. Failure to provide satisfactory documentation shall result in a denial of the request to be excused.

Note: After 24 months, a person excused from jury service shall again become eligible for qualification as a juror unless the person was excused permanently from service. A person is excused permanently from jury service only when the judge determines

that the underlying grounds for being excused are permanent in nature.

Note: Upon reaching 70 years of age, an individual may notify the Court of Common Pleas of the county in which he or she resides that he/she wishes to permanently opt out of future jury service. The court, upon receipt of the notification, shall not call the individual to jury service. An individual who is under consideration to serve in a trial or has been selected to serve in a trial should not be permitted to use these procedures to opt out of that service.

- **Exemptions** - All automatic exemptions from jury service based upon profession should be eliminated as a matter of law.³

Endnotes

¹ PA Joint Comm. Rpt. 2300, *Minority Representation in the Jury Selection Process in Pennsylvania*, p. 84 (May 2003).

² California Center for Judicial Education and Research, *Jury Management Bench Handbook*, p. 11 (2002 Ed.).

³ American Bar Association, *Principles for Juries & Jury Trials*, p. 52 (2005); Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p. 7 (April 2006); G. Thomas Munsterman, *The Jury Patriotism Act*, *The Court Manager*, Vol. 18, Issue 2, p. 71 (Summer 2003).

⁴ G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations*, p. 35 (National Center for State Courts, 4th Ed., 2006); G. Thomas Munsterman, *The Jury Patriotism Act*, *The Court Manager*, Vol. 18, Issue 2, p.72 (Summer 2003).

SECTION SIX

Juror Failure to Appear

The importance of jury duty is often not understood, and many potential jurors see no imminent consequences for ignoring their summonses. Yet the failure-to-appear rate can significantly affect the quality and makeup of Pennsylvania juries. According to one study, the single biggest predictor of failure-to-appear rates was whether prospective jurors believed that failing to appear would result in negative consequences.¹

Recommendation Six

In order to reduce the failure-to-appear rate of prospective jurors, it is recommended that the Supreme Court require each judicial district to formulate a written policy addressing the steps and consequences (including show-cause hearings) for jurors who fail to follow proper procedures, respond to a jury summons, and/or appear for jury service.² This written policy should be mailed to prospective jurors along with their summonses. In addition, on each qualification questionnaire, the Supreme Court should require a signature line, which requires prospective jurors to acknowledge that they have read and understand the consequences of the failure to complete the questionnaire or to respond to a jury summons.

Consistently applied follow-up procedures will convey to the community that courts are aware of citizens' failure to respond to jury summonses and that the courts will take appropriate action. It is very important that judicial districts follow-up on non-responders at all stages of the jury summoning process. A typical progression of follow-up steps is:

- A follow-up letter or second summons.
- Issuance of a Failure-to-Appear (FTA) Notice.
- Issuance of an Order-to-Show Cause (OSC) Notice.
- Issuance of Civil Contempt Citation and/or Sanctions.³

Due to the high cost and other problems associated with the administration of a coercive enforcement policy, however, it is recommended that enforcement policies be carefully crafted. Possible enforcement techniques may include:

- The issuance of a small number of show-cause warrants per year that are well-publicized to demonstrate to the general public that there is a penalty for failing to respond to a summons.
- Amendments to the Rules of Civil Procedure and Motor Vehicle Code to provide procedures for placing a hold upon driver license renewals of those persons who fail to respond to juror summonses and subsequent correspondence regarding jury service. Holds may be removed for those who genuinely failed to receive their jury summonses by providing current address information for the issuance of a new summons⁴ and agreeing to serve when summoned.

Endnotes

¹ Robert G. Boatright, *Improving Citizen Response to Jury Summonses: A Report with Recommendations* (1998).

² Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p.7 (April 2006)

³ The Los Angeles County Superior Court assessed its follow-up program and found that 29% of persons who failed to respond to the first summons did respond to the second summons; an additional 6% responded after receiving the FTA notice, and 18% responded after receiving the OSC notice. Thus, the overall effect of the Los Angeles follow-up program was that more than half (53%) of nonresponders eventually responded to the jury summons. Some of the nonresponses might have been caused by the nonreceipt of the jury summonses or the failure to properly return them to the court. Linkage to and use of the National Change of Address System (NCOA) should help to significantly reduce this number of nonresponders.

⁴ Task Force on Jury System Improvements, Judicial Council of California, *Final Report*, p. 13 (April 2004).

SECTION SEVEN

Juror Compensation

Jury service can often impose economic hardships that significantly reduce juror participation rates. Economic hardship excusals tend to disproportionately affect minorities, leading to jury pools that do not accurately reflect Pennsylvania's growing diversity.¹ To compound the problem, Pennsylvania's juror compensation scale, unlike those of most other states, has remained effectively unchanged since 1980.² In addition, many studies connect an ability to serve with issues that appear to be gender-related.³ The responsibility for childcare predominately falls upon women and the relative lack of childcare services for jurors is a major impediment to women serving as jurors.

Recommendation Seven

It is recommended that the Supreme Court support legislation designed to compensate

jurors adequately for their service to the courts. Such legislation should encompass the following principles:

- When the jury service entails only a short period of time (e.g. three days or less), either the daily fee should be sufficient, at a minimum, to reimburse jurors for reasonable out-of-pocket expenses (transportation, parking, meals, and childcare) or vouchers should be provided to jurors in reasonable amounts to cover those expenses.⁴
- For longer trials, jurors should be compensated for reasonable expenses and lost wages. This can be accomplished by either:
 - 1) Raising the juror compensation scale for trials lasting over three days, including the possible implementation and creation of a lengthy trial fund⁵; and/or
 - 2) Offering employers economic incentives to compensate employees summoned for jury duty.
- Possible programs to fund increased juror compensation that have been used successfully elsewhere include:⁶
 - A \$5 civil case filing fee to be paid into the jury compensation fund.
 - Raise jury demand fees.⁷
 - Compensate jurors from fees paid for the reinstatement of state driver's licenses.
 - No pay for first day of service, one-day trial or first day of longer trial, but increased pay for trials lasting over three days.
- All employers should be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.⁸
- Where possible, court administrators should try to establish childcare facilities in courthouses by utilizing the funding through Title 42 Pa.C.S.A. § 3721 for the start-up and daily operating costs of such facilities.

Endnotes

¹ PA Joint Comm. Rpt. 2300, *Minority Representation in the Jury Selection Process in Pennsylvania*, p. 84 (May 2003).

² Pennsylvanians for Modern Courts, *Report on Juror Compensation in Pennsylvania*, p. 1 (August 2006). The \$9 per day rate for the first three days of juror service, in fact, has remained unchanged since 1959. In 1980, juror compensation was increased to \$25 per day AFTER the first three days of service.

³ The Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, *Final Report*, p. 104 (March 2003).

⁴ American Bar Association, *Principles for Juries & Jury Trials*, p.8 (2005).

⁵ See G. Thomas Munsterman, *The Jury Patriotism Act*, *The Court Manager*, Vol. 18, Issue 2, p.71 (Summer 2003); see similar language in statutes authorizing Lengthy Trial Funds in the following states: Arizona (A.R.S. §21-222), Oklahoma (28 O.S. 86) and Mississippi (Miss. Code Ann. § 25-7-61); and similar proposed legislation in Missouri (House Bill No. 1143, 2004 Session) and Georgia (House Bill 1323, 2004 Session), among others.) In 2005, the Texas Legislature passed and the governor signed into law Senate Bill 1704 increasing compensation for jurors from six dollars a day to 40 dollars a day, starting on the juror's second day of service. The bill also provided for state reimbursement to counties for juror pay and for the funding of juror reimbursement through court costs that are deposited into a Jury Service Fund, not unlike the Lengthy Trial Funds referenced above.

- Rules for the Establishment of the Fund:
 - 1) The selection and appointment of an administrator of the fund;
 - 2) Procedures for the administration of the fund, including payments of salaries of the administrator and other necessary personnel;
 - 3) Procedures for the accounting, auditing and investment of money in the fund;
 - 4) The administrator should report annually on the administration of the Lengthy Trial Fund to the Supreme Court and the General Assembly, setting forth the money collected for and disbursed from the fund.
- Collection of Money for the Fund:
 - 1) Each trial court in this Commonwealth should collect from each attorney who files a civil case, unless otherwise exempted under the provisions of this section, a fee of \$5 per case to be paid into the Lengthy Trial Fund. A lawyer should be deemed to have filed a case at the time the first pleading or other filing on which an individual lawyer's name appears is submitted to the court for filing and opens a new case. All fees should be forwarded to the administrator of the Lengthy Trial Fund for deposit.
- Wage Replacement or Supplementation:
 - 1) The fees deposited in the Lengthy Trial Fund should be used to pay wage replacement or supplementation to any juror in civil litigation beginning on the fourth day of service. The amount paid from the fund should be no more than is needed to relieve financial hardship and, in no event, should exceed \$100 per day per juror.
 - 2) The fees deposited in the Lengthy Trial Fund should also be used to pay wage replacement or supplementation not to exceed \$300 per day to jurors, beginning on the tenth day of service.
 - 3) The amount of disbursements from the Lengthy Trial Fund may be limited, based on the availability of financial resources.
- Requests for Payment:
 - 1) A juror who is serving or has served on a jury that qualifies for payment from the Lengthy Trial Fund should submit a request for payment from the fund on a form provided by the administrator. Payment should be limited to the difference between the State-paid jury fee and the actual amount of wages a juror earns, up to the maximum level payable minus any amount the juror actually receives from the employer during the same time-period.
 - 2) The form should disclose the juror's regular wages, the amount the employer will pay during the term of jury service, the amount of replacement or supplemental wages requested and any other information the administrator deems necessary.
 - 3) The juror should be required to submit verification from the employer as to the wage information provided to the administrator prior to payment from the fund. The employee's most recent earnings statement or similar document should qualify as wage information.
 - 4) If an individual is self-employed or receives compensation other than wages, the individual should provide a sworn affidavit attesting to his or her approximate gross weekly income, together with such other information as the administrator may require in order to verify weekly income.
- Exemptions: The following attorneys and causes of action should be exempt from payment of the Lengthy Trial Fund fee:
 - 1) Government attorneys appearing in the course of their official duties;
 - 2) Pro se litigants;
 - 3) Cases in small claims court.
 - 4) Claims seeking Social Security disability determinations, individual veterans' compensation or disability determinations, recoupment actions for government-backed educational loans or mortgages, child custody and support cases, actions brought in forma pauperis, and any other filings designated by rule that involve minimal use of court resources and that customarily are not afforded the opportunity for a trial jury.

⁶ Paula Hannaford-Agor, *The Laborer is Worthy of His Hire and Jurors Are Worthy of Their Juror Fees*, *The Court Manager*, p. 39 (Vol. 21, Issue 2, Summer 2006).

⁷ Jury demand fees are quite numerous in jurisdictions around the country. Although the actual fee structures vary widely, taking into account factors such as the type of case involved and whether the petitioner is demanding a six or a twelve person jury, the basic idea is quite similar: those parties that are not indigent and request a jury for their civil trial are required by the court to pay a fee for that jury.

⁸ See G. Thomas Munsterman, *The Jury Patriotism Act*, *The Court Manager*, Vol. 18, Issue 2, p.71 (Summer 2003); Employers should be prohibited from requiring jurors to use leave or vacation time for the time spent on jury service or to make up the time they served [see similar language in statutes in the following states: Arkansas (A.C.A. § 16-31-106), Kansas (K.S.A. 43-173), Kentucky (KRS 29A.160), Maine (14 M.R.S.A §1218), and Nebraska (Neb. Rev. Stat. § 25-1640)].

1) Job preservation -- A person who is summoned to serve as a juror and who notifies his or her employer of the summons within a reasonable period of time after receipt of the summons and prior to his or her appearance for jury duty should not be removed or otherwise be subject to any adverse employment action as a result of the jury duty.

2) Benefits protection -- An employee should not be required or requested to use annual, vacation or sick leave for time spent responding to a summons for jury duty, participating in the jury selection process or serving on a jury. This provision should not be construed to require an employer to provide annual, vacation or sick leave to employees under the provisions of this act who are not entitled to such benefits under company policies.

NOTE: In Pennsylvania, there is a statutory exception to these prohibitions for small businesses that states: “Subsection (a) [prohibiting an employer from depriving an employee of his employment, seniority position or benefits, or from threatening or otherwise coercing an employee because of jury service] shall not apply to any employer in any retail or service industry employing fewer than 15 persons or any employer in any manufacturing industry employing fewer than 40 persons.” [42 Pa.C.S.A. §4563 (d)]

SECTION EIGHT

Term of Jury Service

Respect for jurors and their commitments should be the guiding principle of all judicial districts. Research indicates that juror satisfaction is directly linked to how effectively juror time is managed. Reducing the amount of time jurors wait before being assigned or dismissed not only increases juror satisfaction, but also significantly reduces the number of deferrals and hardship excusals.

Recommendation Eight

It is recommended that the Supreme Court require judicial districts to use a “one day/one trial” or a “one day/multiple trial” process of summoning jurors.² This recommendation is made because the national trend is toward a one-day process that is more cost-efficient and more convenient to the jurors.³ The specific details of that process can be established by each judicial district, although essentially a “one-day/one-trial” system works as follows:

- The court calls the jurors to serve for a period of one day. On that first day, the person is either:
 - 1) Selected as a juror who serves until the case is complete, in which case the juror is not summoned again for three years if the length of the trial was four or more days, or one year if the length of the trial was three days or less;
 - 2) Not selected as a juror, in which case the juror is considered to have fulfilled his/her obligation of service for a period of one year.⁴
- Courts should use on-call telephone standby notice systems⁵ to prevent unnecessary appearances of potential jurors as a critical part of operating a “one-day/one-trial” system.⁶

Endnotes

² Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p. 6 (April 2006); G. Thomas Munsterman, *The Jury Patriotism Act*, *The Court Manager*, Vol. 18, Issue 2, p.71 (Summer 2003); The Supreme Court of Ohio Task Force for Jury Service, *Report*, p. 231 (February 2004).

³ G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations*, p. 25 (National Center for State Courts, 4th Ed., 2006).

⁴ 42 Pa.C.S.A. § 4503(a)(2).

⁵ Allegheny County is one county that utilizes a “one day/one trial” process with an on-call telephone standby system. A telephone number and website appear on the summons issued to a potential juror. The potential juror must call the automated telephone system or log on to the website after 4:00 p.m. the night before he/she is due to serve. A group number is also listed on the summons. The automated system lists the group numbers that must report for jury service the following day, and gives the building, room number, and time the potential juror should report. If his/her group number is not mentioned, the potential juror is excused from jury duty, but is still credited for one day of service.

⁶ Task Force on Jury System Improvements, Judicial Council of California, *Final Report*, p. 32 (April 2004).

SECTION NINE

Jury Voir Dire

No other stage of the jury trial varies so dramatically from jurisdiction to jurisdiction and judge to judge as voir dire. Although the purpose of jury selection is to identify and remove prospective jurors who could not serve fairly and impartially, there is much debate about the best practices to achieve that goal.

A cursory voir dire examination may fail to obtain information necessary for the judge to make rulings on challenges for cause and for the parties to exercise their peremptory challenges. A voir dire examination that fails to make sufficient inquiry does not fulfill the purpose of the procedure. Without sufficient information for the court and counsel to evaluate jurors, juries are selected based on intuition, speculation and stereotyping.

It should be noted that in many courtrooms judges are currently conducting voir dire in a thorough and meaningful manner. Others, however, are doing so in a rather perfunctory manner or not at all which is inconsistent with the goal of voir dire.

Recommendation Nine

It is recommended that the Supreme Court require all judicial districts to follow the same general practices when conducting voir dire. Statements to, and questioning of, prospective jurors should be done initially by the judge, followed by questions, if necessary, by counsel for each side under the supervision of the judge. In some cases, compliance with some of these recommendations will take some additional time. Research shows, however, that those states whose practices conform with these recommendations report that the result is well worth the minimal extra time expended.

1. **General explanation of voir dire by the judge to all prospective jurors present:**

The judge should ask the jurors who are not in the jury box to listen closely to the questions asked of jurors who are in the jury box.

- (a) Explain the concept of voir dire to the jurors.¹
- (b) Explain to the prospective jurors why some of them may be selected and others will not.²
- (c) Introduce the parties and attorneys.
- (d) Identify witnesses: Name the witnesses who may be called or referred to by other witnesses.
- (e) The judge should inform the prospective jurors of the anticipated length of the trial, and ask if there is any reason why they could not serve as jurors for this time period.

2. **Voir dire opening:**³ In both criminal and civil trials, the judge should have the discretion to either give a short summary of the case to the entire panel of prospective jurors or allow each counsel, with the input of both parties, to give a short statement describing the case to the panel - a so-called "voir dire opening or mini-opening". Such statements can help jurors respond more openly during voir dire, especially with regard to possible bias issues. The recommended procedures for implementing voir dire openings by counsel are:

- (a) Each counsel should be allotted a brief period of time (no more than five minutes) to summarize the case from their side's point of view.
- (b) Special considerations for criminal matters are:
 - i. *Rosario*⁴ material should be provided to the defense before counsel is asked to deliver a voir dire opening.
 - ii. A defense attorney's decision to make a voir dire opening does not preclude exercising the defendant's right not to make an opening statement at the start of the trial.
 - iii. The prosecution's voir dire should be first and there should be no rebuttal.
- (c) Where the judge decides to permit counsel to give a voir dire opening, it is suggested that the judge provide introductory remarks to the potential jurors before the commencement of the voir dire openings. Such a statement could be as follows:

"Before we begin the process of asking you questions about your qualifications to serve on this case, each attorney will give a brief statement about the case. I've asked them to limit their remarks to a brief presentation. Of course, what the attorneys say to you by way of opening remarks both now, and again later just before we begin hearing from the witnesses, is not evidence. These statements are offered to you now as a kind of 'preview' of the case. The purpose in doing so is to allow us a greater opportunity to explore with you anything that might impact your ability to serve fairly and impartially as a juror in this case."

- 3. Juror background information:** Jurors should complete a background questionnaire before they are assigned to a panel.⁵ The judge should tell the jurors that they have a duty to disclose possible bias or prejudice. If there are indications, either on the Juror Information Questionnaire or elsewhere, that a prospective juror has beliefs or personal experiences that raise concerns about his/her ability to be impartial, the voir dire should include open-ended questions which allow the prospective juror to explain these opinions and beliefs.⁶ The court should allow counsel for both sides to question jurors individually about the extent of their beliefs, preconceptions and sensitivities.⁷ Under no circumstances, however, should the resulting voir dire be limited to the juror's subjective self-assessment of his or her ability to be fair and impartial.⁸
- 4. Questions regarding the case:** Questions should be asked to the entire group of prospective jurors, asking them to answer verbally or to raise their hands. On sensitive matters or prior exposure to potentially prejudicial material, it is recommended that jurors be examined outside the presence of other jurors.⁹ Sensitive matters are those matters that might be potentially embarrassing or intrusive into the juror's private life, beliefs, or those matters which if discussed in the presence of the jury panel, might prejudice or influence the panel by exposing other potential jurors to improper information. The judge should ask any follow-up questions to particular jurors based on their answers to either general questions about themselves or to questions regarding the case-at-bar.

After examination of the prospective jurors by the judge, there may be additional questioning by counsel for each side, under the supervision of the judge and subject to reasonable time limits.

Endnotes

¹ Possible comments to the jurors could including the following:

“The attorneys for the parties in this case and I will be asking you questions to determine if you will be the jurors in this case. If any of these questions embarrass you or cause you discomfort, please raise your hand and tell me you prefer to respond to the question in private. You will then do so outside the presence of other potential jurors, with just the court reporter, the attorneys and me present.”

² Possible comments to the jurors could including the following:

“Based on your responses to the questions we ask, we may conclude that this may not be the best case for you to serve on, and we may excuse you with our thanks, to return to the jury assembly room for assignment to jury service on another case.”

³ In 2003, New York State, under the leadership of Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman, established the Jury Trial Project that piloted, among other innovations, voir dire openings by attorneys in 22 trials. The project gathered significant data from all participants in these trials. Judges presiding over trials where voir dire openings were used reported that the procedure was enormously successful, improving not only the jurors’ candor, but also their willingness to serve and, in addition, increasing their understanding of why they were being questioned. In fact, one judge reported the following:

“At first, I was skeptical. After using voir dire openings in several criminal trials, and then sitting on a trial where they were not used, I can’t envision a case in which I would not like the attorneys to give brief voir dire openings. Jury selection is clearly improved by letting attorneys tell the venire a little bit about the case before question begins.”

In addition, both the New York State Association of District Attorneys and the New York State Public Defense Bar endorse the use of voir dire openings. *See*, New York Jury Trial Project, *Final Report of the Committees of the Jury Trial Project*, p. 19-25 (April 2005).

⁴ *People v. Rosario*, 173 N.E.2d 881 (N.Y. 1961) (statements of witnesses must be turned over to defense counsel prior to opening statements - and in this case, prior to voir dire opening).

⁵ American Bar Association, *Principles for Juries & Jury Trials*, Principle 11A (2005).

⁶ *See* American Bar Association, *Principles for Juries & Jury Trials*, Principle 11B (2005); ABA Standards For Criminal Justice, §15-2.6 (a); National Jury Project, *Jurywork Systematic Techniques* (Second Edition), p. 2-56.5.

“Reliance on fixed-response or closed-ended questions alone in the voir dire presents a barrier to effectively eliminating bias or prejudice. A closed-ended question is one in which the answer is limited to a single response such as yes, no, agree, disagree. Such fixed-response or leading questions will not be useful in gaining information about a prospective juror’s attitudes, prejudices, or prejudgment. Every lawyer and judge knows that leading questions are designed to suggest or control the content of the response elicited. A leading voir dire question, for example, ‘Is there anything about the race or background of the defendant that would prevent you from being fair and impartial?’ informs the prospective juror that the ‘correct’ answer is ‘no’ and provides the court with no information regarding the subtle impact of the juror’s biases. Indeed, many prejudiced individuals consider themselves fair-minded people who simply are ‘aware of the inferiority of certain minority groups.’ Only open-ended questions requiring jurors to formulate their thoughts in their own words will separate those jurors who are actually without

unfair prejudice from those who are merely unaware of their unfair prejudices. Open-ended, non-leading questions encourage respondents to explain their opinions and attitudes in their own words, thus penetrating stereotyped and socially desirable responses. Only non-leading questions will uncover underlying attitudes and prejudices unlikely to surface in perfunctory responses to closed-ended questions.”

See also National Jury Project, *Jurywork Systematic Techniques* (Second Edition), p. 2-28.

“Questions requiring jurors’ subjective evaluation of their ability to be fair and impartial have consistently been held to be an inadequate basis upon which to assess jurors’ qualifications.”

⁷ American Bar Association, *Principles for Juries & Jury Trials*, Principle 11B (2005).

⁸ See *People v. Tyburski*, 445 Mich. 606, 518 N.W. 2d 441, 448, 449 (Supreme Court of Michigan, 1994) (lead opinion of Court) (“It is imperative, in securing the rights of the parties to an impartial jury, for the court to allow the elicitation of enough information so that the court itself can make an independent determination of a juror’s ability to be impartial.” Courts indeed should be allowed wide discretion in the manner they employ to achieve the goal of an impartial jury. However, a court does not have discretion to simply fail to elicit enough information during voir dire to make an intelligent assessment of bias.”); *Young v. State*, 407 A.2d 517, 521 (Supreme Court of Delaware, 1978) (“Consequently, the trial judge should not merely go through the form of obtaining juror’s assurances of impartiality, but rather, he should conduct an examination designed to elicit answers which provide an objective basis for his evaluation.”); *Rosales-Lopez v. United States*, 451 U.S. 182, 101 S. Ct. 1629, 1634, 68 L.Ed. 2d. 22 (1981) (“Without an adequate voir dire the trial judge’s responsibility to remove prospective jurors who will not be able impartially to follow the court’s instructions and evaluate the evidence cannot be fulfilled”). *People v. Williams*, 29 Cal.3d 392, 402, 628 P.2d 869, 873, 174 Cal. Rpt. 317, 321 (Supreme Court of California, 1981). (“Our Courts have become increasingly aware that bias often deceives its host by distorting his view not only of the world around him, but also of himself. Hence although we must presume that a potential juror is responding in good faith when he asserts broadly that he can judge the case impartially [citation omitted], further interrogation may reveal bias of which he is unaware or which, because of his impaired objectivity, he unreasonably believes he can overcome.”) See also *Silverthorne v. United States*, 400 F.2d 627, 639 (9th Cir. 1968), cert. den. 400 U.S. 1022 (1971) (“But whether a juror *can* render a verdict based solely on evidence adduced in the courtroom should not be adjudged on the juror’s own assessment of self-righteousness *without something more.*”); *Murphy v. Florida*, 421 U.S. 794, 95 S. Ct. 2031, 2036, 44 L.Ed.2d 589 (1975) (“[The juror’s assurances that he is equal to the task [of impartiality] cannot be dispositive of the accused’s rights...”); *People v. Tyburski*, 445 Mich. 606, 518 N.W. 2d 441, 452n. 16 (Supreme Court of Michigan, 1994) (lead opinion of Court) (“Courts have long recognized that juror self-assessment of bias is inherently untrustworthy. Questions that do not go beyond juror self-assessment do not adequately cover the area of potential bias.”).

See also ABA Standards for Criminal Justice, §15-2.4 (a and b); National Jury Project, *Jurywork Systematic Techniques* (Second Edition), p. 2-17.

“Attorney participation in the questioning lessens the social distance between questioner and respondents, thus minimizing evaluation apprehension and minimizing the prospective jurors’ tendency to try to please the interviewer.”

⁹ ABA Standards For Criminal Justice, §15-2.4(d); ABA Standards For Criminal Justice, §15-2.4 (e); National Jury Project, *Jurywork Systematic Techniques* (Second Edition), p. 2-16.1.

“Examining individual jurors outside the presence of other jurors is preferable to examining jurors in the presence of a large group. Individualized examination promotes candor by eliminating pressure to conform and minimizing the possibility of public embarrassment.”

SECTION TEN

Peremptory Challenges

The problem of the improper use of peremptory challenges to eliminate minorities from juries has given rise to calls to eliminate or substantially reduce the number of peremptory challenges in civil and criminal trials around the country.¹ Indeed, the Honorable Judith Kaye, Chief Judge of the New York Court of Appeals, acknowledged in her State of the Judiciary Address in 2005 that peremptory challenges are a grave threat to minority representation on juries and to jury service in general. Her subsequent proposal to reduce by half New York's then existing twenty peremptory challenges in criminal cases mirrored the proposal of the Arizona Supreme Court Committee on the More Effective Use of Juries to reduce the number of peremptory challenges by one-half, and one of the thirty-two proposals for reform by a Committee in the District of Columbia calling for the elimination or drastic reduction of peremptory challenges.²

Some courts and jury innovation committees have attempted to resolve the problem of balancing the need for peremptory challenges against the risk of their misuse by expanding the voir dire process to permit liberal questioning of potential jurors. Rather than call for the elimination or a reduction in the number of peremptory challenges in this report, it was decided, instead, to set forth a series of principles by which the exercise of peremptory challenges should be guided and recommend that the Supreme Court Criminal and Civil Procedure Rules Committees be assigned to review the issue.³

Recommendation Ten

It is recommended that the Supreme Court require all judicial districts to follow the same standard procedures for peremptory challenges, guided by the following principles:⁴

- Peremptory challenges should be available to each of the parties.
 - The number of and procedure for exercising peremptory challenges should be uniform.
 - The number of peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury and to provide the parties confidence in the fairness of the jury.⁵
 - Courts should have the discretion to provide additional peremptory challenges when justified.
 - Following completion of the examination of jurors, the parties should exercise their peremptory challenges by alternately striking names from the list of panel members until each side has exhausted or waived the

permitted number of challenges.

- Fair procedures should be utilized in the exercise of challenges.
 - All challenges, whether for cause or peremptory, should be exercised so that the jury panel is not aware of the nature of the challenge, the party making the challenge, or the basis of the court's ruling on the challenge.
 - After completion of the examination of jurors and the hearing and determination of all challenges for cause, the parties should be permitted to exercise their peremptory challenges as set forth above. A party should be permitted to exercise a peremptory challenge against a member of the panel who has been passed for cause.
 - The court should not require a party to exercise any challenges until the attorney for that party has had sufficient time to consult with the client, and in cases with multiple parties on a side, with co-parties.
 - No juror should be sworn to try the case until all challenges have been exercised or waived, at which point all jurors should be sworn as a group.

- No party should be permitted to use peremptory challenges to dismiss a juror for constitutionally impermissible reasons.⁶
 - It should be presumed that each party is utilizing peremptory challenges validly, without basing those challenges on constitutionally impermissible reasons.
 - A party objecting to the challenge of a juror on the grounds that the challenge has been exercised on a constitutionally impermissible basis, establishes a prima facie case of purposeful discrimination by showing that the challenge was exercised against a member of a constitutionally cognizable group; and by demonstrating that this fact, and any other relevant circumstances, raise an inference that the party challenged the juror because of the juror's membership in that group.
 - When a prima facie case of discrimination is established, the burden shifts to the party making the challenge to show a nondiscriminatory basis for the challenge.
 - The court should evaluate the credibility of the reasons proffered by the party as a basis for the challenge. If the court finds that the reasons stated are not pretextual and otherwise constitutionally permissible and are supported by the record, the court should permit the challenge. If the court finds that the reasons for the challenge are pretextual, or otherwise constitutionally impermissible, the court should deny the challenge and, after consultation with counsel, determine whether further remedy is appropriate. The court should state on the record the reasons, including whatever factual findings are appropriate, for sustaining or overruling the challenge.
 - When circumstances suggest that a peremptory challenge was used in a constitutionally impermissible manner, the court on its own initiative, if necessary, shall advise the parties on the record of its belief that the challenge is impermissible, and its reasons for so concluding and shall require the party exercising the challenge to make a showing of a nondiscriminatory basis for the challenge.

Endnotes

¹ The Special Committee of the New Jersey Supreme Court on Peremptory Challenges and Jury Voir Dire recommended that the number of peremptory challenges presently allowed in criminal trials in New Jersey be substantially reduced. It found that “in courtrooms where judges liberally grant challenges for cause, the jury selection process moves along more quickly, the use of a large number of peremptory challenges is avoided, and the parties’ satisfaction with the final composition of the jury is high.” Although the New Jersey Supreme Court did not act on the Committee’s recommendation to reduce the number of peremptory challenges, instead holding it in for a year, “a significant factor informing that recommendation was the anticipated improvement of the quality of the voir dire process that will be achieved by the implementation of certain improved standards. The two work hand-in-hand. With improved and more expansive voir dire and more liberal excusals for cause, the need for peremptory challenges should be significantly diminished.” Directive #21-06 of the Administrative Office of the Courts in the State of New Jersey, pp. 2, 3, 8, December 11, 2006.

² *Black, White and Grey: The American Jury Project and Representative Juries*, Mary Catherine Campbell, Georgetown Journal of Legal Ethics, p. 14 (2005)

³ In its Jury Task Force Report, *Best Practices Recommendations*, the Pennsylvania Association of Court Management recommended that the Pennsylvania Supreme Court Criminal Rules Committee be assigned the task of “examining the number of peremptories awarded to each side in civil and criminal cases and possibly reducing the number of peremptories for each side.” Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p. 6 (April 2006). It is recommended that the Pennsylvania Supreme Court Criminal Rules Committee work jointly with the Pennsylvania Supreme Court Civil Rules Committee on this task.

⁴ American Bar Association, *Principles for Juries & Jury Trials*, p.66-68 (2005).

⁵ In Pennsylvania, all judicial districts are bound by Pa.R.C.P. 634 that sets forth the number of peremptory challenges permitted to be exercised by each party as follows:

(A) Trials Involving Only One Defendant:

- (1) In trials involving misdemeanors only and when there is only one defendant, the Commonwealth and the defendant shall each be entitled to 5 peremptory challenges.
- (2) In trials involving a non-capital felony and when there is only one defendant, the Commonwealth and the defendant shall each be entitled to 7 peremptory challenges.
- (3) In trials involving a capital felony and when there is only one defendant, the Commonwealth and the defendant shall each be entitled to 20 peremptory challenges.

(B) Trials Involving Joint Defendants:

- (1) In trials involving joint defendants, the defendants shall divide equally among them that number of peremptory challenges that the defendant charged with the highest grade of offense would have received if tried separately; provided, however, that each defendant shall be entitled to at least 2 peremptory challenges. When such division of peremptory challenges among joint defendants results in a fraction of a peremptory challenge, each defendant shall be entitled to the next highest number of such challenges.
- (2) In trials involving joint defendants, it shall be within the discretion of the trial judge to increase the number of peremptory challenges to which each defendant is entitled up to the number of peremptory challenges that each defendant would have received if tried alone.
- (3) In trials involving joint defendants, the Commonwealth shall be entitled to peremptory challenges equal in number to the total number of peremptory challenges given to all of the defendants.

⁶ The Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, *Final Report*, p. 97 (March 2003).

SECTION ELEVEN

Juror Privacy

The issue of juror privacy has received greater attention over the past decade, particularly as courts have come to recognize how multifaceted and complex the issue really is. Jurors legitimately desire to avoid disclosure of sensitive or embarrassing information. In addition, jurors may fear that disclosure of personal information to a criminal defendant may lead to harassment or harm. When jurors understand that courts take the issue of protecting their privacy seriously (without interfering with the parties' right to a fair trial), they are often more open, forthright, and understanding of the necessity of answering questions that may result in the release of personal information.

Recommendation Eleven

It is recommended that the Supreme Court require judicial districts to balance juror privacy interests against party and public interests in court proceedings. To achieve that balance, judicial districts should adopt the following guidelines:¹

- Juror voir dire should be open and accessible for public view except as provided herein. Closed voir dire proceedings should only occur after a finding by the court that there is a threat to the safety of the jurors or evidence of attempts to intimidate or influence the jury.
- Judges should have the discretion to redact juror identifying information, such as date of birth and/or home address and telephone number, from the materials provided to the defendant.
- Requests to jurors for information should differentiate among information collected for the purpose of juror qualification, jury administration, and voir dire.
- Judges should ensure that jurors' privacy is reasonably protected, and that questioning is consistent with the purpose of the voir dire process.
- Courts should explain to jurors how the information they provide will be used, how long it will be retained, and who will have access to it.
- Courts should consider juror privacy concerns when choosing the method of voir dire (open questioning in court, private questioning at the bench, or a jury questionnaire) to be used to inquire about sensitive matters.
- Courts should inform jurors that they may provide answers to sensitive questions privately to the court and the parties.
- Jurors should be examined outside the presence of other jurors with respect to questions of prior exposure to potentially prejudicial material.
- Following jury selection and conclusion of the trial, the court should keep all juror identifying information confidential unless good cause is shown to the court which

would require disclosure.² Original records, documents and transcripts relating to juror summoning and jury selection may be destroyed when the time for appeal has passed, or the appeal is complete, whichever is longer, provided that, in criminal proceedings, the court maintains for use by the parties and the public exact replicas (using any reliable process that ensures their integrity and preservation) of those items.³

- Without express court permission, surveillance of jurors and prospective jurors outside the courtroom by or on behalf of a party should be prohibited.
- If cameras are permitted to be used in the courtroom, they should not be allowed to record or transmit images of the jurors' faces.

Endnotes

¹ Many, but not all, of the recommended guidelines were found in the American Bar Association's *Principles for Juries & Jury Trials* at p. 35-36 (2005).

² In a recent decision, Commonwealth v. Karl Long, 922 A.2d 892 (Pa. 2007), the Pennsylvania Supreme Court reversed the decision of the Pennsylvania Superior Court denying the press the right of access to jurors' names and addresses in a highly publicized and sensationalized murder case. The Court held that the First Amendment provides "a qualified right of access to jurors' names but not addresses." In describing the qualified nature of the right of access to jurors' names, the Court stated that a court may be justified in withholding jurors' names but "[such] closure must be supported by specific findings demonstrating that there is a substantial probability that an important right will be prejudiced by publicity and that reasonable alternatives to closure cannot adequately protect the right."

³ Paula L. Hannaford, *Safeguarding Juror Privacy: A New Framework for Court Policies and Procedures*, 85 *Judicature* 18, p. 44 (2001).

SECTION TWELVE

Juror Security

Jurors give their time and service to render verdicts in cases that sometimes arise from highly dangerous activities. Courthouses must provide jurors with not only the physical safety they deserve, but with the peace-of-mind necessary to preserve the integrity of the jury process.

Recommendation Twelve

It is recommended that the Supreme Court require judicial districts to formulate a plan to address security in the courthouse for jurors as well as security concerns for jurors in their transit to and from parking facilities or public transportation to the courthouse, including the following:

- In high profile trials, jurors should be informed of the availability of police or sheriff escorts who, upon request, can accompany them to and from parking areas.¹
- Jurors empanelled for a case or in deliberations after the close of normal

- business hours should be escorted to their vehicles, if requested.²
- The same recommendation regarding juror privacy (Recommendation 11) should be considered by judicial districts in devising their juror security plans.

Endnotes

¹Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations*, p.14 (April 2006).

² *Id.*

SECTION THIRTEEN

Jury Education and Appreciation Campaigns

Since widespread citizen participation is essential to achieving a diverse and fully functional jury system, the importance of a citizen education campaign surrounding jury service cannot be overstated. Citizen education campaigns provide an opportunity for the judicial branch to teach important values of citizenship, such as a trial by jury. In addition, they provide an effective vehicle for fostering positive court relations with the community.

Recommendation Thirteen

It is recommended that the Supreme Court encourage judicial districts to adopt a variety of public outreach strategies¹ in which the community learns about the concept of trial by jury, including the importance of jury service. Examples include:

- 1) Juror appreciation activities held during Pennsylvania's Juror Appreciation Week in early May of each year;
- 2) Press conferences with leaders of all branches of government announcing a special day of appreciation for jurors;
- 3) Public-service advertising campaigns using newspapers, television, mass transit, public buildings, libraries, grocery stores, courthouses, and schools;
- 4) Targeted media outreach using radio and television interviews and opinion articles or editorials in print media;
- 5) Targeted educational outreach to high school government, speech, American history, or civics classes through which judges, court administrators and bar associations explain the role of the jury in the judicial process;
- 6) The development of educational videos that put student audiences in the role of a simulated jury, hearing evidence and jury instructions and deciding cases;
- 7) The development of jury pages on court web sites that highlight the importance of trial by jury in the American justice system and discuss recent efforts by courts to improve the conditions of jury service;
- 8) Post-trial discussions in which judges express their appreciation to jurors who have just completed their service;
- 9) Expressions of appreciation by judges to citizens who have shown up in response to a jury summons but who have not been chosen to serve on a particular case;
- 10) Certificates of appreciation distributed to those who serve;
- 11) Newspaper stories that are aimed at educating citizens about the litigation process;
- 12) The development of web sites that are linked to videos on juror education so that jurors can view the video from home; and
- 13) The development of moot court opportunities for high school students.

Endnotes

¹G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations*, p. 22 (National Center for State Courts, 4th Ed., 2006); The Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, *Final Report*, p. 98 (March 2003)

APPENDICES

**A - JUROR SUMMONS MAILER WITH SUMMONS FORM, JUROR
QUALIFICATION QUESTIONNAIRE, MAP OF COURTHOUSE AND
PARKING INSTRUCTIONS, AND IMPORTANT JUROR INFORMATION**

B - DEFERRAL/EXCUSAL REQUIREMENTS AND FORM

C - JUROR INFORMATION QUESTIONNAIRE - TO BE COMPLETED IN COURT

D - FAILURE TO APPEAR NOTICE

Note: The attached sample forms for the juror summons mailer are in very small type. It is recommended that the size of the font be significantly larger to make them more legible.

A. SAMPLE JUROR SUMMONS, QUESTIONNAIRE AND INFORMATION

OFFICE OF JURY
MANAGEMENT
201 COUNTY OFFICE BLDG.
542 FORBES AVENUE
PITTSBURGH, PA 15219

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE
PAID
PERMIT NO. 2568
PITTSBURGH, PA

JUROR SUMMONS

..... TIME SENSITIVE DOCUMENT

Dear Citizen,

You have been randomly selected to participate as a juror for the _____ County Court of Common Pleas. Please take a moment to review both the **JUROR QUALIFICATION QUESTIONNAIRE** and the **SUMMONS TO APPEAR FOR JURY SERVICE** information provided in this mailing.

It is necessary for you to complete and return the **Juror Qualification Questionnaire** within seven (7) days of its receipt. To meet the needs of all citizens, the Court provides two options to meet this requirement.

A. A Juror Qualification form is enclosed. Please read the instructions carefully, complete the Questionnaire, and return it in the attached prepaid envelope provided.

OR

B. Visit our website at www.courts.us/jury and access the Questionnaire by following the instructions below:

1. Click on "questionnaire".
2. To login, enter your juror number located on the top of this Questionnaire and your date of birth.
3. After you have answered all of the questions, please review for accuracy and electronically sign the Questionnaire by clicking on the submit button.
4. You will receive a confirmation number and confirmation page that may be printed for your records.

If you experience difficulty in completing your questionnaire online, please contact the Office of Jury Management at 412-350-5336 or e-mail to jurycoordinator@courts.us.

Please also note that a **Summons to Appear for Jury Service** is enclosed. This document provides you with the date, time and location of your juror service. Please follow the instructions carefully to determine if you must appear on the date provided. **THIS IS THE ONLY NOTICE YOU WILL RECEIVE - DO NOT DISCARD.**

Additional information, including frequently asked questions (FAQ's), childcare services, parking, directions, and postponements that appear in this document are available on the Court's website at www.courts.us/jury or by calling the Office of Jury Management at 412-350-5336.

We thank you for your participation in our system of justice and providing this vital service to our community.

President Judge

District Court Administrator

JUROR QUALIFICATION QUESTIONNAIRE

Detach the Questionnaire and return immediately.

If you wish to complete this form online, please go to www.courts.us/jury

INSTRUCTIONS FOR COMPLETING JUROR QUALIFICATION QUESTIONNAIRE

Read the Questionnaire and answer all of the questions by completely filling in the appropriate circle. The numbers on these instructions correspond to the numbers on the Questionnaire. Your answers to the Questionnaire will be used for the jury qualification process only and will otherwise be treated as confidential.

(Example) January

If the addressee is deceased, please note in the name and address correction area, sign and return the Questionnaire in the attached, prepaid envelope.

1. Age 7 - you are invited to serve but are not required to do so. If you choose to be excused, please fill in the circle, complete the remainder of the Questionnaire and return it in the attached, prepaid envelope.
2. Date of Birth - Completely fill in the circles to the left of the numbers that state your month, day and year of birth.
- 3-10. Answer questions 3 - 10 by completely filling in the correct circle.
11. Race - Optional. The answer to this question is used solely to avoid discrimination in the juror qualification process and has no bearing on your qualifications to serve.
12. Signature - Read and review the information and answers you have made on the Questionnaire for accuracy, sign the Questionnaire and return it in the attached, prepaid envelope.

IF YOU ARE UNABLE TO COMPLETE THE JUROR QUALIFICATION QUESTIONNAIRE, HAVE ANOTHER PERSON COMPLETE THE FORM ON YOUR BEHALF, SIGN THE QUESTIONNAIRE, AND INDICATE A CONCISE REASON FOR THE ASSISTANCE.

1. I am 70 years of age or older and wish to be excused from jury service.

2. DATE OF BIRTH

MONTH	DAY	19	YEAR
<input type="radio"/> January	<input type="radio"/> 0 <input type="radio"/> 1	<input type="radio"/> 0	<input type="radio"/> 0 <input type="radio"/> 1
<input type="radio"/> February	<input type="radio"/> 1 <input type="radio"/> 2	<input type="radio"/> 1	<input type="radio"/> 1 <input type="radio"/> 2
<input type="radio"/> March	<input type="radio"/> 2 <input type="radio"/> 3	<input type="radio"/> 2	<input type="radio"/> 2 <input type="radio"/> 3
<input type="radio"/> April	<input type="radio"/> 3 <input type="radio"/> 4	<input type="radio"/> 3	<input type="radio"/> 3 <input type="radio"/> 4
<input type="radio"/> May	<input type="radio"/> 4 <input type="radio"/> 5	<input type="radio"/> 4	<input type="radio"/> 4 <input type="radio"/> 5
<input type="radio"/> June	<input type="radio"/> 5 <input type="radio"/> 6	<input type="radio"/> 5	<input type="radio"/> 5 <input type="radio"/> 6
<input type="radio"/> July	<input type="radio"/> 6 <input type="radio"/> 7	<input type="radio"/> 6	<input type="radio"/> 6 <input type="radio"/> 7
<input type="radio"/> August	<input type="radio"/> 7 <input type="radio"/> 8	<input type="radio"/> 7	<input type="radio"/> 7 <input type="radio"/> 8
<input type="radio"/> September	<input type="radio"/> 8 <input type="radio"/> 9	<input type="radio"/> 8	<input type="radio"/> 8 <input type="radio"/> 9
<input type="radio"/> October	<input type="radio"/> 9	<input type="radio"/> 9	<input type="radio"/> 9
<input type="radio"/> November			
<input type="radio"/> December			

3. Are you a resident of _____ County?
 Yes No
4. Are you a United States citizen?
 Yes No
5. Can you read, write, speak and understand the English language?
 Yes No
6. Are you 18 years of age or older?
 Yes No
7. Do you have a physical or mental infirmity that would prohibit you from rendering efficient jury service?
 No Yes
8. Have you ever been convicted of a crime punishable by imprisonment for more than one year and have not been granted a pardon or amnesty? (Note: This refers to the maximum permissible sentence for such a crime and not the actual sentence received.)
 No Yes

If all of your answers are in this shaded area, **YOU QUALIFY FOR JURY SERVICE.** Please complete, sign and return this Questionnaire in the attached, prepaid envelope provided. Refer to the attached Summons for instructions on where and when to report for jury service. **Questionnaires must be completed and returned even if you do not qualify to serve.** If you have any questions or require further assistance in completing the Juror Qualification Questionnaire, you may TELEPHONE 412-350-5336.

9. Are you in the active military service?
 Yes No

10. OCCUPATION

- | | |
|--|----------------------------------|
| <input type="radio"/> Clerical | <input type="radio"/> Homemaker |
| <input type="radio"/> Professional | <input type="radio"/> Management |
| <input type="radio"/> Student | <input type="radio"/> Medical |
| <input type="radio"/> Sales | <input type="radio"/> Laborer |
| <input type="radio"/> Retired | <input type="radio"/> Unemployed |
| <input type="radio"/> Other (please specify) _____ | |

11. RACE

- | | |
|--|--------------------------------|
| <input type="radio"/> Caucasian | <input type="radio"/> Hispanic |
| <input type="radio"/> African-American | <input type="radio"/> Asian |
| <input type="radio"/> Native American | |
| <input type="radio"/> Other | |

(Note: By answering this question, you will assist in evaluating the inclusion of all eligible individuals in the juror qualification process.)

12. I DECLARE, UNDER PENALTY OF PERJURY PURSUANT TO THE PENNSYLVANIA CRIMINAL CODE, 18 PA C.S.A. §4909, THE ANSWERS GIVEN ABOVE ARE TRUE AND CORRECT.

X

Signature of prospective juror or person completing this form

Reason for assistance: _____

Pursuant to Pennsylvania Law, you may be excused from jury service if you are a spouse, child, sibling, parent, grandparent or grandchild of a victim of Criminal Homicide under 18 Pa.C.S.A. §2501 (Relating to Criminal Homicide). Please contact the Office of Jury Management at (412) 350-5336 for further information.

Please make changes to Name or Address

Home telephone number

() _____ - _____

SUMMONS TO APPEAR FOR JURY SERVICE

Court of Common Pleas of _____ County, Pennsylvania

Juror Number: _____



Judicial District of Pennsylvania

By Order of the Honorable _____, President Judge, you are hereby summoned as a juror in the Court of Common Pleas of _____ County. Please visit the website at www.courts.us/jury or telephone _____ to determine whether you are to appear on the date and time shown below. You will be informed by a recorded message if you are to report. You may serve as a juror in any division of the Court. Failure to comply with this summons is punishable by fine, imprisonment, or both. ***If you are instructed to appear, you must bring this summons with you.***

Room No.
Building & Floor:
Service Day / Date / Time:
Your Group Number is:

PARKING

Please note that the Court does not provide or reimburse parking fees for jurors. The area surrounding the City-County Building and the Courthouse offers a variety of parking options. The Chatham Parking Garage offers a special flat rate of \$5 upon presentation of an authorized voucher. Details of the special parking rate will be provided when you report for jury service. Approximate distance to Courthouse is 2 blocks. Jurors may wish to utilize public transportation to downtown Pittsburgh. For more information visit www.portauthority.org

1. Complete and detach the Questionnaire at the perforations
2. Detach envelope at the perforations
3. Slide finger along envelope edge to create opening
4. Fold Questionnaire in half twice and insert into envelope
5. Remove strip to expose adhesive. Fold, seal and mail



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
 FIRST-CLASS MAIL PERMIT NO 18500 PITTSBURGH PA

POSTAGE WILL BE PAID BY ADDRESSEE

OFFICE OF JURY MANAGEMENT
 COUNTY OF ALLEGHENY
 542 FORBES AVE STE 201
 PITTSBURGH PA 15219-9514



JUROR INFORMATION

POSTPONEMENTS

A first request for postponement of jury service may be granted for many reasons including adult care, work issues, vacation, or pursuit of educational opportunities. However, only the summoned juror may request a postponement. Requests made by employers or other individuals will not be acknowledged. Online deferral requests are available to those who have had no prior postponements and are submitting their requests at least seven (7) business days prior to their service date. Please enter the juror number and service date listed on your summons for an online deferral. Second or subsequent requests for deferral OR requests made less than seven (7) business days before the scheduled service date must be in writing and are subject to approval. These written requests must be submitted either by:

Mail: Office of Jury Management
201 County Office Building
542 Forbes Avenue
Pittsburgh, PA 15219

E-mail:
jurycoordinator@court.allegheny.pa.us
Fax: 412-350-3043

Please direct any additional questions to the Office of Jury Management at 412-350-5336.

DISABILITIES

Consistent with the Americans with Disabilities Act (ADA), the court provides reasonable accommodations for those with disabilities. If you are hearing or sight impaired or have other disabilities, please contact the Office of Jury Management at 412-350-5336 (TTY hearing impaired: 412-350-4259) upon receipt of your juror summons. The Jury Manager will assist you in making the necessary arrangements to serve as a juror.

CHILDCARE

The Court of Common Pleas, in cooperation with the National Council of Jewish Women, offers childcare to summoned jurors at no cost. For further information please call 412-350-4588 or refer to our website at:

www.courts.us/jury

WARNING

It is unlawful for a juror to be questioned by anyone prior to or during reporting for juror service. It is your duty to identify any person(s) who attempts to interview you and to report the incident immediately to court personnel or the Sheriff's Office, or by telephone to the Office of the President Judge, 412-350-5410. The court facility is a secure building: all persons must pass through security screening. Firearms, dangerous weapons, pen knives, and pepper spray are prohibited.

LENGTH OF JURY SERVICE

County utilizes the one day/one trial jury system. Any citizen who is selected to serve on a jury serves for the duration of one trial. Any citizen who is not selected to serve on a jury will be compensated and dismissed and will have fulfilled their service for at least one year. Appropriate attire is requested of all jurors.

CELLPHONES, COMPUTERS, AND OTHER ELECTRONIC MEDIA

Use of cellular phones, computers, and other electronic media is permitted in specified areas of the Jury Assignment Rooms, but is prohibited in the courtrooms and deliberation rooms. Instructions will be given by Jury Assignment Room personnel and courtroom staff concerning use of these devices.

For more information, please visit our website at <http://www.courts.us/jury> or call the Office of Jury Management at 412-350-5336.



Allegheny County Courthouse early 1900's

The right to a jury is one of the fundamental rights that our founding fathers provided to us and is a vital part of our guaranteed liberties. It includes the right to trial by jury before our peers, in both civil and criminal matters, and the corresponding right and duty to act as jurors in the cases of other citizens. Without the participation of each of us, this very basic right would be diminished, depriving all of us of its benefits and protection.

The role of a juror is extremely important in our democratic form of government. Participation by all qualified citizens ensures the people, and not the government, are the arbiters of disputes where the freedom of the accused or the property right of any citizen is at issue. By serving when called, jurors fulfill a vital service to the community and fellow citizens.

B. Deferral/Excusal Requirements and Form for Request

EXEMPTIONS: There are **NO AUTOMATIC EXEMPTIONS** for age, employment, or any other reason.

DEFERRALS: If your jury duty is scheduled for a date that conflicts with your schedule, please request a deferral, for a more convenient time, on the next page. You have the right to **ONE AUTOMATIC SIX-MONTH DEFERRAL** of each appearance for jury duty, provided that:

- You have not previously been granted a deferral in this trial term;
- You appear in person or contact a court official by phone, email or in writing to request a deferral; and
- Before the deferral is granted, you give the court a date on which you will appear for jury duty that is not more than six months after your original jury duty date.

The only time you can receive a second deferral of your jury duty in the same trial term is if you have an extreme emergency, such as a death in your family, you are gravely ill, there is a natural disaster or national emergency in which you are personally involved. In that special case, you must request the second deferral and state the grounds for it on the form on the next page.

EXCUSALS: If you have an undue or extreme hardship that is going to continue for 24 months or more, please request an excusal, for a period of up to 24 months, on the next page. The grounds for hardship include the following:

- You have a mental or physical condition that causes you to be incapable of performing jury duty. This condition must be documented by a physician on his/her letterhead verifying that the condition makes you unfit for jury duty for a period of not less than the 24-month period, or
- Jury duty would cause undue or extreme physical, or significant financial, hardship to you or to a person under your care or supervision.
- A judge would make the decision of undue or extreme physical, or significant financial, hardship.
- Undue or extreme physical, or significant financial, hardship is limited to the following:
 - You would have to abandon a person under your care or supervision because it is impossible for you to find a substitute caregiver to take care of them during the time you will be serving on jury duty; or
 - Jury service would cost you so much that you could not pay your necessary daily living expenses or the expenses of those you support; or
 - You would suffer physical hardship that would cause injury or illness.

If you request to be excused for medical reasons, the verification from your (or the person you care for) physician must be attached to the form on the next page. After 24 months, you will become eligible again for qualification as a juror unless you were excused from jury duty permanently. Upon reaching **70 years of age**, you can notify the court that you wish to permanently opt out of future jury duty.

PLEASE NOTE: Unless you receive a letter from the court, stating you are excused from attending jury duty, you **MUST** appear on the date and address listed on your summons. **Not showing up for jury duty, when summoned, is called Failure to Appear. You can be held in civil contempt and be subject to penalties including a \$500 fine and/or up to 10 days in jail. (42 Pa.C.S. § 4584)** Please call the Jury Office to check on the status of your excusal. Please sign your name below to indicate that you understand the consequences of failing to appear for jury duty.

Signature

Date

PLEASE FILL OUT FORM BELOW TO REQUEST A DEFERRAL OR EXCUSAL FROM JURY DUTY.

If requesting a deferral or excusal based upon a medical condition, please attach verification from a physician on his/her stationary.

Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Home phone: _____ Business: _____ Cell: _____
E-mail Address _____

I am requesting to be **deferred** until the following date: _____

If this is a **second request for a deferral in the same trial term**, you must meet the requirements of "extreme emergency" as set forth on the previous page under the deferral section. Please indicate your reason for a second request for deferral and attach medical documentation, if applicable:

I am requesting to be **excused** for the following reasons (see requirements for excusal on the previous page under the excusal section and attach medical documentation, if applicable):

I swear or affirm that the information I have provided on the form above and in the attached documentation is true and correct to the best of my knowledge.

Signature of the person requesting a deferral or excusal Date

C. JUROR INFORMATION QUESTIONNAIRE - TO BE COMPLETED IN COURT

JUROR INFORMATION QUESTIONNAIRE CONFIDENTIAL NOT PUBLIC RECORD
(Please Print)

NAME (Last) _____ (First) _____ (Middle Initial) _____		JUROR NO. ✓ _____
SECTION OF CITY _____		OTHER SECTIONS OF CITY LIVED IN WITHIN PAST TEN YEARS _____
MARITAL STATUS <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Widowed		
OCCUPATION _____		OTHER OCCUPATIONS WITHIN PAST TEN YEARS _____
OCCUPATION OF <input type="checkbox"/> SPOUSE (or deceased spouse) <input type="checkbox"/> OTHER		OTHER OCCUPATIONS WITHIN PAST TEN YEARS <input type="checkbox"/> SPOUSE <input type="checkbox"/> OTHER
NO. OF CHILDREN _____	LEVEL OF EDUCATION: Yours _____ Spouse/Other _____ Children _____	RACE <input type="checkbox"/> White <input type="checkbox"/> Hispanic <input type="checkbox"/> Black <input type="checkbox"/> Other _____

1. (a) Have you ever been a juror before? Yes No
 (b) If so, were you ever on a hung jury? Yes No
2. Do you have any religious, moral or ethical beliefs that would prevent you from sitting in judgment in a criminal case and rendering a fair verdict? Yes No
3. Do you have any physical or psychological disability that might interfere with or prevent you from serving as a juror? Yes No
4. Have you or anyone close to you ever been a victim of a crime? Yes No
5. Have you or anyone close to you ever been charged with or arrested for a crime, other than a traffic violation? Yes No
6. Have you or anyone close to you ever been an eyewitness to a crime, whether or not it ever came to Court? Yes No
7. Have you, or has anyone close to you, ever worked as a police officer or in other law enforcement jobs? This includes prosecutors, public defenders, private criminal defense lawyers, detectives, and security or prison guards. Yes No
8. Would you be more likely to believe the testimony of a police officer or any other law enforcement officer just because of his/her job? Yes No
9. Would you be less likely to believe the testimony of a police officer or other law enforcement officer just because of his/her job? Yes No
10. Would you have any problem following the Court's instruction that the defendant in a criminal case is presumed to be innocent until proven guilty beyond a reasonable doubt? Yes No
11. Would you have any problem following the Court's instruction that the defendant in a criminal case does not have to take the stand or present evidence, and it cannot be held against the defendant if he or she elects to remain silent? Yes No
12. Would you have any problem following the Court's instruction in a criminal case that just because someone is arrested, it does not mean that the person is guilty of anything? Yes No
13. In general, would you have any problem following and applying the judge's instructions on the law? Yes No
14. Would you have any problem during jury deliberations in a criminal case discussing the case fully but still making up your own mind? Yes No
15. Are you presently taking any medication that might interfere with or prevent you from serving as a juror? Yes No
16. Is there any other reason you could not be a fair juror in a criminal case Yes No

JUROR INFORMATION QUESTIONNAIRE CONFIDENTIAL NOT PUBLIC RECORD
(Please Print)

NAME (Last)	(First)	(Middle Initial)	JUROR NO.

Questions 17 through 25 apply to civil cases only

- 17. Have you or anyone close to you ever sued someone, been sued, or been a witness? Yes No
- 18. Have you or anyone close to you been employed as a lawyer or in a law-related job? Yes No
- 19. Have you or anyone close to you been employed as doctor or nurse or in a medical-related job? Yes No
- 20. In a civil case, would you have any problem following the Court's instruction that the plaintiff has the burden of proof, but unlike a criminal case, the test is not beyond a reasonable doubt but "more likely than not"? Yes No
- 21. In a civil case, would you have any problem putting aside sympathy for the plaintiff and deciding the case solely on the evidence? Yes No
- 22. In a civil case, would you have any problem following the Court's instruction to award money for damages for things like pain and suffering, loss of life's pleasures, etc., although it is difficult to put a dollar figure on them? Yes No
- 23. Would you have any problem during jury deliberations in a civil case discussing the case fully but still making up your own mind? Yes No
- 24. Is there any reason in a civil case that you cannot follow the Court's instructions on the law? Yes No
- 25. Is there any reason in a civil case that you cannot otherwise be a fair juror? Yes No

I hereby certify that the answers on this form are true and correct. I understand that false answers provided herein subject me to penalties under 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

Signature _____ Date _____

D. Failure to Appear Notice

Date_____

RE: Jury Service

Dear _____,

I've been informed by the Jury Commission that you failed to appear for jury service on _____. This is your second unexcused absence.

A juror who fails to appear when summoned unless exempt or excused shall be punished for contempt of court and may be fined in an amount not to exceed \$500.00. (42 Pa.C.S.A.§4584).

You must appear in Courtroom No. __, _____ County Courthouse on _____ at _____ a.m./p.m. to explain why you should not be held in contempt of court and fined. Failure to appear at this date and time will result in the issuance of a bench warrant.

Very truly yours,

JUDGE

Sources

Pennsylvania

PA Joint Commission Report 2300, *Minority Representation in the Jury Selection Process in Pennsylvania* (May 2003).

Pennsylvania Association of Court Management Jury Task Force Report, *Best Practices Recommendations* (April 2006).

Pennsylvanians for Modern Courts, *Report on Juror Compensation in Pennsylvania* (August 2006).

The Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, *Final Report* (March 2003).

The Pennsylvania Supreme Court Judicial Council Committee on Judicial Safety and Preparedness (2002).

National

American Bar Association, *Principles for Juries & Jury Trials* (2005).

American Judicature Society, *Judicious Use of Juror Anonymity*, Editorial (January 2003).

California Center for Judicial Education and Research, *Jury Management Bench Handbook* (2002 Ed.).

Christopher Uggen, et al., 2006. *Citizenship, Democracy and the Civic Reintegration of Criminal Offenders*, *The Annals of the American Academy of Political and Social Science* 605: 281, 283.

Mary Catherine Campbell, *Black, White and Grey: The American Jury Project and Representative Juries*, *Georgetown Journal of Legal Ethics* (2005).

Directive #21-06 of the Administrative Office of the Courts in the State of New Jersey, December 11, 2006

G. Thomas Munsterman, *The Jury Patriotism Act*, *The Court Manager*, Vol. 18, Issue 2 (Summer 2003).

G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, eds., *Jury Trial Innovations* (National Center for State Courts, 4th Ed., 2006).

Paula Hannaford-Agor, *Safeguarding Juror Privacy: A New Framework for Court Policies and Procedures*, 85 *Judicature* 18 (2001).

Paula Hannaford-Agor, *The Laborer is Worthy of His Hire and Jurors Are Worthy of Their Juror Fees*, *The Court Manager* (Vol. 21, Issue 2, Summer 2006).

Robert G. Boatright, *Improving Citizen Response to Jury Summonses: A Report with*

Recommendations, American Judicature Society (1998).

Task Force on Jury System Improvements, Judicial Council of California, *Final Report* (April 2004).

The Supreme Court of Ohio Task Force for Jury Service, *Report* (February 2004).

Additional Web Resources

American Bar Association:	http://www.abanet.org/jury/
American Judicature Society:	http://www.ajs.org/jc/index.asp
California Juror Resources:	http://www.courtinfo.ca.gov/jury/
Fifth Judicial District of PA Juror Resources:	http://www.alleghenycourts.us/jury/default.asp
First Judicial District of PA Juror Resources:	http://courts.phila.gov/jury/service/
National Center For State Courts:	http://www.ncsconline.org/Juries/home.htm
New York Juror Resources:	http://www.nyjuror.gov/home/
Pennsylvanians for Modern Courts:	http://www.pmconline.org