

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

Court Review: The Journal of the American Judges
Association

American Judges Association

May 2004

Court Review: Volume 41, Issue 1 - Jury Trial Innovations: Charting a Rising Tide

Gregory A. Mize

National Center for State Courts' Center for Jury Studies

Christopher J. Connelly

National Center for State Courts' Center for Jury Studies

Follow this and additional works at: <http://digitalcommons.unl.edu/ajacourtreview>



Part of the [Jurisprudence Commons](#)

Mize, Gregory A. and Connelly, Christopher J., "Court Review: Volume 41, Issue 1 - Jury Trial Innovations: Charting a Rising Tide" (2004). *Court Review: The Journal of the American Judges Association*. 81.

<http://digitalcommons.unl.edu/ajacourtreview/81>

This Article is brought to you for free and open access by the American Judges Association at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Court Review: The Journal of the American Judges Association by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

Jury Trial Innovations: Charting a Rising Tide

Gregory E. Mize and Christopher J. Connelly

Recently the United States Supreme Court has instructed us that *any* contested fact, other than a prior conviction, that increases the penalty for a crime must be determined by a jury. In addition, the highest court for the Commonwealth of Virginia has determined that, in capital cases, a claimed defense of mental retardation raises a jury question. Whether it is a case prompted by these high court rulings, one of the many accounting fraud prosecutions in New York, or scientific evidence presented in a products liability action in the Midwest, the American jury is repeatedly being called upon to make findings in new and complex matters. Unfortunately it is common for jurors to perform these weighty tasks in unfit conditions and without the learning tools that we take for granted in school. While computers and interactive technology are becoming commonplace in our classrooms, juror note-taking and questioning of expert witnesses have customarily been discouraged in courtrooms.

Moreover, despite the wellspring of pride in our democratic ideals after September 11, 2001, corrosive myths and misgivings about the jury trial still abound. In this regard we need only reflect upon several notorious jury verdicts in the 1990s. Laymen and litigators, who fix upon those cases, think juries too often get it wrong. In addition, there is the recently recurring diminishment of governmental funding for trial courts and widespread citizen reluctance to respond to summonses for jury duty. For example, in many large, urban court systems, the response rate to jury summoning is about 20%. Is it any wonder that citizens are dodging jury service in record numbers?

There is good news, though. A growing number of courts are taking steps to perform at a higher level with respect to jury trials. As shown below, a movement started in Arizona has taken hold in a growing number of states. Creative court administrators, courageous judges, and inspired bar leaders are joining together to bring our cherished institution of trial by jury into the 21st century. Articles included in this issue of *Court Review* show how members of the legal academy are testing and demonstrating the dynamics of jury trial innovations that are founded on principles long recognized by the social sciences and business communities. Indeed, as described in this article, there now exists a National Program to Increase Citizen Participation in Jury Service Through Jury Innovations. Before long, there will be an encyclopedic collection of uniform data called the "State of the States" that will tell us how every state operates each aspect of its jury trial systems. Importantly, the State of the States will provide court leaders

with information about how to contact persons in other parts of the country who have undertaken and implemented successful jury trial innovations.

THE RECENT HISTORY OF JURY TRIAL INNOVATION EFFORTS

On September 6, 1999, the *Columbus Dispatch* reported on an alarming occurrence in Ohio. The column asked the pointed question, "What is being done to get a prospective juror to respond affirmatively to a summons?" While most people may believe this to be a non-issue, the article went on to detail the story of Lucinda Whiting, whose arson case could not begin for one simple reason: only 11 jurors could be found to sit for her case after the conclusion of voir dire. The quoted words of the judge to the jurors who arrived in the courtroom were: "This is important, and maybe it's because some of your fellow citizens did not recognize how important this was that you and I spent the day here and accomplished nothing."¹

The reported example raises the issue: how do we ensure that jurors report for service? For many states, a solution has been to look toward innovations in their jury systems to make the process work more effectively, efficiently, and conveniently for citizens and legal professionals alike. These efforts have been multifaceted, ranging from reforms that seek to increase juror comprehension of evidence and testimony to those that provide greater compensation for service.

Serious discussions about jury trial innovation got underway in the early 1990s with the 1992 publication of *Charting a Future for the Civil Jury System* by the Brookings Institution. This paper reported the results of a symposium held in Charlottesville, Virginia, in the same year. The three-day conference, organized by Brookings and the Section of Litigation of the American Bar Association, "developed recommendations to improve civil jury procedures based both on their unique perspectives and on the findings of commissioned papers that were presented at the conference."² The gathering marked what some have considered the birth of organized jury trial innovations. Because such endeavors in innovation ultimately reside in the hands of affected jurisdictions, we must look at the innovative practices within the states. To this end, eyes must first turn to Arizona.

The Arizona Supreme Court Committee on More Effective Use of Juries began working on its system in 1993. The committee, chaired by Judge B. Michael Dann, advocated changing procedures to make the trial an educational process for jurors

Footnotes

1. *Trial by Jury: Reforms Are Needed to Stabilize the Pool*, COLUMBUS DISPATCH, Sept. 6, 1999, at 8A.

2. G. THOMAS MUNSTERMAN, PAULA L. HANNAFORD & G. MARC WHITEHEAD, JURY TRIAL INNOVATIONS 1 (1997).

and to give jurors a more active voice in the proceedings.³ The Arizona Supreme Court eventually approved numerous reforms, including granting jurors in civil trials the opportunity to discuss evidence among themselves before final deliberations. This was an effort to improve comprehension, especially in complex proceedings. Arizona was the first state in the country to adopt this and many other juror-empowering policies.

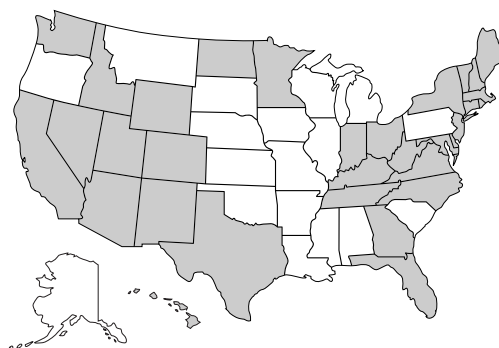
Arizona continued to demonstrate leadership on jury trial issues throughout the 1990s. Many of those efforts have been studied and reported in professional publications.⁴ The banner issues raised in Arizona include improvements in judicial communications with jurors during trial, jury note taking, juror questions to witnesses, and increasing responsiveness to the needs of deliberating juries.⁵ What followed was a multitude of similar efforts across the country.

To date, research indicates that 30 states have undertaken formal steps to analyze their jury trial systems and establish some innovations. These efforts have included state-organized commissions, jury innovation conferences, and written reports and studies. In general, most states' efforts follow a "top-down" format. In these instances, the judiciary creates a statewide initiative dedicated to jury innovation efforts. The initiative often produces recommendations leading to varying degrees of implementation, as state rules and procedures are altered accordingly. However, there have also been "bottom-up" jury innovation efforts. "Bottom-up" innovation can be considered more of a grassroots movement, in which some trial judges introduce innovative procedures in their own courtrooms, without instruction or recommendation from a central hub. Although rarer, "bottom-up" innovation efforts put new programs into *practice* more immediately. Not surprisingly, they can have narrower impact and be more difficult to study.

One noteworthy way some states have generated improvements is the use of pilot programs. Under this methodology, a statewide commission commonly enlists the support of volunteer judges to test certain practices in their courtrooms. The volunteers report back to the commission about the effectiveness of the innovations before they are instituted on a statewide basis. In other words, this is a combination of the "top-down" and "bottom-up" approaches. The states that have followed this procedure have been able to obtain very useful information about the effect of jury innovations. For a taste of these benefits, we look to Massachusetts, Colorado, New Jersey, Hawaii, and the *Columbus Dispatch's* home state of Ohio.

In November 1997, Massachusetts hosted a conference on jury trial innovations, during which judges from the trial courts met to hear presentations on jury innovations. The two-day conference led to 16 judges' participation in a two-

STATES ACTIVE REGARDING JURY TRIAL INNOVATIONS (IN GRAY)



year demonstration study, during which they introduced the reforms discussed at the conference into their own courtrooms. It is important to note that this effort was not organized by the state administration—it was a grass-roots reform effort that brought together likeminded individuals concerned with reforming the jury system. Sixteen innovations were tested, including juror note-taking, juror questions to witnesses, "plain English" jury instructions, pre-instructing the jury on the law, post-verdict meetings between jurors and the judge, and others.⁶ Judges and jurors were both asked to give their opinions of these reforms.⁷ Questionnaires were collected from judges and jurors in 150 cases, 66% of which came from criminal trials. Responses were received from 1,264 jurors.

These innovations were tested with varying frequency. For example, juror note-taking was tested in 95% of the trials in which surveys were returned, whereas permitting jurors to submit questions to witnesses was tested in 41% of the cases. Judges overwhelmingly recommended certain innovations, including note-taking, pre-instruction on the law, and post-verdict meetings between judges and jurors. With respect to imposing time limits on parties' time at trial and providing written copies of instructions to the jury, there was little negative feedback about the effectiveness of these methods in improving the jury process. Some judges recommended every innovation that they tested. One commented that "[a]ll of the practices used in the project seem to involve the jury more actively in the learning process necessary to a rational decision. Jurors in my experience have reacted very favorably to the practices. I have found virtually no drawbacks in or contraindications to using these practices."⁸

Since the completion of the Massachusetts pilot project,

3. ARIZ. S. CT. COMM. ON MORE EFFECTIVE USE OF JURIES, JURORS: THE POWER OF 12 (1994), available at <http://www.supreme.state.az.us/jury/Jury/jury.htm> (last visited Aug. 29, 2004).

4. See, e.g., Paula Hannaford, Valerie P. Hans, & G. Thomas Munsterman, *Permitting Jury Discussions During Trial: Impact of the Arizona Reform*, 24 LAW & HUMAN BEHAV. 359 (2000); Junda Woo, *Arizona Panel Suggests Package of Reforms to Empower Juries*, WALL ST. J., October 25, 1994, at B1; Jeff Barge, *Reformers Target Jury Lists*, A.B.A.J., Jan. 1995, at 26; Abraham Abramovsky

& Jonathan I. Edelstein, *Cameras in the Jury Room: An Unnecessary and Dangerous Precedent*, 28 ARIZ. ST. L.J. 865. (1996).

5. See *Jury Reform '95: Challenges and Changes*, ARIZ. S. CT. EDUC. SVCS. (Nov. 1995).

6. PAULA HANNAFORD & G. THOMAS MUNSTERMAN, MASSACHUSETTS PROJECT ON INNOVATIVE JURY TRIAL PRACTICES: FINAL REPORT (2002).

7. *Id.*

8. *Id.*

innovative procedures have been fine-tuned by way of bar CLE programs and judicial conferences.

While programs in Massachusetts may have gone largely unnoticed by the national media, it has been hard to miss the attention given to Colorado's jury reform projects due to the trial of a certain basketball superstar. The Kobe Bryant sexual assault case drew attention to the new criminal trial procedure in Colorado that enables jurors to ask witnesses written questions. "When Kobe Bryant goes on trial later this year," according to an Associated Press story, "jurors will be allowed to submit questions for witnesses in the sexual assault case in what is believed to be the first rule of its kind."⁹ Though the national media has focused on juror questions to witnesses, it is simply one reform that has resulted from Colorado's innovation efforts.

The reform effort resulting in juror questions at criminal trials was the result of a long history of jury reform recommendations in Colorado, beginning with the adoption of reforms suggested in the February 1997 report, "With Respect to the Jury: A Proposal for Jury Reform." After the Colorado Supreme Court "adopted in principle the recommendations" contained in this report, the chief justice "appointed a Jury Reform Implementation Committee . . . and charged that committee with developing specific proposals to implement the various recommendations in this Report, and reporting back to the Court."¹⁰ In 1998, the Committee reported back, subdividing their recommendations into seven areas relevant to different areas of possible improvements, including reworking Colorado's jury instructions, statutory revisions to clarify rules and procedures, and administrative changes such as public education, revision of the master juror list, addressing the need for juror debriefing, and standards for excusing jurors. Additionally, they recommended commencement of pilot programs to test the success of various innovations, specifically relating to pre-deliberation discussion among jurors in civil cases, and the now famous reform regarding juror questions in criminal cases.¹¹

The juror questions pilot program was the first to be completed, resulting in the 61-page "Dodge Report" in Fall 2002.¹² The report conveyed results and recommendations relating to "the presence or absence of allowing jurors to submit questions . . . randomly assigned to 239 District and County Court criminal trials." The study began in September 2000 when Chief Justice Mary Mullarkey "authorized a statewide pilot study to evaluate the effects of permitting jurors to submit written questions during criminal trials."¹³ The study obtained feedback from judges, attorneys, and jurors by means of post-trial questionnaires. Juror questions were permitted in 118 tri-

als, while not permitted in 121. Surveys were collected from both samplings. The resulting data included the reasons jurors asked questions and assessments by judges and attorneys about the quality of the juror questions. Findings were overwhelmingly in favor of the innovation, with 93% of the jurors surveyed reporting that it should be allowed in future trials. Ultimately, the report supported questioning with judicial supervision, stating that it "will have positive effects with few detrimental results."¹⁴

Similarly, New Jersey has focused its efforts on juror inquiries to witnesses. But unlike Colorado, their emphasis has been on juror questions in *civil* trials. In 1998, a pilot program to investigate this innovation in civil trials was approved by the New Jersey Supreme Court, though it did not begin until nearly two years later. From January 2000 through June 2000, 11 judges were commissioned to allow jurors to pose written questions to witnesses. The effort was chaired by Judge Barbara Byrd Wecker. It covered 147 civil trials, from which surveys were obtained from attorneys, judges, and jurors. New Jersey based parts of their effort on the Massachusetts program, using it to build their own testing ground for the use of juror questions in civil cases. As with the Massachusetts study, the results showed that "it was apparent that jurors and judges were reacting very favorably, whereas attorney reaction was mixed [T]he jurors virtually all loved it [T]he judges . . . were very pleased . . . [and] the attorneys' responses were measured."¹⁵ The pilot recommended that the state adapt their rules to allow juror questions accordingly.

Following the completion of this pilot, the New Jersey Supreme Court approved the pilot's recommended changes, and the revisions went into effect on September 3, 2002. In addition to adopting these rules, the Conference of Civil Presiding Judges initiated a follow-up project to focus on the specific procedures that judges may use when allowing jurors to ask questions. Chaired by Judge Maurice Gallipoli, the goal of this ongoing project is to perfect the process of question asking. The areas of inquiry include whether judges modify questions, whether attorneys ask follow-up questions of witnesses, and how much additional trial time is required for the allowance of questions. The inquiry period lasted six months and involved surveys of both judges and juries. "The jury is still out" regarding the results of this study. The findings of the project are expected to be completed in the fall of 2004.

Though Colorado and New Jersey have focused largely on the field of juror questions, Hawaii has taken the idea of pilot programs further. On June 22, 1993, the Hawaii Supreme Court established their Committee on Jury Innovations for

9. *Bryant jury may submit questions to witnesses*, Associated Press, June 16, 2004, available at <http://www.katv.com/news/stories/0604/153729.html> (last visited Aug. 29, 2004).

10. Colorado Jury Reform Implementation Committee, Implementation Plan: Jury Reform in Colorado (March 12, 1998), available at http://www.courts.state.co.us/supct/committees/juryreformdocs/98_jury_imp.pdf (last visited Aug. 29, 2004).

11. *Id.* at 1-4.

12. MARY DODGE, SHOULD JURORS ASK QUESTIONS IN CRIMINAL CASES? A

REPORT SUBMITTED TO THE COLORADO SUPREME COURT'S JURY SYSTEM COMMITTEE (Fall 2002), available at <http://www.courts.state.co.us/supct/committees/juryreformdocs/dodgereport.pdf> (last visited Aug. 29, 2004).

13. *Id.* at 1.

14. *Id.* at 580.

15. AOC State of New Jersey Jury Subcommittee, *Report on Pilot Project Allowing Juror Questions*, Available at: <http://www.judiciary.state.nj.us/jurypilot/jurypilot.htm>

the 21st Century with the mission to “study and obtain information about jury trial innovations considered or adopted by other states.”¹⁶ At its first meeting, the group decided that a pilot program, to involve five circuit court judges (the number was later increased to six), would be beneficial in testing the effectiveness of innovations in the civil and criminal courts. The Hawaii Supreme Court authorized this pilot program upon request of the committee and set the window of its activity to be July 1, 1998 through October 15, 1999. In the course of this 15-month period, “judges participating in the pilot project . . . conducted seventy-seven criminal trials and ten civil trials.” A key clause in the Hawaii Supreme Court order gave the six judges involved discretionary power over the innovations that they tested in the courtroom, thus leaving the ultimate responsibility for the test in the hands of six individuals.

These six judges ended up testing ten different innovations, including allowing jurors to take notes, juror questions to witnesses in civil and criminal trials, jury instructions prior to closing arguments, and others. Courts that took part in the study responded to surveys regarding their experiences, resulting in 1,063 responses in criminal cases and 136 in civil cases. The responses largely supported innovative procedures. For example, 88% of attorneys in civil trials and 90% of attorneys in criminal trials stated that none of the innovations negatively impacted the trial. In addition, they found “statistically significant evidence supporting the proposed advantages of both juror note-taking and question asking . . . both innovations were found to be supported by jurors, whether they used the opportunities afforded them or not.”¹⁷ In the end, all but one of these innovations was recommended by the committee.¹⁸ The singular exception concerned pre-deliberation juror discussion of evidence in civil trials. As a result of this report, the Hawaii Supreme Court issued an order, effective July 1, 2000, that altered the court rules related to jury innovations, making virtually all of the changes recommended by the committee’s report.¹⁹

It would be mere speculation to state the Hawaii changes may have impacted the previously mentioned case of Lucinda Whiting had it occurred in the Aloha State. Rather, the question becomes, what *did* Ohio do to correct the problems illustrated by the *Columbus Dispatch*? In July 2002, Chief Justice Thomas Moyer appointed a jury task force to study the jury system in Ohio and to recommend relevant innovations. The group was independent from the Supreme Court. The task force split itself into two subcommittees, with one focusing on

trial practice and the other on jury administration. While the jury administration subcommittee focused in on survey results on jury administration and previous research, the trial practice committee “used initial surveys to determine what practices are currently in use in Ohio courts and subsequently engaged volunteer judges to participate in pilot projects testing innovative courtroom practices to enhance jurors’ understanding of cases and their satisfaction with service.”²⁰

The pilot projects began in April 2003 and were modeled on the Massachusetts pilot. The pilots were conducted until mid-November 2003. Judges from across the state volunteered to take part in the project. Up to 13 innovations were tested at the discretion of participating judges. Again, like Massachusetts, judges, attorneys, and jurors completed surveys to measure the usefulness of the innovations, resulting in “a total of 1,855 questionnaires . . . completed and analyzed, including 146 judicial questionnaires, 289 attorney questionnaires and 1,420 juror questionnaires.” The analysis, performed by Dr. James Frank of the University of Cincinnati, showed that each innovation tested “was well received by jurors, judges and, to a slightly lesser extent, attorneys.” The conclusion of the report summarized the findings, stating “judges, attorneys and jurors were generally supportive of the courtroom activities [T]his support manifested itself in survey responses [O]verall, the innovations examined appear to be helpful to the proceedings and the majority of courtroom participants have responded positively to the processes in general.”²¹ The report was released in February 2004.

While the foregoing pilot programs have given some vital information as to the successes of innovative efforts, it is once again important to note that these programs are not the only innovation efforts that have occurred in the United States. New York, for example, has done extensive work on jury reform, though not relying exclusively on pilot programs. A standing Commission on the Jury has held public hearings throughout the state in order to obtain wide citizen input on the present and prospective conditions of the jury trial in the Empire State. Through the efforts of that standing commission, there were new recommendations issued and changes enacted with respect to jury trials as recently as June 17, 2004.²² New York also keeps detailed information on their jury selection processes which provides an invaluable data base regarding the efficiency of the court regarding juries.

In contrast, the initiative for jury innovations in Washington, D.C. began in the private sector. There, a non-

16. For background materials on the Hawaii committee’s work, see Final Report of Hawaii Committee on Jury Innovations for the 21st Century (Jan. 1999); and Supplemental Report of Hawaii Committee on Jury Innovations for the 21st Century (Nov. 1999).
17. Supplemental Report, *supra* note 16, at 3.
18. See Hawaii Committee on Jury Innovations for the 21st Century, Proposed Order (Jan. 1999), available at <http://mano.icsd.hawaii.gov/jud/juryor.htm> (last visited Aug. 29, 2004).
19. Order Concerning Jury Innovations, HI Orders LEXIS 2000-6 (May 5, 2000).
20. Ohio Supreme Court Task Force on Jury Service, Report and

Recommendations (Feb. 2004), available at http://www.sconet.state.oh.us/publications/juryTF/jurytf_proposal.pdf (last visited Aug. 29, 2004).
21. *Id.*, App. B.
22. See Court System Launches Second Phase of Jury Reform in New York (news release, June 17, 2004), and COMMISSION ON THE JURY, INTERIM REPORT OF THE COMMISSION ON THE JURY TO THE CHIEF JUDGE OF THE STATE OF NEW YORK (June 2004), both available at http://www.jurycommission.com/pr2004_11.pdf (last visited Aug. 29, 2004).

NATIONAL JURY REFORM PROJECT LAUNCHED

A national project to increase use of effective jury reform methods and to improve the conditions of jury service has begun. It is a joint project of the National Center for State Courts' Center for Jury Studies, the Council for Court Excellence (Washington, D.C.), and the Trial Court Leadership Center of Maricopa County (Phoenix, Ariz.).

The project—officially the “National Program to Increase Citizen Participation in Jury Service Through Jury Innovations”—seeks to increase citizen awareness of positive aspects of jury service and to improve conditions of jury service. The project will deliver tools and technical assistance needed by judges, attorneys, and court administrators to meet these objectives.

Major projects planned are (1) providing technical assistance to state and local courts to implement innovative jury practices, (2) compiling a “State of the States” database of jury practices throughout the United States, and (3) providing a series of “prescriptive packages” to improve response to jury summonses, comprehension of jury instructions, and effective jury management in urban courts.

A descriptive brochure summarizing the plans of the National Program to Increase Citizen Participation in Jury Service Through Jury Innovations can be found at <http://www.ncsconline.org/Juries/04-050046%20Jury%20Trends-Flyer.pdf>. For more information about the program, contact Tom Munsterman, Director of the National Center's Center for Jury Studies, by phone (703-841-5620) or by e-mail (tmunsterman@ncsc.dni.us).

profit corporation, the Council for Court Excellence gained foundation grants to fund the D.C. Jury Project, a top-to-bottom study of the jury trial systems in the District of Columbia. The final recommendations for improvements took the form of a 1997 report, “Juries for the Year 2000 and Beyond.” The D.C. Jury Project was unique in that it was totally funded by private-sector contributions and its recommendations were received—and acted upon—by both the federal and state-type trial courts in our nation's capitol.

It is evident the 30 states that have done some type of work on jury innovation have each gone about it in ways uniquely their own. Many states have performed studies. Many others have carefully organized steps to implement jury trial innovations. And as depicted above, many have utilized pilot programs. However, the data on what actually is being done is often difficult to come by. In those states that have not performed exhaustive studies or formulated reports, it can be a daunting task to fathom the landscape. This lack of knowledge begs for answers to several questions. What is the state of the jury trial system in every state? How can trial judges and lawyers communicate with each other about jury trial issues and improvements? How can court leaders in states that have not undertaken a study of their jury trial systems come to learn valuable lessons from their colleagues in the other state courts?

THE FUTURE: A NATIONAL JURY TRIAL INNOVATIONS PROGRAM

In this context, it is fitting that a National Program to Increase Citizen Participation in Jury Service Through Jury Innovations (“the Program”) has been launched. The Program builds on momentum from the first-ever National Jury Summit in 2001, led by the National Center for State Courts and Chief Judge Judith Kaye of the New York Unified Court System.

The purpose of the Jury Summit was to bring together representatives from across the nation to examine the state of America's jury system, share innovative practices, and plan for continued improvement. Over 400 persons from 45 states attended, including state and federal judges from the trial and appellate benches, court administrators, clerks, attorneys, representatives from community-based organizations, and even jurors. The legacy of the Jury Summit was to encourage states to expand efforts to improve the jury system nationwide. The results have been encouraging.

Following the basic themes of the National Jury Summit, the Program centers on citizen outreach and improving the conditions of jury service. Citizen outreach about the glory of the jury system and civic responsibility are hollow, however, if citizens who report are treated poorly—in terms of the facilities, or lack of respect for their time (and that of their employers), or compelled hardship to themselves or their families. To these people, Thomas Jefferson's statement that “serving on a jury is more important than voting” is entirely lost. Consequently the Program is designed to provide courts with methods to improve citizen attitudes toward jury service. It will provide a service package that explains how several jurisdictions have developed outreach programs to promote community appreciation of trial by jury. The Program will also make technical assistance available to help jurisdictions that are interested in making the jury trial itself a more information-centered endeavor.

The National Center for State Courts leads these efforts through its Center for Jury Studies. It is joined by two other court assistance organizations, the Council for Court Excellence (Washington, D.C.) and the Maricopa County Trial Court Leadership Center (Phoenix, Ariz.).

Employing well-established business management practices, the Center is undertaking a sequence of tasks. First, it is systematically gathering a compendium of current state jury management practices known as the “State of the States.” Upon completion, it will establish the first-ever, baseline measure of the statutes, rules, customs, and practices that define jury systems across the country. The State of the States documentation will span an operational spectrum ranging from initial summoning to final dismissal after verdict. Contemporaneously, prescriptive packages are being developed to describe practices that have proven to be highly effective in states that have already undertaken jury trial renovations. The “best practices” packages will cover four priority areas: (1) improving citizen response to jury summonses, (2) comprehensibility of jury instructions, (3) model legislation and rules to anchor jury reforms,²³ and (4) jury management workshops for urban courts. The prescriptive packages will be used as technical assistance tools and made widely available

through the National Center, the National Judicial College, and state judicial education programs.

To begin implementation, a “to-be-determined” number of courts will be selected. The chief justice and state court administrator will be approached and involved to the fullest extent in each case. When the court selections are made, program staff will work directly with the courts to establish an individualized plan of action from a full menu of jury innovations. Depending on what stage a selected jurisdiction is at in the process of jury system renovation, the technical assistance will follow one of several established paths described below.

For a jurisdiction just getting started, the Program would suggest that the state supreme court appoint a broad based committee to examine many aspects of the state jury system. This committee or task force would report back to the court with recommendations. The National Center staff would guide and assist all along the way.

If a state has already begun a renewal effort that has stalled, the Program staff will help the state re-ignite its innovation actions. In states where reform implementation is discretionary with individual trial judges, the Program will offer a replication of the successful approach undertaken in Massachusetts.

Clearly, the National Program will create crucial benefits for state courts. Measurable results include: the increased use of innovative practices by judges, reduced burden upon jurors and employers, reduced citizen non-response to summonses, a greater proportion of our population actually serving on juries, less juror waiting time in court, fewer questions asked by deliberating juries, and a more well-trained judiciary. There will also be more instances of juries being representative of the community in terms of age, education, occupation, and profession. Across our land we should see more efficient and cost-effective jury systems. Trial jurors will be better informed. In

other words, juror decision-making and satisfaction will be enhanced. Importantly, there should be greater public trust and confidence in jury verdicts and the courts.



Gregory A. Mize currently serves as a consultant to the National Center for State Courts' Center for Jury Studies. Before that, he served as a judge on the Superior Court of the District of Columbia from 1990 to 2002. While there, Mize presided over hundreds of jury trials, both civil and criminal, and also conducted more than 800 settlement conferences. In 1997 and 1998, he co-chaired the D.C. Jury Project, which issued its nationally recognized recommendations in 1998. From 1983 to 1990, he served as general counsel to the District of Columbia City Council. He received his A.B. in philosophy from Loyola University in Chicago and his J.D. from Georgetown University Law Center; he has served as an adjunct professor at the Georgetown University Law Center and the University of Virginia School of Law.



Christopher J. Connelly is a court research analyst for the National Center for State Courts Center for Jury Studies in Arlington, Virginia. Before joining the Center for Jury Studies, Connelly worked as an intern in the National Center's Knowledge and Information Services Division in Williamsburg, Virginia. He received a B.A. in history and government from the College of William and Mary in 2004.

23. The American Legislative Exchange Council has developed model jury legislation to facilitate jury service. The model law is referred to as “The Jury Patriotism Act.” See Victor E. Schwartz, Mark A. Behrens, & Carey Silverman, *The Jury Patriotism Act: Making Jury*

Service More Appealing and Rewarding to Citizens, STATE FACTOR (April 2003), available at <http://www.alec.org/meSWFiles/pdf/0309.pdf> (last visited Aug. 29, 2004).