

Juries for the Year
2000
and beyond

Proposals to Improve the Jury Systems in Washington, D.C.

Council for Court Excellence
District of Columbia Jury Project

Executive Summary

February 1998

Dear Fellow Citizen-

The right to a trial by a jury is one of the core values of citizenship in our society. A continuing and fundamental goal for the courts, the bar, and for law-related civic organizations like the Council for Court Excellence is to assure that the processes of jury selection and jury service are fair, effective, and not unduly burdensome on our community.

The study report which follows offers a variety of constructive and practical proposals. Our focus has been directed specifically to the federal and local trial courts in the District of Columbia, our Nation's Capital. Our lens has been to examine the jury systems through the eyes of the juror.

In this report are suggestions of means to increase the number of citizens who answer the jury summons; ideas to improve the deliberative processes jurors use within the courtroom; proposals for reforms our courts might employ to help jurors better follow and retain testimony in all trials; and, finally, notions of how the overall jury experience can be enhanced.

On behalf of the entire board of the Council for Court Excellence, we would like to express our sincere appreciation and debt to the members of the D.C. Jury Project Study Committee for their hard work over the past year to prepare this report and for the quality and breadth of their efforts. We were very fortunate to attract such a diverse and competent membership for this initiative, and we are especially pleased to have had a number of former federal and D.C. jurors directly involved. Special thanks are in order to the distinguished Co-Chairs of the D.C. Jury Project- the Honorable Gregory E. Mize, Associate Judge of the D.C. Superior Court, and the Honorable Thomas F. Hogan, U.S. District Judge for the District of Columbia. Their stewardship was exemplary.

The Council for Court Excellence would like to publicly acknowledge and thank the following charitable foundations and organizations for their essential financial support of this important independent examination of our jury systems: Good Samaritan, Inc., The Morris and Gwendolyn Cafritz Foundation, the Philip L. Graham Fund, The U.S. District Court for D.C. Clerk's Trustee Account, the Clark-Winchcole Foundation, the James M. Johnston Trust, and The Eugene and Agnes E. Meyer Foundation. We also wish to thank the West Group for assisting with the production and printing of this Executive Summary.

Our courts depend on citizens to function. Whether as jurors, witnesses, or parties in a case, our roles as citizens are integral to the capacity of the courts to discharge their important duties. We commend this document to your review and study and invite your reactions.

Sincerely,

Samuel F. Harahan
Executive Director

William F. McSweeney
Chairman of the Board

Kenneth W. Starr
President

Executive Summary

Note from the Co-chairs

We are very pleased to share *Juries for the Year 2000 and Beyond: Proposals to Improve the Jury Systems in Washington, D. C* with our judicial colleagues, court administrators, bar associations leaders, practicing trial attorneys, and the many District of Columbia citizens who are eligible to serve as jurors or who employ persons summonable as jurors in our courts. The following recommendations and reference materials are the product of hundreds of hours of research, debate, and, in some instances, soul-searching by a devoted group of persons concerned with enhancing a dearly cherished institution of our society - trial by jury.

We would like to acknowledge and thank the Council for Court Excellence for embracing this important subject, and for facilitating the overall D.C. Jury Project so ably. We would like also to thank the judges and court administrators of the D.C. Superior Court and the U.S. District Court for D.C. for their participation in this process and for their support of the overall D.C. Jury Project.

By design, a large category of membership on the D.C. Jury Project was former jurors who served on trials in the U.S. District Court for D.C. or the D.C. Superior Court. These jurors volunteered numerous valuable reflections on their journeys through jury service - from the time of summoning, to being examined in voir dire, to the rigors of trial and deliberations. We give special thanks to them. We also express a strong desire that our juror-colleagues and yet-to-be-identified other former jurors will be consulted throughout the future stages of implementing the D.C. Jury Project recommendations.

As you will see, the recommendations contained herein cover a wide spectrum. Some are completely practical, suggesting nuts and bolts steps to obtain more accurate juror source lists. Others express simple common sense guides to promoting citizen comfort, pride and security. Yet others, such as one recommendation for major revisions in the jury selection, or voir dire, process, will necessitate ongoing dialogue within the legal community and in legislative chambers.

We recognize that embrace of these recommendations will vary among those who read and ponder their contents. A recommendation may strike one person as unremarkable and a long-accepted custom, while another recommendation may appear radical or unreachable. The prime audience for one recommendation may be a juror administrator or data system designer. In other instances, a recommendation will be most relevant to a newer member of the bench or to a continuing legal education coordinator. In any event, whether you are a jurist, policy maker, barrister, or citizen, we hope that you will engage yourself in this continuing project. In so doing, we believe you will experience what we have - an opportunity to revisit important first principles of our jury system, join hands with a broad and talented spectrum of Washingtonians, and seek to make a genuine difference in the administration of justice in our courts. Welcome aboard.

In closing, we are heartened to observe that the American Bar Association at its February 1998 meeting endorsed a report by their Litigation Section entitled *Civil Trial Practice Standard*. The new ABA report closely parallels many of the reform proposals independently researched and adopted by the Council for Court Excellence D.C. Jury Project.

The Honorable Gregory E. Mize
District of Columbia Superior Court

The Honorable Thomas F. Hogan
U.S. District Court for the District of Columbia

Summary List of Recommendations

THE DC JURY PROJECT RECOMMENDS:

1

that the courts use positive means to encourage participation in the jury system. The imposition of available sanctions for delinquent jurors should be administered cautiously.

2

that citizens receive substantial information concerning jury service at the time that they are summoned for jury duty. For example, information about the summoning, deferral, excusal, jury selection and jury trial phases of their service should accompany the initial summons and could be broadcast by local media as a public service.

3

that the use of juror orientation videos be expanded in order to increase the reach of the videos and to address the diverse population which comprises the jury pool.

4

that a Jury Pride Task Force be established, the goal of which would be to educate the citizenry about juries and jury service in the District of Columbia.

5

that the court administration work with the District of Columbia Financial Responsibility and Management Assistance Authority (D.C. Control Board) and with agencies contributing juror source lists to facilitate managing the master juror source list in a way that keeps mailing data on formerly summoned jurors up to date.

6

that the courts expand the current juror source list to include D.C. income tax mailing lists, D.C. public assistance lists, and the list of newly naturalized citizens in order to increase the number of citizens called upon to serve as jurors. Since implementation of this recommendation will invariably create more duplicate names, the D.C. Jury Project recommends that the courts require each provider of a source list to include the social security number, when available, for each person listed in order to minimize duplications on the ultimate master juror source list.

7

that the master juror source list in D.C. include those citizens who are qualified and have indicated a willingness to serve, but who are not included on one of the existing juror source lists.

8

that the D.C. Superior Court and the U.S. District Court for D.C. increase levels of cooperation in the areas of jury management and utilization and in the provision of juror services by designating one judge in each court as a jury liaison with the other court. Areas of cooperation could include utilizing compatible computer systems, sharing child care facilities, and exploring the possibility of sharing jurors on an emergency basis.

9

that the courts exempt from service those jurors who have served in either court within a two year period.

10

that guidelines for juror pay be revised to increase public participation and to compensate those who are not selected to sit on a trial on the first day of service in the D.C. Superior Court. The daily fee should at least cover the minimum cost of public transportation to and from the courthouse. Additionally, jurors should be provided with a lunch stipend on the first day of service.

11

that the term of petit jury service in the U.S. District Court be reduced to one week, when the results of implementing other recommendations in this report render such a change feasible.

12

that the courts take reasonable measures to provide accessible and comfortable facilities for jurors during all stages of their service. Among other things, jurors should be provided with adequate space in the check-in area, comfortable seating and other amenities in the jury lounge, workstations in quiet rooms that enable computer usage, clean and convenient restrooms, and comfortable deliberation rooms.

13

that judges and jury officers take steps to minimize juror waiting time during the pre-trial phase of jury service.

14

that the courts take reasonable measures to insulate jurors from coming into contact with witnesses or parties on trial during their term of service.

15

that judges and jury officers implement methods of providing meaningful expressions of gratitude to all citizens who appear for jury duty.

16

that the courts continue to regularly seek the feedback of jurors and that the results of any surveys/questionnaires utilized be tallied and reviewed by judges, jury administrators, and court policy makers.

17

that individual judges be authorized to excuse a juror from him her service on the date the juror is summoned where voir dire of the juror clearly shows that the juror would be unable to serve on any case.

18

that judges and other court personnel protect the privacy of jurors during the voir dire process consistent with the constitutional rights of the parties and the public.

19

that the fairness, efficiency and utility of the voir dire process in the trial courts of the District of Columbia be enhanced by:

- a.** Increasing relevant information about jurors available to the Court and parties by use of a written jury questionnaire completed by all jurors and given to the Court and parties upon the jury panel's arrival in the courtroom;
- b.** Improving the ability of parties to ascertain grounds for strikes of jurors for cause by requiring that each juror be examined during the voir dire process and by giving attorneys a meaningful opportunity to ask follow-up questions of each juror;
- c.** Assuring to the extent possible that prospective jurors who may be biased or partial are stricken for cause by establishing an expanded legal standard for cause strikes which mandates that when a prospective juror's demeanor or substantive response to a question during voir dire presents any reasonable doubt as to whether the juror can be

fair and impartial, the trial judge shall strike the juror for cause at the request of any party, or on the court's own motion; and by

d. Reducing improper discrimination against jurors, unnecessary inconvenience to them, needless delays in trials, and excessive costs by eliminating, or drastically reducing the number of, peremptory strikes.

20

that jurors be permitted to take notes during trials and that they be advised that they may do so.

21

that jurors be permitted to submit written questions to be asked of witnesses by the trial judge.

22

that judges take steps to minimize juror waiting time during trial by, among other things, discouraging the use of unnecessary bench conferences while the jury is in the courtroom and by expediting the voir dire process.

23

that the management of trial exhibits at pre-trial and trial be improved in order to minimize juror confusion, promote understanding among the jurors, and expedite trial proceedings.

24

that, at the discretion of the trial judge, jurors be permitted to use and maintain exhibit notebooks during trial and jury deliberations.

25

that judges permit counsel to make interim summations to the jury in extended trials.

26

that judges give final jury instructions on substantive law before closing arguments, reserving only instructions on administrative matters until after closing arguments.

27

that to the extent possible, jury instructions be case-specific and that the courts expand the use of preliminary and interim jury instructions. Interim instructions, given at the appropriate times in the course of the trial, might cover such items as burden of proof, leading questions and the purpose of opening statements and closing arguments. In complex or technical cases, definitions of terms and other information to help orient the jury should be included.

28

that the courts consider later in 1998 the issue of whether jurors should be permitted to discuss testimony and evidence of a trial in the jury room, during recesses from trial when all are present, as long as they reserve judgment about the outcome of the case until deliberations commence. The decision at that time should be informed by the experience of Arizona trial courts, which now are permitting such discussions on an experimental basis.

29

that guidance regarding the jury deliberation process be included in final jury instructions.

30

that judges provide a written copy or copies of the final jury instructions to the jury for their use in deliberations.

31

that trial judges consider assisting deliberating juries in reaching a verdict in cases where a *Winters* charge has already been given and the jury continues to report that they are deadlocked.

32

that trial judges join jurors at the close of a trial in order to personally and informally thank them for their service, to answer questions about the court and jury systems, and to provide assistance for any juror who may have experienced extreme stress caused by the trial.

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Project Overview
District of Columbia Jury Project

About the D.C. Jury Project

The Council for Court Excellence initiated the D.C. Jury Project in April 1996 modeling their work after successful jury reform efforts in Arizona and other states. The D.C. Jury Project committee, assembled in December 1996, was made up of thirty-six members drawn from the judicial, legal, civic, academic, and business communities in the District of Columbia. Over the course of a year this committee thoroughly examined the jury systems in D.C.. From these lively debates emerged the thirty-two recommendations in *Juries for the Year 2000 and Beyond*. The Council for Court Excellence D.C. Jury Project differs from similar projects in other jurisdictions. First, it was initiated by the private sector, thus seeking to speak with the resonance and perspective of the juror and the community. Second, it encompasses both the federal and state trial courts, thus addressing the impact on citizens of being subject to jury duty in two separate court systems in the same community.

About the Council for Court Excellence

The Council for Court Excellence, founded in 1982, is a nonprofit civic organization that works to improve the administration of justice in the local and federal courts, and related agencies, in the Washington metropolitan area and in the nation. The Council accomplishes its goals by: improving public understanding of the justice system; enhancing public support for the justice system; identifying and analyzing public policy issues; developing and advocating solutions; and facilitating the adoption of new technology and procedures.

To receive a copy of the full report please contact the Council for Court Excellence.

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