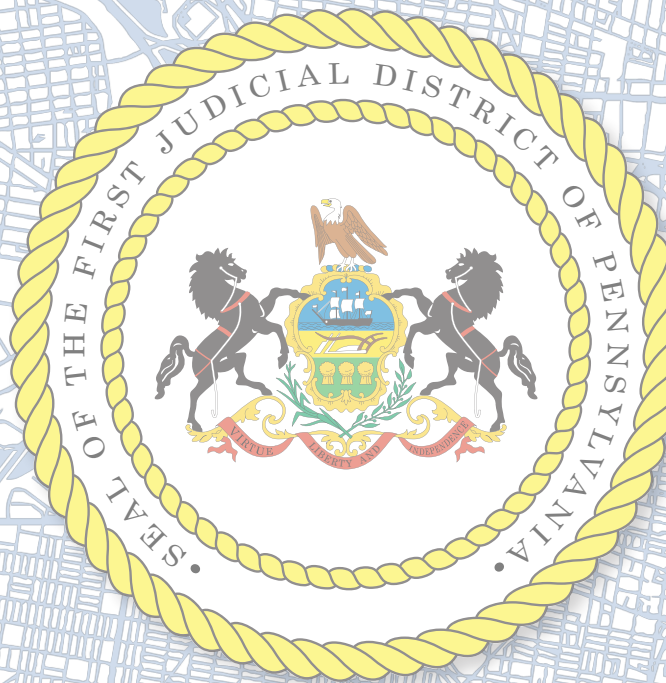




FJD Juror Participation Initiative





Philadelphia

FJD **Juror Participation Initiative**



Outline for Juror Participation Initiative Report

INTRODUCTION

It is well recognized that jury service is essential to the justice system, but Philadelphia, like many large metropolitan areas, has had a persistent problem with people not responding to jury summonses.

Depending upon the year, between 36% and 42% of Philadelphia residents who are mailed a summons fail to respond. This high non-response rate raises a potential threat to the Court's ability to provide sufficient panels of would-be jurors for civil and criminal trials and results in the Court's excessive reliance on those who do fulfill their civic duty by responding to the summons for jury service.

In late 2016, the Trial Division of the First Judicial District and Jury Commission staff decided that an effort should be launched to expand the pool of potential jurors by increasing citizen participation in the process. In January 2017, First Judicial District (FJD) leadership, joined by Mayor Jim Kenney, announced the formation of the Juror Participation Initiative Committee, a blue-ribbon panel formed to recommend to the Court strategies to increase the number of Philadelphians who respond.

The committee is chaired by Lynn A. Marks, Esquire, the former Executive Director of Pennsylvanians for Modern Courts, and includes a diverse group of stakeholders, representing the varied groups and constituencies that comprise the city's potential juror pool. From the standpoint of a fair and equal judicial system, it is critically important that Philadelphia has, on an ongoing basis, a sufficient pool of jurors from all segments of the city's population.

Because the FJD is a public institution, increasing juror participation serves the interests of those who appear in court and the community as a whole.

This report details the recommendations made by the Juror Participation Initiative Committee via a comprehensive examination of jury selection and service.

- 1.** The Process of Jury Selection in the First Judicial District (FJD)
- 2.** Rates of Response/Non-Response to Juror Summonses in Philadelphia, Pennsylvania, and Surrounding Counties
- 3.** The FJD's 2017 Juror Participation Initiative: Mission & Methodology
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Current Jury Selection Process in First Judicial District

BASIC INFORMATION ABOUT THE JURY SYSTEM

The Judicial Code of Pennsylvania¹ provides that every citizen of the Commonwealth who is of required minimum age for voting for state or local officials and resides in the community shall be qualified to serve as a juror. Exceptions are if the citizen is unable to read, write, speak, and understand the English language; is incapable, by reason of mental or physical infirmity, to render efficient jury service; or has been convicted of a crime punishable by imprisonment for more than one year and has not been granted a pardon or amnesty regarding such conviction.²

The Judicial Code also provides for exemptions or excusals from jury service, such as persons in active service of the U.S. armed forces; persons who demonstrate “undue hardship or extreme inconvenience”; and persons 75 years of age or older who request to be excused. The statute also specifies other bases for exemption. Jurors who are unable to appear on the date for which they are summoned can seek to have the date rescheduled by the Philadelphia Jury Commission which administers the jury system.³

1. Source of Jurors

Jurors are drawn from a list provided annually by the (1) Department of Motor Vehicles (all adult drivers) and (2) Voter Registration lists (registered voters). Every year, the two files are combined and “scrubbed” by computers to remove duplicates and the result is the final source list.

2. Summoning

The FJD’s summoning procedure complies with the Judicial Code Section 4501 requirement that all persons entitled to a jury trial in a civil action or a criminal proceeding shall have the right to jurors selected at random from a representative cross-section of the eligible population of the county. Summonses are sent by first-class mail, along with a questionnaire returnable by prepaid mail. A copy of the summons is attached in the Appendix I.

The FJD uses the “One day, One trial” system. This means that prospective jurors who are not selected to be on a panel on the day they arrive are excused and paid their daily fee. This method is used by the majority of jurisdictions in the country.

3. Processing

If a prospective juror fails to respond to the summons within two weeks of receipt, he or she is

automatically sent a reminder postcard. A copy is attached in the Appendix 1.

Because of the large amount of “non-responses,” together with jurors who are legitimately excused, deferred, or disqualified, it is not uncommon for the FJD to mail out 1800-2000 summonses in order to have 500-600 jurors report for service.

A juror who serves for one or two days is given a one-year exemption. A juror who serves three days or more is given a three-year exemption. (Judicial Code Section, 42 Pa. C.S. § 4503(a)(2)).

4. Compensation

Judicial Code Section 4561 provides that a person summonsed to serve as a juror shall receive compensation at the rate of \$9.00 per day for the first three days and \$25.00 per day for each day thereafter. Per statute, reimbursement for mileage is permitted across the state in all counties except Philadelphia.

By statute, the Commonwealth reimburses each county 80% of the amount expended on jury service beyond three days of service.

FIRST JUDICIAL DISTRICT ATTEMPTS TO BOOST JUROR PARTICIPATION

Although Philadelphia is not unique among large jurisdictions, the FJD leadership is deeply concerned that approximately 200,000 people per year do not respond to their summonses. The individuals who fail to respond to their jury summons create an undue burden on others who are responsive. As a consequence, the FJD has attempted to increase participation and improve the juror experience by introducing cutting edge technology, improving and expanding benefits to jurors, seeking partnerships with organizations such as the Philadelphia Bar Association, and forming the Juror Participation Initiative.

a. Technology

Postage is the largest expense of the jury system after juror compensation. Currently, a questionnaire is mailed to potential jurors with pre-paid, returned postage. Although the questionnaires are sent at bulk rate, the return rate cost is high.

To reduce this cost, the FJD is instituting a new process in which a postcard will be sent at a cheaper rate to each potential juror, who will be instructed to respond to their qualification questions online via “e-Juror”. For those who do not have access to the internet, the FJD will either mail them a hard copy or will create a standard operating procedure that will allow the Jury Commission to accept the answers to the qualifying questions by phone. This change will significantly reduce postage costs and will improve communication with jurors through email, texting, and other means. Under the new system, therefore, the only postage cost would be for the initial summons for those who use e-Juror. This method has been effective in other jurisdictions, both by increasing financial savings and the percentage of juror responses.

b. Coffee and Cake

The program that provided coffee and cake to jurors while they waited to be called for service was terminated for budgetary reasons in 2010. Since that time, jurors have registered complaints about the cancellation of the program. In October 2016, the coffee and cake program was reinstated, earning appreciative responses from jurors.

c. Creation of Civil Jury Room in City Hall

In an effort to make jury duty easier and more attractive to jurors, in late 2014, the Court opened a second Jury Assembly Room. Jurors who are required to report for civil cases now go directly to the

Jury Assembly Room in City Hall. Consequently, jurors are no longer compelled to walk between the Stout Criminal Justice Center and City Hall to perform their jury service. The change has proven to be very popular among jurors.

d. Attempts to Impose Sanctions on People who do not Respond to Summonses: Juror Scofflaw Court

Judicial Code Section 4584 provides that failing to appear as summoned for jury duty is punishable by a finding of contempt of court and a fine in an amount not exceeding \$500 or imprisonment of no more than ten days or both.

Periodically the FJD has operated a program to punish those who failed to appear for jury duty, as a means of encouraging them and other potential jurors to perform their jury service obligation. The FJD refers to this program as “Scofflaw Court.” This type of program is operated by other jurisdictions and it is sometimes referred to as a “Show Cause Hearing.”

There is conflicting evidence about the effectiveness of such programs. The FJD experience with its Scofflaw Court has been mixed. Initially, the program resulted in an increase in phone calls by jurors seeking excusals, but in the long run, the actual compliance rate did not increase.

1. 42 Pa. C.S. § 4502.
2. Under the statute, conviction excludes the Pennsylvania Motor Vehicle Code. 42 Pa. C.S. § 4502 (a)(3).
3. The Philadelphia Jury Commission consists of the Commissioner (currently Daniel Rendine) and 18 full time employees. The Commission is charged by the Pennsylvania General Assembly to provide jurors, selected at random from a representative cross section of the eligible population of Philadelphia County, for civil and criminal trials, Investigating Grand Juries, Statewide Investigating Grand Juries, and Indicting Grand Juries. The employees are divided into two groups: those who meet, check in, and assemble jurors into panels for trial and those who process the questionnaires, reply to deferral requests, answer phones, maintain files, and other administrative functions.

Juror Response Rates

Jury service is a civic duty of the citizens of the United States. It connects people across class and embraces concepts of participation, equality, and deliberation. Therefore, facilitating greater turnout – ensuring that all eligible citizens respond to their summonses -- is vital to the continued and effective operation of the judicial system.

A SUFFICIENTLY LARGE JURY POOL

A large pool of qualified individuals is a necessary component of the administration of justice. When the pool is sufficiently large and diverse, those who request a jury trial are more likely to be provided with a well-represented panel from which jurors are selected and empaneled. To achieve a sufficiently large jury pool, summonses are mailed to individuals registered to vote or drive in the respective county. When large numbers of citizens do not respond to a summons or do not show up for jury duty, it is more difficult for the courts to administer justice and to provide objective and diverse panels to the parties. It also unduly burdens those citizens who do respond. When citizens do not respond to their summonses, those who do respond may be called more often.

LOW JUROR RESPONSE RATES

In 2017, the FJD Juror Participation Initiative Committee conducted an informal survey of Philadelphians about their experience with jury service, whether or not they responded to a summons. Individuals who received summonses but failed to respond or report for service were asked why they did not respond or show up for service. Responses included the following, in no order of priority:

- Issues with their jobs
- Scheduling conflicts
- Low juror pay
- Forgot/misplaced the summons
- Lack of trust in the criminal justice system
- Financial or familial hardship
- Substantial inconvenience

In addition to the above responses, lower juror response can be traced to the mobility of urban populations. As is the case with other major metropolitan jurisdictions, many people move freely within and outside of Philadelphia for a variety of reasons, often leaving no forwarding address. Such summonses are often returned to the Jury Commission Office by the post office with no indication of an alternative address where the intended recipient can be reached.

Philadelphia is also a jurisdiction with a significant number of colleges and universities. While students may register to vote or drive within the Commonwealth, their presence within the state is usually tied to the schedules of their respective institutions. This too could contribute to a lower response rate.

JUROR RESPONSE RATES: PHILADELPHIA

Demographics. The FJD Juror Participation Initiative Committee noted a wide disparity of juror response rates when categorized by zip code. The map below (Figure 1) highlights the neighborhoods with the lowest response rates. This data was drawn from records maintained by Philadelphia’s Jury Commission.

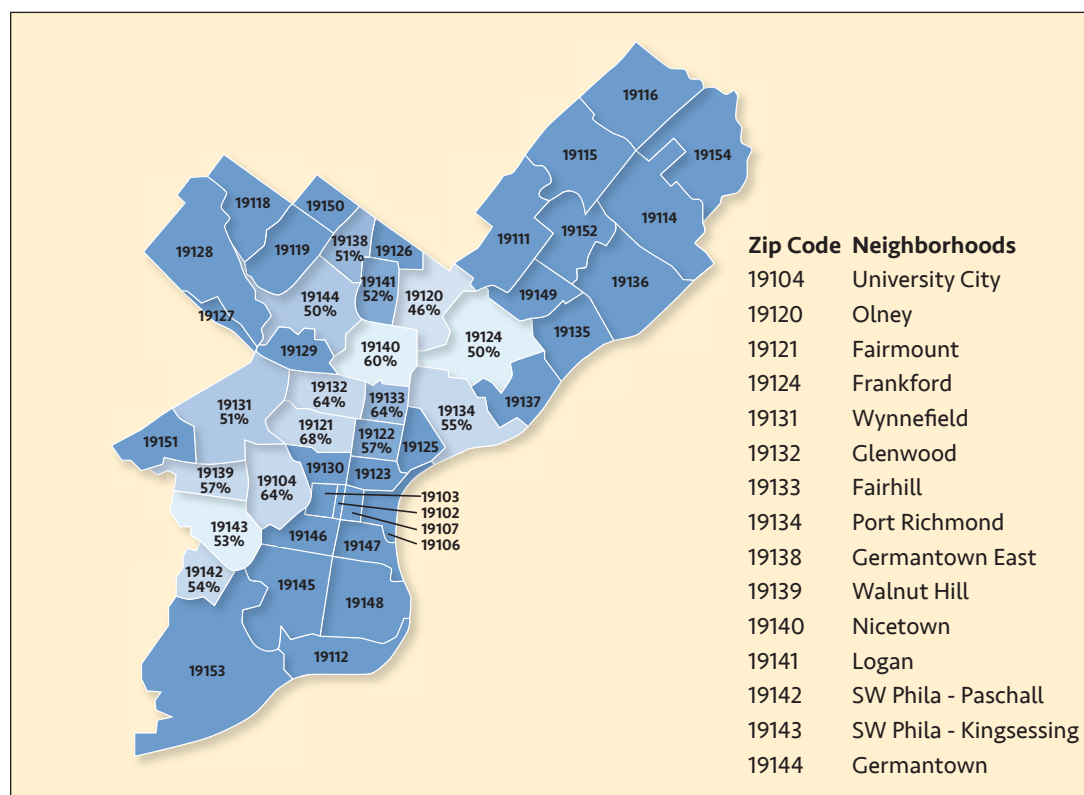


Figure 1. Non-response rate by zip code

Sixty-two percent (62%) of the citizens living in the zip codes with the lowest response rates self-identified as African-American and 17.4% as Hispanic. Of the 15 zip codes, four have a high percentage of people who report that their primary language is something other than English.

According to the Office of the Philadelphia City Commissioners, these same zip codes also include some of the lowest mean household incomes in Philadelphia (Figure 2).

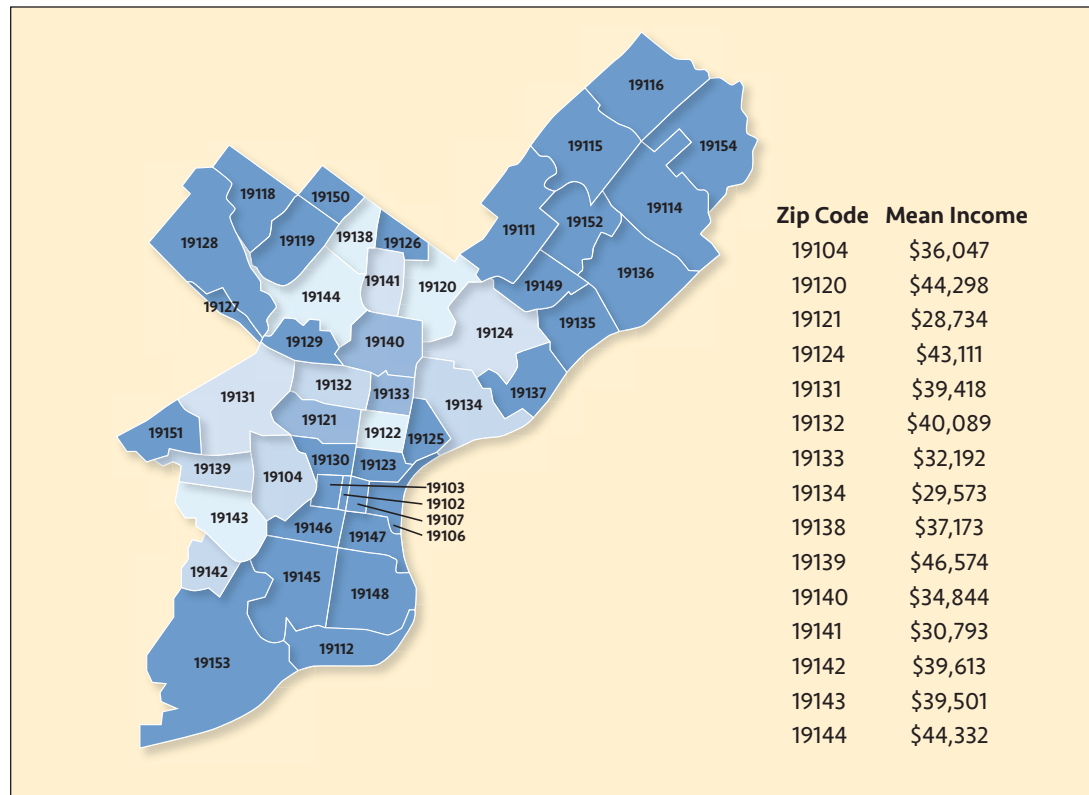


Figure 2. Mean income by zip code of the areas with lowest juror response rates

JUROR RESPONSE RATES: PHILADELPHIA V. SURROUNDING PENNSYLVANIA DISTRICTS

Based on data garnered from caseload statistics published in the 2016 Caseload Statistics of the Unified Judicial System of Pennsylvania, 548,900 jury summonses were mailed to Philadelphians in 2016. Of the summonses mailed, 190,024 individuals (34.6%) neither responded to the summons nor reported for jury service. Only Delaware County had a higher non-response rate (44.9%) during the same period. Other counties in the southeast region of the state showed significantly higher response rates.

A NATIONAL PERSPECTIVE

The problem of poor juror response rates is not limited to Philadelphia. Other major cities around the country have found themselves in similar situations and are likewise trying to combat the problem. Other jurisdictions that have experienced these problems, such as Detroit, Los Angeles, Atlanta, and Denver, have used a variety of approaches, such as regular “show cause” /scofflaw court hearings and comprehensive follow-up with jurors. While “show cause” hearings may provide a short-lived uptick in the number of citizens who respond to their jury summonses, the changes are generally a temporary solution to a persistent problem. Once it is known that the “show cause” hearings have ceased, citizens return to their former habits.

SUMMARY

In order to ensure the enduring change needed to substantially increase citizen participation in the jury process, it is essential to provide public education and outreach about jury service throughout the city, with special emphasis on the neighborhoods with the lowest response rates. This is discussed further in the section on Perspectives and Educational Outreach.

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Juror Participation Initiative: Mission and Methodology

MISSION/GOAL

The Juror Participation Initiative Committee (“Committee”) believes that jury service is essential to a participatory and engaged democracy. The goal of the Committee was to identify strategies and best practices designed to increase the number of Philadelphia citizens who exercise their fundamental civic responsibility and serve on juries in civil and criminal cases.

In the quest to increase the potential juror participation response rate, the Committee considered all segments of Philadelphia’s communities but focused on the importance of promoting diversity, fairness, and efficiencies in our jury system. The Committee recognized that improving participation in our jury system will instill greater public trust and confidence in the rule of law.

METHODOLOGY

The Committee is a diverse body of 25 members, including community leaders, legal professionals, representatives from Philadelphia City Council, the Mayor’s Office and the School District of Philadelphia, local business leaders, judges, and court administrators. Committee members brought impressive backgrounds and experience to the challenge of improving our system of jury service. A copy of the press release launching the Committee and a list of its members and their affiliations are attached in Appendices 2 and 3.

Recognizing the complexity of operational and policy issues inherent in jury selection and service, the Committee formed three separate Workgroups and designated chairs and co-chairs for each:

- Jury Management;
- Perspectives and Educational Outreach; and
- Juror Hardship and Inconvenience

The Committee’s work was accomplished through meetings of the full Committee and numerous conference calls of the Workgroups, spanning a year. The Committee decided that each Workgroup should begin by identifying obstacles or barriers to juror participation in their respective topical areas.

The Workgroups then proceeded to identify strategies that could effectively address such barriers, even if implementation of those strategies was beyond the court’s control or purview (such as legislative action required). All ideas were deemed worthy of consideration, regardless of financial costs or the likelihood of successful implementation. The groups were also asked to identify the entity or entities that would be responsible for implementing each proposed strategy.

The deliberations of the Committee and Workgroups were supported through considerable information-gathering, including statistical analyses (primarily local, but also state and national), surveys (national and local), research and review of relevant literature regarding jury service, and outreach (including the Administrative Office of Pennsylvania Courts (AOPC), bar associations, community groups, the U.S.

District Court for the Eastern District of Pennsylvania, and the National Center for State Courts.)

In assessing the problem, the Committee decided that the most feasible and informative approach would be to obtain information based on zip codes. The zip code approach enabled the Committee to compare information about the rate of juror response to summonses, as well as socio-economic and ethnic demographics. The Committee also sought information about other municipalities, both in and outside Pennsylvania.

The Committee's deliberative process culminated in the selection and prioritization of barriers and strategic recommendations. For the reader's convenience, the Committee decided that the 'who', 'what', and 'how' of the barriers and recommendations would be more easily digestible in a table format -- supported, supplemented, and explained by appropriate endnotes and references.

Recognizing that the Committee's report must eventually proceed from the theoretical to the practical, the Committee decided that there was a critical need to assure further study and implementation of the Committee's numerous recommendations. Hence, the full Committee recommends that there should be an institutional mechanism to review and advance the Committee's proposals. The Standing Jury Committee of the Board of Judges of the Court of Common Pleas was identified as the appropriate mechanism. The Jury Commissioner's Office should work closely with the Standing Jury Committee to create a strategic plan of implementation and monitor progress.

Recommendations of the First Judicial District's Juror Participation Initiative Committee

EXECUTIVE SUMMARY

The Juror Participation Initiative Committee ("Committee") conducted its work through three Workgroups: (1) Jury Management; (2) Perspectives and Educational Outreach; and (3) Hardship and Inconvenience. The Committee adopted the following recommendations, which are detailed more fully in the report. The focus of each Workgroup was to determine how best to elicit greater citizen participation in the juror selection process. Recommendations span the spectrum from judicial to legislative to citizen initiatives.

1. Jury Management

The Jury Management Workgroup made recommendations that would improve the FJD's jury administration processes and messaging. The major recommendations of the Jury Management Workgroup included:

- Promoting effective jury management practices;
- Examining the best way to use source lists from which jurors are summoned; and
- Offering judicial and court staff educational opportunities to promote effective jury management practices.

Communication was a particular concern of the Workgroup, which recommended that the message on the summons should be reviewed and improved and augmented by user-friendly social media information.

Given the unique opportunity for interaction between citizens and the judiciary in the jury summons and selection processes, the Workgroup also recommended that there be a concerted effort by judges to reach out and take advantage of opportunities to engage in dialogue with the many

citizens who come each year to the courthouse. Such direct feedback from prospective and selected jurors would be uniquely valuable and appreciated.

Lastly, the Workgroup expressed its concerns about the negative impact of laws that automatically restrict juror eligibility based on a citizen's prior criminal conviction, regardless of the nature of the crime, the passage of time, or personal history. The Workgroup recommended that this blanket ban be re-examined to determine if there are less restrictive alternatives that would make jury service in Philadelphia more inclusive. Other states have successfully lifted these restrictions.

2. Perspectives and Educational Outreach

The Perspectives and Educational Outreach Workgroup explored the difficult terrain of attitudes, beliefs, and sensitivities that may undermine a positive and accurate view of jury service. The causes of such barriers are many and varied, including misinformation, skepticism or distrust of government, cultural differences, inadequate education regarding civic responsibilities, and social media.

The Workgroup identified five attitudinal barriers: (1) distrust of the system [judicial system or criminal justice system]; (2) apathy; (3) apprehension & anxiety, (4) fear; and (5) cultural and language misperceptions. For each barrier, the Workgroup identified the factors that make it a barrier and then provided recommendations to reduce or eliminate them. The Workgroup's recommendation is based upon a multifaceted strategy, with the principal strategy focusing on educating both youth and adults about jury service.

A. Adult Education

The strategy for the adult community was multi-dimensional. The focus was on how the FJD can market a positive message about jury service to potential jurors. The Workgroup identified various avenues:

- Social media messaging;
- Public service announcements;
- Advertising;
- Using judges, attorneys and former jurors as informational ambassadors;
- Engaging a celebrity with broad appeal to deliver positive messages about jury service;
- Engaging with the legal community, particularly the prosecution and defense bars;
- Collaborating with community organizations throughout the city, particularly in communities where English is spoken as a second language;
- Partnering with City Council offices;
- Improving communications from the FJD through its summons, website, and jury service video; and
- Educating judges and court personnel about how to engage with jurors in a positive manner

B. Youth Education

The most effective way to educate elementary, middle and high school students about the function and benefits of jury service is through collaboration with the Philadelphia School District. The School District has many opportunities to promote meaningful education and experiences such as curricula, field trips, educational materials, and active engagement of judges and attorneys in civics education.

The Workgroup recognized that the educational and marketing outreach should be city-wide, but that a customized message for particular communities may be strategically beneficial. A concern in one community may not be a concern in another community. By concentrating on effectively disseminating accurate and supportive information about jury service in Philadelphia's diverse communities, a more positive attitude toward the civic responsibility of jury service can be promoted, resulting in greater participation by Philadelphia citizens in the jury process.

The paramount messages to be communicated are that jury service is an essential civic responsibility and that all citizens -- regardless of race, ethnicity, gender, income or educational level -- are needed, and that a vibrant and effective jury process protects the rights of all our citizens.

It was beyond the scope of this Committee to develop the particular messages to be used in the educational efforts. Therefore, the Committee recommended that the FJD create a detailed strategic action plan to address the barriers/challenges enumerated in the Committee's report and to develop appropriate messages for the general public and particular audiences. The FJD should consider consulting with marketing/public relations experts in the development of the action plan and in the message content.

3. Hardship and Inconvenience

The Hardship and Inconvenience Workgroup recognized that jury service is an important civic responsibility that can be particularly burdensome for some individuals. Interrupting one's daily routine for jury service may adversely affect a citizen's job or financial security, as well as the safety and welfare of other family members. In addition, jury service may present significant logistical hurdles.

The Workgroup recognized that minimizing or eliminating such practical burdens should be a shared societal responsibility.

Government, specifically the legislative and judicial branches, can play a positive role by:

- Increasing juror compensation, which has not been raised in decades;
- Requiring employers to pay employees during their jury service and giving employers a tax credit for their expenditures;
- Providing economic support for jurors through parking vouchers and transportation discounts and reimbursements;
- Establishing a juror fee donation program or a civil filing fee surcharge to fund a lengthy trial fund; and
- Alleviating childcare burdens by sponsoring a childcare program or providing discount vouchers to independent programs.

Government can also collaborate with other community resources to address the needs of potential jurors. Discounts for jurors could be pursued with public transportation entities (such as SEPTA and taxi and ride-sharing companies) and with parking lot operators.

The Workgroup concluded that citizens should be better informed about scheduling options for those who need accommodation. The Workgroup recommended that information about rescheduling or obtaining excusals from jury service be clearly provided in the juror summons and in online information.

The Workgroup acknowledged that many instances of hardship disproportionately affect minority communities and impact the court's ability to have jury pools that reflect a fair cross-section of the Philadelphia community.

NEXT STEPS

The Juror Participation Initiative Committee recommends that the FJD's Standing Jury Committee of the Board of Judges of the Court of Common Pleas assume responsibility for studying, prioritizing, and implementing the Initiative's specific recommendations.

The Initiative further recommends that in carrying out this responsibility, the Standing Jury Committee collaborate with the Jury Commission's Office and relevant stakeholders in the lay and legal communities.

SUMMARY

Increasing juror participation serves the interests of those who appear in court and the community as a whole. Ensuring adequate and diverse pools of jurors is a responsibility not only of the court system but of the entire government and public and private sectors of the Philadelphia community.

The FJD acknowledges that Scofflaw Court proceedings have been used in the past and reserves them as a future option if all else fails. The Juror Participation Initiative has focused on education, jury management techniques, and policy changes to reduce juror inconvenience and hardship in the FJD's jury selection process. With this positive rather than punitive approach, the FJD hopes to encourage citizens to view jury service as an opportunity to do something concrete to help better their community.

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PHILADELPHIA INITIATIVE ON JUROR PARTICIPATION

JURY MANAGEMENT WORKGROUP^I

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
1. Low Juror Yield ⁱⁱ	A. Institutionalize a process to study, prioritize, and implement the Committee's recommendations.	FJD
	B. Create a strategic implementation plan and monitor progress. ⁱⁱⁱ <ul style="list-style-type: none">Continue to engage stakeholders (such as the legal and lay communities, prosecutors and the defense bar) for information, advice, and assistance.Issue an annual report on the status of the jury system and the initiatives undertaken. Data collection will be essential.^{iv}	FJD
	C. Assess if it is legally permissible to use the previous year's master list of prospective jurors to summon persons who had not been sent summonses. This approach may reduce the possibility that jurors are called as often as they are currently. ^v	AOPC, FJD, PA Supreme Court PA General Assembly
	D. Monitor the new summoning process of the U.S. District Court for the Eastern District of PA) ^{vi} as to its effectiveness in dealing with the problem of non-response, particularly whether it increases racial diversity. ^{vii}	FJD

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
2. Summons That Are Not Responded To	<p>A. Conduct a viability test of the AOPC Source^{viii} list for sending summonses (which would expand the potential source lists from voter registration and drivers' licenses to include all people who pay taxes and those eligible for public benefits) in an attempt to decrease undeliverable summonses and juror "no shows".</p> <p>B. Continue the use of follow up postcards for non-responders to reduce the number of potential jurors who fail to appear.</p> <ul style="list-style-type: none"> Assess the value of this program through additional data collection.^{ix} 	<p>AOPC & FJD</p> <p>FJD</p>
3. The Summons Message ^x	<p>A. Modify the jury summons to include:</p> <ul style="list-style-type: none"> Clarity on process for seeking deferment or excusal; Clearer directions on accessing the juror website; Determination of what can be moved to the jury webpage and streamline the information on the summons; <p>B. Continue to consult with others (e.g., Georgetown law professor, marketing specialist, National Center for State Courts) to create a simpler, more effective, user-friendly summons.^{xi}</p> <p>C. Continue to examine how other jurisdictions (PA counties, large non-PA metropolitan areas) use their summons to communicate with their citizens.</p>	<p>FJD</p> <p>FJD</p> <p>FJD</p>
4. The Jury System's Website ^{xii} and Social Media ^{xiii}	<p>A. Review the jury system website to ensure that it is as juror-friendly as possible with relevant information that also encourages people to respond.</p> <ul style="list-style-type: none"> Link to social media. Consult other courts' jury websites. <p>B. Create a stand-alone Facebook and Twitter account for the jury system that is separate from the FJD account.^{xiv}</p>	<p>FJD</p> <p>FJD</p>

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
5. Jurors' Reactions to Their Experience with Jury Duty	A. Determine how best to obtain valuable and direct juror feedback, such as encouraging jurors to fill out a survey as part of the pick-up process;	FJD
	B. Enlist all judges to reach out to those who were not selected, as well as those who did serve, as an opportunity to thank them for their time, to explain the juror selection process, and to gather valuable insights directly from those who went through the jury selection process. ^{xv} (Note that some judges already do this for those jurors who are selected.)	FJD
	C. Conduct a series of "Jury Improvement Lunches" for jurors around the city, similar to the lunches conducted around the country by the Civil Jury Project at NYU School of Law, to thank jurors for their service and to learn from them how the Philadelphia courts can improve jury service and trials. Lawyers and judges should be seated at each of the jurors' lunch tables to initiate discussion, and a panel presentation summarizing the comments of the participating jurors should be held at the end of the lunch. ^{xvi}	FJD
	D. Continue to acknowledge jurors through Juror Appreciation Day activities. ^{xvii}	FJD
6. Limitations on Juror Eligibility ^{xviii}	A. Consider the impact of current restrictions on juror eligibility and assess how expanded eligibility could be pursued to address the large number of persons who are excluded because of their criminal records. ^{xix} The restrictions exclude a significant number of Philadelphians, who are disproportionately people of color. Relaxing these restrictions would increase the number of persons of color eligible to serve and juries would be more reflective of the city's population. ^{xx}	FJD PA General Assembly
7. Effective Jury Management Practices ^{xxi}	A. Study and implement effective jury management practices including: <ul style="list-style-type: none"> • Enhancing the inclusiveness of the jury pool; • Maximizing effectiveness of the summoning and qualification process; and • Ensuring that the jury pool represents a fair cross section of the community. 	FJD
	B. Implement effective jury management practices through judicial education, training of court personnel, and appropriate system-wide protocols.	FJD

- i. Committee Chair Laurie Sacerdote and Committee member Zigmont Pines spent countless hours on this topic. Invaluable assistance was also provided by Committee members Rick Pierce, Patrick Martin, Dan Rendine, Greg Hurley, Marc Coleman, Nina Chernoff, and Lynn Marks.
- ii. Jury yield is the percentage of jurors qualified and available for service. It is calculated in part by subtracting from the total number of summonses/questionnaires mailed those jurors whose summonses were returned by the post office, those summonses not responded to and those jurors who were exempt, excused, or disqualified from service. Philadelphia has low juror yield which requires people to be summoned for service more often, including those who do respond. The challenge is to determine the best way to increase the jury yield.
- iii. This recommendation is the over-arching recommendation from the Juror Participation Initiative and applies to suggestions from each of the Workgroups.
- iv. Although the Committee initially considered the creation of a separate standing or advisory jury committee, the Committee was advised that the FJD already has an institutional mechanism regarding the jury selection process, i.e., its Standing Jury Committee under the auspices of the Board of Judges of the Court of Common Pleas. As the recommendation notes, outreach to the Jury Commission staff and the legal and lay communities will be important to the successful implementation of the Juror Participation Initiative Committee's recommendations.
- v. The current jury selection statute provides that a master list of prospective jurors shall be prepared annually and that at least once each year, prospective jurors shall be selected at random from that master list. 42 Pa. C.S. § 4521(a) and (c). A legal assessment should be made (such as consulting with AOPC or the PA Supreme Court) to determine if the prior year's master list can be used in the new year before drawing from the new list. Such a process would decrease the potential occurrence of prospective jurors being summoned so frequently. Based on the outcome of the assessment, the FJD may consider recommending a legislative change that would allow the list to be used in a more flexible manner.
- vi. The U.S. District Court for the Eastern District of Pennsylvania has a standing Jury Committee that consists of 8 District Judges, 2 Magistrate Judges, the Clerk of Court, and the Jury Administrator. The Jury Committee meets to discuss various topics, including juror utilization, demographics and diversity, review of its Jury Plan, community outreach, and other areas to improve the overall juror selection process.
- vii. The federal court's amended Jury Plan allows for the substitution of any non-responded or undeliverable juror qualification form with a replacement name from the same zip code to which the non-responded or undeliverable questionnaire had originally been sent. Since they have a high non-response and undeliverable rate in certain zip codes, they adopted this change in an effort to make their qualified jury wheel and panels more racially-diverse. See "Plan for the Random Selection of Grand Petit Jurors" adopted on May 27, 2017 by the U.S. District Court for the Eastern District of Pennsylvania and approved by The Judicial Council of the Third Circuit on July 18, 2017. <http://www.paed.uscourts.gov/documents/jury/Jury%20Plan.pdf> Note that this is different from the FJD procedure.
- viii. Act 37 was signed into law in 2007 and broadens the number of source lists used in creating jury pools. A Statewide Juror List includes potential jurors from the following four state agency lists: Department of Public Welfare, Department of Revenue, Department of Transportation, and Department of State. It is not mandatory for judicial districts to utilize this list and many do not, primarily because of problems receiving duplicate names from the various agencies. The duplication occurs because there is not a unique identifier across the four agency lists by which to compare the lists.
- ix. If this and other proposed recommendations do not significantly reduce the number of non-responses and "no-shows," the FJD might have to reconsider instituting other measures such as "show cause" hearings ("Scofflaw Court").
- x. Currently, the FJD utilizes a summons that includes a great deal of information, yet may not be clear to all who receive it. This can create a barrier for those summoned. The challenge is to make the summons more understandable and "user-friendly," to increase traffic to the website, and to increase the number of those reporting for service. See copy of the summons in the Appendix I.
- xi. The Workgroup has evaluated summonses used by other counties in Pennsylvania and the U.S. District Court of the Eastern District of Pennsylvania to determine what should remain on the summons and what may be moved to the website. There has been contact with a Georgetown professor who will have a summons prototype available in 2018.
- xii. The website is not as user-friendly as it could be. Providing additional information and making it more accessible could lead to higher juror response rates.
- xiii. Currently, the jury system has its own drop box on the main FJD website. <https://www.courts.phila.gov/jury/service/> The Committee does not recommend that the Jury Commission have its own stand-alone website, but it does recommend that jury information be more visible and accessible on the FJD website. The jury content should be updated and there should be a link to the FJD's new jury video.
- xiv. If the FJD decides not to create a stand-alone Twitter account for jury service, the Jury Commission staff should have access to the FJD account.
- xv. At the request of the Juror Participation Initiative Committee, the National Center for State Courts conducted a brief survey to obtain information about how judges interacted with summoned jurors. The results of the survey underscored the Committee's belief that judicial interaction with citizens, including those ultimately not selected for a jury trial, is both feasible and beneficial. The jury selection process is a unique and ideal opportunity for judges to interact with citizens to stress the importance of jury service and to obtain valuable feedback. The Committee recommends such interaction and believes that the FJD could benefit from learning from other jurisdictions. See Appendix 4 for chart prepared by Greg Hurley (Senior Knowledge Management Analyst, National Center for State Courts).
- xvi. In November and December of 2017, the Civil Jury Project at NYU School of Law held a number of "Jury Improvement Lunches" around the country in selected jurisdictions. The purpose of these lunches is to thank jurors for their service and to learn from them how to improve jury trials. This Project has contacted the FJD. <http://civiljuryproject.law.nyu.edu/dallas-jury-improvement-lunch/>.
- xvii. Juror appreciation activities acknowledge the important work of jurors, encourage others to serve, and provide an opportunity for media coverage. In addition, the Committee is exploring a partnership with the Greater Philadelphia Cultural Alliance that would provide jurors with free or discounted tickets to cultural events as an incentive for jury service.
- xviii. Many people are excluded from jury service because of the lifetime statutory exclusion of people with criminal records of a crime punishable by a term of imprisonment of more than one year and who have not been granted a pardon or amnesty. This exclusion includes individuals who have been convicted of a second degree or higher felony and first- or second-degree misdemeanor.
- xix. States vary in how they relax the criminal record ineligibility rules for jury service and voting. Some states, for example, may limit the duration of disenfranchisement, restrict ineligibility to repeat offenders, distinguish eligibility for criminal versus civil trials, and relax eligibility on the

basis of the grade or nature of crime (e.g., misdemeanors vs. felonies, such as murder, sex offenders, felony bribery). See Kalt, Brian C., The Exclusion of Felons from Jury Service, 53 AM. U. L. REV. 65 (2003). Also, see Appendix 5: PA Interbranch Commission on Gender, Racial and Ethnic Fairness which documents the experience of other jurisdictions with respect to juror exclusion based on criminal records. If and when the statute is changed, an educational campaign would be necessary to inform people about the revised law.

- xx. There was an expressed concern by some Committee members that even if people with criminal records could serve legally on a jury that they would not be selected for a trial, particularly in criminal trials. It was suggested that their service be limited to sitting on a civil trial. Such a procedure would have to be reconciled with the requirement for randomness in jury selection. Further research is recommended.
- xxi. While this recommendation does not directly address the objective of increasing citizen participation in the jury process, there is an indirect effect. It is not uncommon, for example, to hear complaints from citizens about the alleged waste of time in the selection of jurors because of substantial delays, scheduling conflicts among judges, settlement negotiations and/or plea bargaining. Negative attitudes toward the jury selection process, for example, may spread through word of mouth and adversely affect the FJD's attempt to improve the jury selection process. Judicial administration can play a pivotal role in promoting effective jury management processes. Furthermore, judicial leadership can promote greater understanding and compliance through communication and judicial education.

PHILADELPHIA JUROR PARTICIPATION INITIATIVE

PERSPECTIVES AND EDUCATIONAL OUTREACH WORKGROUPⁱ

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
1. Distrust of system	A. Adult Education and Marketing	
	<ul style="list-style-type: none"> Prepare a detailed strategic action plan that reflects the recommendations below. Consider consulting with marketing/PR experts in the drafting of the plan. 	FJD
	<ul style="list-style-type: none"> Develop a series of social media messages for the general public and particular audiences based on the barriers and challenges listed in this report that can be used by the court system itself and/or in partnership with civic, legal, political, and faith-based organizations. 	FJD
	<ul style="list-style-type: none"> Collaborate with the U.S. District Court of the Eastern District of Pennsylvania on educational/outreach efforts.ⁱⁱ 	FJD
	<ul style="list-style-type: none"> Create a list of organizations and social media sites which can spread positive messages, such as: City Council; the Mayor's office, political entities (such as ward leaders and committee people who interact with citizens); civic organizations; faith-based groups, legal and business organizations; and general public social media sites. 	FJD
	<ul style="list-style-type: none"> Produce public service announcements with celebrity messengers or with former jurors, etc. 	FJD
	<ul style="list-style-type: none"> Research other jurisdictions' materials for possible replication in Philadelphia. 	FJD

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
1. Distrust of system (cont.)	<ul style="list-style-type: none"> Seek news stories about jury service and positive experiences with courts, including interviews with former jurors. Continue the Judicial Ambassador Program as a mechanism to describe to adults the importance of jury service. Encourage attorneys to participate in or expand their educational outreach efforts about jury service. <p>B. Youth Outreachⁱⁱⁱ</p> <ul style="list-style-type: none"> Ensure that the School District's curricula for elementary, middle, and high school students include adequate information about jury service.^{iv} Encourage student trips to view trials and meet judges and lawyers to increase their understanding of the legal system and the importance of jury service. Encourage the ACE Program's volunteer judges and lawyers to regularly include information about the value of jury service in their civics education classes. Support and encourage the Philadelphia Bar Association's Law Week Programs and mock trials to enhance appreciation for jury service. Continue the Judicial Ambassador Program as a mechanism to describe the importance of jury service to youth. Promote the use of the FJD video on jury service for use in high schools and encourage the creation of an age-appropriate video for younger students. Distribute source materials from The Rendell Center for Civics and Civic Engagement,^{vi} disseminate a graphic (illustrated) novel to high school students on civics and the jury system by the National Center for State Courts,^{vii} and promote school contests and projects on this topic. 	<p>FJD</p> <p>FJD Judicial Ambassador Program^{ix}</p> <p>Philadelphia Bar Association & Affinity Bar Associations^x</p> <p>School District of Philadelphia (School District)</p> <p>ACE Program^{xi} of Philadelphia Bar Association; School District, Judicial Ambassadors Program</p> <p>Philadelphia Bar Association, Affinity Bar Associations,</p> <p>FJD & School District</p> <p>FJD Judicial Ambassador Program</p> <p>FJD</p> <p>School District (students should help develop messages), FJD, National Center for State Courts, ACE Program</p>

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
2. Apathy	<p>A. Adult Education and Marketing</p> <p>Community Outreach: Focus on entire City with emphasis on zip codes with low response rates to summons^{xiii}</p> <ul style="list-style-type: none"> Educate Philadelphians about the jury process, emphasizing what to expect, the important role that citizens can play in the justice system, jury service as a civic responsibility, and the negative impact of non-participation. Expand use of social media, including the creation of a Twitter feed and Facebook page for the Jury Commission Office. Create public service messaging, utilizing the services of former jurors, celebrities with broad public appeal, and/or the types of messages used in other jurisdictions. Develop public advertising such as billboards, bus and subway advertising (referred to as Interior Transit Cards) as a cost-efficient way to reach a captive audience with this message. Customize FJD's educational messaging for different parts of the city, particularly in zip codes with lowest juror response rates. <p>B. Role of Court</p> <ul style="list-style-type: none"> Enlist judges to serve as educational messengers when they meet with jurors, including both those who are selected and those not selected for trial. 	<p>FJD, legal, civic, political, business & Faith Based organizations</p> <p>FJD</p> <p>FJD</p> <p>FJD</p> <p>FJD</p> <p>FJD</p>
3. Apprehension & Anxiety ^{xiii, ix}	<p>A. Adult Education and Marketing</p> <ul style="list-style-type: none"> Directly address in written materials, such as social media and public service announcements, potential jurors' concerns that they are unworthy of jury service, emphasizing the jury system's need for jurors from all walks of life and all areas of the city. Highlight everyday people in ads to promote service. <p>B. Role of Court</p> <ul style="list-style-type: none"> Encourage judges and Jury Commission staff to emphasize to jury pools the value of every juror's participation in our system of justice.^{xv} Add positive messaging on juror summonses, questionnaires and/or website.^{xvi} 	<p>FJD, Bar & community organizations</p> <p>FJD</p> <p>FJD</p> <p>FJD</p>

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
4. Fear^{xvii}	<p>A. Adult Education</p> <ul style="list-style-type: none"> Convey to the public that courts are committed to ensuring that jury service is safe and secure. <p>B. Role of Court</p> <ul style="list-style-type: none"> Ensure that judges and court staff receive training to sensitize them to jurors' concerns and fears. Develop and implement strategies that protect the personal identification of jurors. Engage in on-going dialogue with justice partners, such as prosecutors and the defense bar, regarding the prevalence of fear and how to address it. Add positive and reassuring messaging on juror summons, questionnaires and/or website. 	<p>FJD, community & other organizations</p> <p>FJD</p> <p>FJD</p> <p>FJD</p> <p>FJD</p>
5. Cultural^{xviii} and Language^{xix} Misperception of Qualification to Serve	<p>A. Adult Education and Outreach</p> <p>Focus on entire city with emphasis on ethnically diverse communities and those with largest population of people with limited English proficiency</p> <ul style="list-style-type: none"> Develop action plan to reach communities with largest numbers of people with limited English proficiency. Identify predominant ethnic cultures to develop appropriate messaging and tailor materials to the particular culture. Assess whether messaging is effective in various communities. Sponsor community-based meetings to educate people, for whom English is a second language, about their eligibility to serve, the opportunity to participate in the justice system, and what to expect when they serve as jurors. Ensure that these communities understand that the judge determines whether an individual has the capacity to serve based on language ability, emphasizing that fluency is not required.^{xx} Consider utilizing the pilot project techniques used by the Pennsylvania Interbranch Commission on Gender, Racial and Ethnic Fairness to collect demographic information about prospective jurors in the FJD.^{xxi} 	<p>FJD, community, political, Faith Based organizations</p> <p>Affinity Bar Associations</p> <p>FJD</p> <p>FJD</p> <p>FJD</p> <p>FJD, community leaders and organizations in neighborhoods</p> <p>FJD, community leaders and organizations in neighborhoods</p>

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
5. Cultural ^{xviii} and Language ^{xix} Misperception of Qualification to Serve (cont.)	F. Role of Courts: Internal and Public Education <ul style="list-style-type: none"> Educate court personnel and judges regarding the perspectives and cultural differences of prospective jurors, as well as sensitivity to the language concerns of jurors.^{xxii} 	FJD, in consultation with Affinity Bar Associations FJD

- i. The following Workgroup chairs spent many hours on this project and the FJD is very grateful: Phoebe Coles, Jennifer Coatsworth, Ezra Wohlgeleit and Evelyn Sample-Oates. Invaluable assistance was provided by other Workgroup members who were very dedicated to this project: Keir Bradford-Grey, Rev. Jay Broadnax, Marc Coleman, John Delaney, Greg Hurley, Donna Clement Jackson, Priscilla Jimenez, Hon. Benjamin Lerner, Patrick Martin, Judge Barbara McDermott, Judge Commissioner Daniel Rendine, Gabe Roberts, Dominique Ward, David Wolf, Chris Bartlett, and Lynn Marks.
- ii. As mentioned in the Jury Management Workgroup report, the Standing Jury Committee of the U.S. District Court for the Eastern District of Pennsylvania addresses topics including, but not limited to, juror utilization, demographics and diversity, review of its Jury Plan, community outreach and other areas to improve the overall selection of jurors.
- iii. The point person at the School District is Evelyn Sample-Oates, Chief of Family & Community Engagement at School District of Philadelphia. She is also a member of the Juror Participation Initiative and co-chairs the Workgroup on Perspectives and Educational Outreach.
- iv. Civics courses have recently returned to the School District's curricula. There is coverage of jury service in 5th through 12th grades. The curricula for 1st through 4th grades now include a section on government, but not on jury service specifically. The FJD should discuss with the School District whether jury service could be included as a topic in the younger grades.
- v. Here is the link to the video that is shown to prospective jurors in the Juror Assembly Rooms and is cited on social media. <https://www.youtube.com/watch?v=5dG2orolwpk>
- vi. The Rendell Center for Civics and Civic Engagement promotes civic education and engagement. According to its website, "To accomplish this, we offer opportunities for educators and students to develop the knowledge, practices and dispositions of engaged citizenship. For educators, we create curriculum content, pedagogical tools, and professional development experiences. The Rendell Center also provides to students of all ages and grade levels opportunities, events, and spaces for dialogue about and engagement with issues of citizenship and civics." <https://www.rendellcenter.org/>
- vii. The National Center for State Courts (NCSC) launched a public awareness campaign several years ago to educate the public about how the courts work. The central effort of the campaign was to develop a series of graphic novels called "Justice Case Files." These novels have been widely used in schools across the country to educate students about how courts protect the public and why courts are important in a democracy. Two Virginia social studies teachers developed comprehensive lesson plans. Dissemination of these novels have been made possible across the country through collaboration and financial support of civic organizations, law firms, and others.
- viii. There are currently five novels in the series, one of which is devoted to jury service. "Justice Case Files 3: The Case of Jury Duty" tells the story of an 18-year old who has been summoned for jury duty on a case that involves underage drinking and driving. Readers learn how meaningful jury service is, how the jury system is a source of accountability for courts, and how society benefits from the right of a jury of one's peers. For more information, see <http://www.ncsc.org/justicecasefiles/>
- ix. The FJD's Judicial Community Outreach-Judicial Ambassador Program seeks to make the work of the courts more transparent by interacting with the public to educate about the legal system and highlight the programs of the First Judicial District. <https://www.courts.phila.gov/jco/>
- x. Here are the affinity bar associations in Philadelphia. They coordinate with the Philadelphia Bar Association.
 - The Barristers' Association of Philadelphia <http://www.phillybarristers.com/>
 - Hispanic Bar Association-PA <http://www.hbapa.net/>
 - National Bar Association, Women Lawyers Division <http://nbawldphila.org/>
 - South Asian Bar Association-Philadelphia <http://www.sabaphilly.org/>
 - Asian Pacific American Bar Association-PA <http://www.apaba-pa.org/>
 - Philadelphia Diversity Law Group <https://pdlg.net/>
 - Gay and Lesbian Lawyers of Philadelphia (GALLOP)
 - Louis D. Brandeis Law Society <http://brandeislawsociety.org/>
 - Brehon Law Society <http://www.brehonlawsociety.org/>
 - Justinian Society of Philadelphia <http://www.justinian.org/>
- xi. Advancing Civics Education ("ACE") is a comprehensive initiative of the Philadelphia Bar Association that seeks to bring volunteer lawyers and judges into Philadelphia public high schools in order to engage in critical thinking about government, law and dispute resolution. The ACE enrichment program complements students' existing curriculum. <http://www.philadelphiabar.org/page/SCPublicSchoolEducation>
- xii. See Philadelphia zip code map with juror response rates in this Report's section on non-response rates.
- xiii. The problem of apprehension and anxiety refers to an individual's discomfort with one's ability to communicate, not feeling smart enough, or

- feeling out of place because of ethnic, racial, religious, gender, social-economic, disability, LGBTQ, identity, etc.
- xiv. Anxiety of financial impact is addressed in the Workgroup chart addressing Hardship and Inconvenience. The Perspectives and Educational Outreach Workgroup recommends that there be an educational campaign to encourage employers to continue to pay employees who perform jury service.
 - xv. This point assumes that some jurors with these concerns do report for service even though the Committee's priority is reaching those who do not even respond to a summons.
 - xvi. The Jury Management Workgroup recommends that the Standing Committee of the FJD review the language and layout of the summons and questionnaire. While a priority is to simplify the summons and not encumber it further, this suggestion to address people's possible concerns could be considered as the summons, questionnaire and website are assessed.
 - xvii. Fear refers to some people's fear of intimidation if they serve on a jury, especially in their neighborhoods.
 - xviii. Cultural differences can include the physical (e.g., not making eye contact with authority figures), attire (e.g., based on one's religion), as well as religious (e.g., not comfortable being sworn in or may not believe they should sit in judgment of others).
 - xix. Although jurors are required by statute to read, write and understand English, many citizens who speak English as a second language (ESL) are sufficiently proficient in English to qualify but may believe otherwise.
 - xx. PA has one of the more strict requirements (42 Pa. Cons. Stat. §4502), as it requires reading, writing, and speaking of English without a "sufficiency" standard found in the federal law. The Federal English language juror requirement, set forth in the Jury Selection and Service Act of 1968, provides that jurors must be able to "read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form." For a fuller discussion, see Jasmine B., Gonzales Rose, *Language Disenfranchisement in Juries: A Call for Constitutional Remediation*. 65 HASTINGS L. J. 811 (2014).
 - xxi. The FJD should assess the feasibility and value of collecting baseline demographic information as has been conducted in several counties in Pennsylvania through the Jury Pilot Project of the Pennsylvania Interbranch Commission on Gender, Racial and Ethnic Fairness. The four districts that participated in the project were Erie, Cumberland, Beaver, and Northumberland. In addition, the Allegheny County Court Administrator's Office collects demographic information on an optional basis from jurors at the completion of their juror service. The Juror Participation Initiative did not have consensus on whether to collect racial and ethnic information on jury questionnaires, even if collecting information is made optional.
 - xxii. The Pennsylvania Interbranch Commission on Gender, Racial and Ethnic Fairness has sponsored educational programs on these topics.

PHILADELPHIA INITIATIVE ON JUROR PARTICIPATION

HARDSHIP AND INCONVENIENCE WORKGROUPⁱ

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
1. Inadequate Compensation/ Loss of Employment Income	A. Seek legislation providing for the following: <ul style="list-style-type: none"> Significant increase in juror pay^{ii,iii} Tax credits for employers and self-employed jurors to cover losses due to jury service;^{iv} and/or A requirement that employers pay employees while serving on juries.^v 	PA General Assembly
	B. Establish a Lengthy Trial Fund ^{vi,vii} by seeking enactment of a civil filing surcharge or initiating a juror fee donation program. ^{viii}	PA General Assembly, FJD
	C. Initiate a public campaign to encourage top area employers to pay their workers while they perform jury duty. ^{ix}	FJD, bar associations, Chamber of Commerce, select companies that could be leaders

BARRIERS/ CHALLENGES	RECOMMENDATIONS	IMPLEMENTING ENTITIES
2. Caretaking Responsibilities	<p>A. Provide simple, streamlined process for caretakers of young children, elderly and ill relatives to request and obtain a temporary excusal or deferment of jury service.</p> <p>B. Ensure that the names of the excused jurors are retained on the list of potential jurors for the next jury term.</p> <p>C. Revise the language on the juror summons^x to clearly inform potential jurors of the availability of a temporary excusal or deferment for caretakers.</p> <p>D. To enable jurors who are primary caretakers of children to serve on juries, provide one or more of the following:^{xi}</p> <ul style="list-style-type: none"> • A court-sponsored childcare program funded directly by the courts or through a juror fee donation program; • A discount voucher for a non-court-related childcare program; or • Another form of assistance, funded through grants from foundations or other entities. 	<p>PA General Assembly, FJD</p> <p>FJD</p> <p>FJD</p> <p>PA General Assembly, FJD</p>
3. Transportation Hardships	<p>A. Seek an agreement with the public transportation authority (SEPTA) to reduce or eliminate the cost of public transportation for jurors.</p> <p>B. Seek agreements with public and private parking lot operators to reduce or eliminate the cost of parking for jurors driving cars to and from the courthouse.^{xii}</p> <p>C. Seek an agreement with taxi and ride-sharing companies, such as Uber or Lyft, to reduce or eliminate the cost of taxi fare for jurors to be transported to and from the courthouse while on jury duty.</p> <p>D. Provide mileage reimbursement to jurors who use their own cars to drive to and from the courthouse as provided by all other PA districts.^{xiii}</p>	<p>FJD, Mayor's Office</p> <p>FJD, Mayor's Office</p> <p>FJD, Mayor's Office</p> <p>PA General Assembly</p>
4. Schedule Conflicts and Extreme Inconvenience	<p>A. Clarify and simplify juror summonses to notify potential jurors of the availability of a temporary excusal for scheduling conflicts and how to schedule a more convenient date.</p> <p>B. Publicize the online juror questionnaire, which allows potential jurors with conflicts to select their new date of service.</p>	<p>FJD</p> <p>FJD</p>

- i. Thanks to Workgroup chair, Attorney Lisette “Mimi” McCormick, Executive Director of the PA Interbranch Commission on Gender, Racial and Ethnic Fairness, who has been an invaluable resource to the Committee and who drafted this Workgroup report. Other Workgroup members who added valuable assistance included Judge Sheila Woods-Skipper, Judge Jacqueline Allen, Greg Hurley, Jury Commissioner Dan Rendine, Patrick Martin, John Encarnacion and Lynn Marks. Thanks also to Margaret Ogden, staff attorney at the PA Interbranch Commission on Gender, Racial and Ethnic Fairness.
- ii. Legislation to increase compensation is introduced annually, but has not made it to the floor for a vote in the Pennsylvania General Assembly because of the high price tag. According to the PA Interbranch Commission on Gender, Racial and Ethnic Fairness, Pennsylvania’s \$9 per day juror compensation was adopted in 1959 when the minimum wage was \$1 per hour. Jurors were paid \$9 for a full day’s work. The compensation package was amended in 1980 to provide \$25 per day after the third day of service. The 1980 amendment reflected the existing \$3.10 minimum wage, and again paid the jurors for a full day’s work. The same 1980 amendment provided jurors with a \$.17 mileage compensation, which also reflected the existing per diem rate in 1980. For more information, see THE PENNSYLVANIA INTERBRANCH COMMISSION FOR GENDER, RACIAL AND ETHNIC FAIRNESS, BEST PRACTICES FOR JURY SELECTION AND SERVICE IN PENNSYLVANIA, 18 (2016).
- iii. “Approximately 40 states compensate jurors for their service. The compensation packages range from \$5 to \$60 per day. The average is \$25.77 plus mileage. The median payment is \$30. Only three states pay less than Pennsylvania’s \$9.”
- iv. House Bill 1127 would require employers to pay a juror’s ordinary wage or salary each day that the employee is required to report for service, and the Commonwealth would grant a tax credit to the employer for the amount expended. This legislation remained in the House Judiciary Committee as of September 2017.
- v. See Appendix 6 for Memorandum regarding “Sharing the Financial Burden of Jury Service” prepared by Greg Hurley, National Center for State Courts. Eleven (11) states statutorily require employer compensation, some with limitations (such as limiting the number of days or size of employer from whom payment is required).
- vi. A “lengthy trial fund” is a dedicated, statewide fund from which courts compensate jurors for their individual reasonable expenses and lost wages when their service extends beyond a statutorily-set duration. Refer to the Hurley memo referenced in endnote 5. See these examples of lengthy trial funds: A.R.: §21-222 (Arizona), 28 O.S. 86 (Oklahoma), and Miss. Code Ann. §25-7-61 (Mississippi).
- vii. The average trial in the FJD lasts approximately three days. In 2016, 468 cases lasted longer than three days, with an average of 39 per month. In 2017, before late September, 367 trials were more than three days with an average of 41 per month.
- viii. For an overview of juror fee donation programs that exist in Pennsylvania, see “Juror Fee Donation Program Is a Hit”, AOPC Connected, Issue 1 (2016) (available online at <http://www.pacourts.us/assets/files/setting-4863/file-5104.pdf?cb=fdcd9>). While some juror fee donation programs contribute to community non-profit agencies, others allow jurors to earmark their donation to a general juror fund which could be used for parking vouchers, lengthy trial compensation, accommodations in the juror assembly room, or other juror priorities. If the FJD chooses to create such a program, the donations should be earmarked exclusively for a juror fund.
- ix. See Perspectives and Educational Outreach Workgroup recommendation to educate employers about the importance of jury service and continuing to compensate employees who serve.
- x. See the chart of the Jury Management Workgroup for other suggestions for the summons and online informational resources.
- xi. Currently, Allegheny County and Montgomery County are the only two judicial districts in Pennsylvania that provide childcare for jurors. See THE PENNSYLVANIA INTERBRANCH COMMISSION FOR GENDER, RACIAL AND ETHNIC FAIRNESS, BEST PRACTICES FOR JURY SELECTION AND SERVICE IN PENNSYLVANIA, September, 2016 (available online at http://www.pa-interbranchcommission.com/_pdfs/SuggestedStandardizedProcedures-Oct-2016.pdf) The National Center for State Courts does not have information about how jurisdictions outside of Pennsylvania address this problem.
- xii. The City of Philadelphia should bear some responsibility by subsidizing transportation by, for example, providing total or partial reimbursement of the SEPTA fare. Also, the City should make some parking accommodations for those who travel by car, perhaps limited to jurors who are actually selected to sit on a jury. Many other counties provide free parking for jurors, whether or not they are actually selected to sit on a jury.
- xiii. Currently, under PA C.S. §4561, jurors in every judicial district except the First Judicial District receive mileage compensation.

Appendix 1

CURRENT JURY SELECTION PROCESS

SUMMONS TO REPORT FOR JURY DUTY

You have been randomly selected for jury duty. By order of the Honorable Pamela P. Dembe, President Judge, Court of Common Pleas, you are summoned to appear for jury service at the time, date, and location indicated below. Failure to appear as directed can result in a fine for contempt of court.

REPORT TIME AND DATE



IMPORTANT: Reporting instructions for jurors change daily. Call the jury information line at 215 683-7170 between 5PM and midnight the night before you are scheduled to appear and choose option "2," "Juror Call In," to learn of any possible change in your reporting instructions. When placing this call, have your nine-digit participant number available.


ONE DAY, ONE TRIAL

Your commitment for jury service is limited to one full day or the duration of a trial if selected.

FILL OUT THE JUROR QUESTIONNAIRE

ABOVE. Fold, seal, and return the completed questionnaire to the Jury Commission within 5 days after receipt. If a problem occurs after you have returned your questionnaire and you cannot serve on the summons date, call 215-683-7170 to reschedule or fax your request to 215-683-7183.

BRING THIS SUMMONS WITH YOU when you report for jury duty. Dress comfortably but appropriately. Weapons, along with cameras are not permitted in the building. You will have periods when you are asked to wait. We encourage you to bring work or reading material to occupy your time during these periods. Certification for your employer will be provided at the end of your service.

 In accordance with the Americans with Disabilities Act, any persons with disabilities needing special help to serve should contact the Jury Administration at 215-683-7170.

Visit our website to learn more about jury service and the courts at: <http://www.courts.phila.gov/juryservice/>

01-304 (Rev 1/2011)

FJD Juror Summons

FINAL NOTICE OF JURY SERVICE

RECENTLY, YOU WERE SENT A QUESTIONNAIRE AND SUMMONS TO REPORT FOR JURY SERVICE. TO DATE WE HAVE NOT RECEIVED YOUR REQUIRED RESPONSE. YOU MUST IMMEDIATELY COMPLETE THE QUESTIONNAIRE AND RETURN IT TO THE JURY COMMISSION. YOU MAY ALSO COMPLETE THE QUESTIONNAIRE ON-LINE AT WWW.COURTS.PHILA.GOV/JURYSERVICE/.

FAILURE TO APPEAR AS SUMMONSED IS AN OFFENSE PUNISHABLE FOR CONTEMPT OF COURT AND YOU MAY BE FINED IN AN AMOUNT NOT EXCEEDING \$500 OR IMPRISONED FOR A TERM NO MORE THAN TEN DAYS OR BOTH.

ALL QUESTIONS CONCERNING THIS FINAL NOTICE SHOULD BE DIRECTED TO 215-683-7170. YOUR APPEARANCE DATE AND JUROR NUMBER ARE PRINTED ON THE REVERSE SIDE OF THIS POSTCARD.

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IF YOU HAVE ALREADY RETURNED THE QUESTIONNAIRE, PLEASE DISREGARD THIS NOTICE.

FJD Reminder Postcard

JUROR PARTICIPATION INITIATIVE: MISSION & METHODOLOGY

The Philadelphia Courts FIRST JUDICIAL DISTRICT OF PENNSYLVANIA NEWS RELEASE

FOR IMMEDIATE RELEASE

Date: January 24th, 2017

Contact: Gabriel Roberts @ gabriel.roberts@courts.phila.gov or 267.319.6345

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PHILADELPHIA COURTS ANNOUNCE 'JUROR PARTICIPATION INITIATIVE COMMITTEE'

Goal is to increase juror participation and expand pool of potential jurors.

PHILADELPHIA, PA — Philadelphia Common Pleas Court President Judge Sheila Woods-Skipper and Administrative Judge Jacqueline F. Allen, head of the Court's Trial Division, joined Mayor Jim Kenney, and other judges to announce the formation of the Juror Participation Initiative Committee (JPIC), a blue-ribbon panel formed to advise and recommend ways for the Courts to increase the number of potential jurors who respond to their jury duty summons.

According to Philadelphia Jury Commissioner Daniel Rendine, Esq., "approximately 42% of Philadelphia residents who are mailed a summons to appear for jury duty fail to respond to the notice. This high rate of non-response results in the Court having to rely on an existing pool of civic-minded citizens who are continually forced to serve more frequently than would normally be the case if more of the non-responders chose to perform their civic duty."

In announcing the panel, President Judge Woods-Skipper said, "these dedicated individuals are tasked with formulating strategies to help the Court increase jury duty participation so the burden for service is shared by more, resulting in longer periods between service for all of our citizens."

Lynn A. Marks, Esq., formerly the director of Pennsylvanians for Modern Courts, has been tapped to Chair the committee, which is comprised of a diverse group of stakeholders, representing varied groups and constituencies that comprise the city's potential juror pool.

Commenting on the creation of the committee, Trial Division head Judge Allen said, "It is critically important from the standpoint of a fair and equal judicial system, that we have an on-going and sufficient pool of jurors from all cross-sections of our city."

"In assembling the committee, we considered the broad impact which representative juries can have on a community like Philadelphia," said Marks. "Because the Courts are a public institution, increasing juror participation not only serves the interests of those who appear in court, but also the interests of the community as a whole."

The JPIC consists of legal professionals, community leaders, representatives from City Council and the Mayor's Office, the School District of Philadelphia, and local business leaders.

Judicial Representatives include Court of Common Pleas President Judge Sheila Woods-Skipper, Court of Common Pleas Administrative Judge Jacqueline Allen, and Court of Common Pleas Judge Barbara McDermott.

"Our basic premise in putting the committee together surrounds the notion that jury service is fundamentally good for the courts and society as well as our individual communities," said Judge Allen. "Jury service is the essence of a participatory and engaging democracy."

Representatives from the National Center for State Courts and the FJD's Jury Commission will also contribute by evaluating available data, both from Philadelphia, and around the country.

A full list of committee members is attached.

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Appendix 3

JUROR PARTICIPATION INITIATIVE COMMITTEE MEMBERS (January 2017)

NAME	ORGANIZATION
Lynn A. Marks	Juror Participation Initiative Committee - Chair
Chris Bartlett	William Way LGBT Community Center - Executive Director
Keir Bradford-Grey	Defender Association –Chief Defender
Reverend Jay Broadnax	Black Clergy of Philadelphia &- Vicinity - President
Donna Clement Jackson	Office of Councilman Derek Green - Director of Constituent Services
Jennifer S. Coatsworth	Philadelphia Bar Assn. - Assistant Secretary, Board of Governors
Marc Coleman	Greater Philadelphia Chamber of Commerce - Board of Directors
Phoebe Coles	League of Women Voters - Board of Directors
John Delaney	Trial Division - District Attorney's Office - Deputy District Attorney
John Encarnacion	Asian Pacific American Bar Assn. of PA, Past President &- Treasurer
Greg Hurley	National Center for State Courts - Sr. Knowledge Management Analyst
Priscilla Jimenez	Hispanic Bar Association - President
Hon. Benjamin Lerner	Mayor's Office – Deputy Managing Director
Lisette "Mimi" McCormick	PA Interbranch Commission for Gender, Racial &- Ethnic Fairness-Executive Director
Evelyn Sample-Oates	School District of Philadelphia, Gov't. Relations &- External Affairs –Executive Director
Matthew Olesh	Phila. Bar Assn, Young Lawyers Section President
Rick Pierce	AOPC – Judicial Programs Administrator
Zig Pines	Former AOPC Administrator
Gabriel Roberts	First Judicial District – Communications Director
Laurie Sacerdote	AOPC – Research and Statistics
Dominique Ward	Barristers' Association of Philadelphia - Executive Committee
Ezra Wohlgerlenter	Philadelphia Trial Lawyers Association - President
David S. Wolf	Philadelphia Assn. of Defense Counsel - President
JUDICIAL REPRESENTATIVES	
Hon. Sheila Woods-Skipper	First Judicial District - President Judge, Court of Common Pleas
Hon. Jacqueline Allen	First Judicial District - Administrative Judge, Trial Division
Hon. Barbara McDermott	First Judicial District - Chair, Judges' Jury Committee
JURY STAFF	
Daniel Rendine, Esq.	Office of the Jury Commission – Jury Commissioner
Patrick Martin	Office of the Jury Commission – Court Administrative Officer

Appendix 4

JURY MANAGEMENT WORKGROUP:

From: Greg Hurley, National Center for State Courts

Re: **Brief Survey about How Judges Interact with Summoned Jurors who do not Serve on a Jury that reaches a Verdict**

Date: September 13, 2017

In the spring of 2017, a survey was drafted to get some basic information about the way judges interact with summoned jurors who do not serve on a jury that reaches a verdict.

The survey was distributed by placing a notice in the *Jur-E Bulletin*, which is a weekly newsletter produced by the National Center for State Courts that targets jury managers and judges who are interested in jury management issues. The survey was intentionally very brief so that as many people as possible would choose to voluntarily respond to it. There were 82 people that took the survey.

The basic premise of the survey was that when judges address jurors about the importance of jury service, jurors are more likely to be responsive to the message than when it is done by a court staff member.

- The results show that in the majority of responding courts, a judge speaks to the jury members if there is a last-minute plea or settlement that causes their service to be unnecessary.
- However, when jurors are unused more generally, in most courts judges do not address them personally.

Below are the questions and responses:

1. In your jurisdiction, following a jury trial or the release of jurors due to a plea/settlement does a judge engage the jurors in a dialogue that goes beyond thanking them? (q1)	
Yes	53
No	23
Total	82
2. In your jurisdiction, does a judge engage in a dialogue with those who have been summoned (but not selected to serve on a jury) beyond thanking them? (q2)	
Yes	21
No	52
N/A	2
Total	82
3. Do you ask those summoned how the process of jury selection can be improved? (q3)	
Yes	39
No	33
N/A	3
Total	82

Appendix 4

JURY MANAGEMENT WORKGROUP: (cont.)

4. Have such interactions with those summoned been helpful in identifying ways to improve the juror selection process and experience? (q4)	
Yes	39
No	13
N/A	23
Total	82
5. Did the summoned jurors express any negative experiences in connection with their service? (q5)	
Yes	46
No	27
Total	82
5a. Please identify some of the reasons jurors indicated they had negatives experiences. (q5a)	
Poor customer service	6
Waste of time	28
Lack of communication	11
Transportation difficulties	15
Loss of income	35
Child care or caregiver difficulties	26
Other, please specify	15
Total	46
6. Has your court used any of the following in the past 3 years to get feedback from jurors? (q6)	
Comment Cards	18
Surveys	33
Other	8
Total	76

Appendix 5

JURY MANAGEMENT WORKGROUP: (cont.)

From: Lisette McCormick and Margaret Ogden, Pennsylvania Interbranch Commission on Gender, Racial and Ethnic Fairness

Re: **Examining Juror Exclusion Rules Based on Criminal Convictions**

Date: October 4, 2017

Rationales for Excluding Jurors Based on Criminal Convictions

- Probity/Character Rationale: “a convicted felon’s character is forever marred by his or her involvement in criminal activity, to the point that only categorical exclusion from the venire will ensure the purity of the adjudicative process.”¹
- Inherent Bias Rationale: “convicted felons harbor biases directly resulting from their experiences with the criminal justice system,” biases specifically against the government and in favor of those accused of crimes.²

Harm Caused by Excluding Jurors Due to Criminal Convictions

1. Exacerbate Racial Disparities: “Because rates of criminalization vary according to race, jury exclusions relying on criminal records have a disparate impact ...” on racial minorities.³ A 2003 study estimated that juror exclusion on the basis of felony convictions alone reduced the number of Black men on juries by 30%.⁴
2. Reduce Racial and Ethnic Diversity on Juries: In many jurisdictions, juries do not represent a full cross-section of the community, resulting in less diverse juries hearing cases involving racial and ethnic minorities. Excluding individuals with criminal records exacerbates this problem.
3. Further Bar to Full Re-entry: Excluding felons from jury service attaches a stigma to individuals who have completed their sentence, preventing them from contributing fully to their communities.
4. Blanket Treatment of Different Individuals: Juror qualification tends to be about individual juror experience or biases, and a wholesale ban on jury service based on a criminal record undercuts that promise.⁵
5. Loss of Experience: “The judging of criminal cases may suffer from the absence of those with direct experience of the criminal justice system, since its workings are often not intuitive. Jurors are instructed to bring their “common sense” to their task, but laypersons’ common sense is often inadequate in the criminal justice arena.”⁶

1. Binnall, James M. The Exclusion of Convicted Felons From Jury Service: What do we Know?, Court Manager Jury New, Volume 31, Issue 1 (2016).

2. Id.

3. Roberts, Anna, Casual Ostracism: Jury Exclusion on the Basis of Criminal Convictions, 98 Minn. L. Rev. 592 (2013).

4. Kalt, Brian C., The Exclusion of Felons from Jury Service, 53 AM. U. L. REV. 65 (2003).

5. Id.

6. Roberts, supra, note 3 at 606.

JURY MANAGEMENT WORKGROUP: (cont.)

Comparing Other States' Exclusionary Rules

1. Two states, Colorado and Maine, have no prohibition on felons serving on petit juries.⁷ Colorado does bar felons from serving on grand juries for life, but Maine has no such prohibition.
2. Thirty-one states and the federal system exclude felons from juries for life, unless their rights have been restored.⁸
3. Ten states allow felons to serve on juries after they have been released from prison or completed their sentences.⁹
4. Three states allow parties to challenge felons for cause for life at the discretion of the court, allowing for a more individualized assessment of the potential juror's criminal record.¹⁰
5. Pennsylvania prohibits any individual from serving on a jury who has been convicted of a first- or second-degree misdemeanor, making PA one of 13 states that disqualify at least some individuals based upon misdemeanor convictions.¹¹
6. Arizona distinguishes between first time offenders, who are disqualified during the term of their sentence, and repeat offenders, who are disqualified for life.¹²
7. Oregon distinguishes between the civil and criminal trials in determining the length of felon exclusion. Felons are excluded from civil juries only during their incarceration, but are excluded from criminal and grand juries for the length of their incarceration plus fifteen years.¹³

7. Kalt, *supra*, note 4 at Appendix I.A.

8. *Id.*

9. *Id.*

10. *Id.* These states are Illinois, Iowa, and Massachusetts.

11. Roberts, *supra*, note 3 at 593. See also 42 Pa. Cons. Stat. §4502(a)(3) (barring from jury service any individual who "has been convicted of a crime punishable by imprisonment for more than one year and has not been granted a pardon or amnesty therefor").

12. See ARIZ. REV. STAT. ANN. § 13-904(A)(3) (suspending the jury service "right" upon felony conviction), § 21-201(3) (disqualifying from grand or petit jury service those "convicted of a felony, unless [their] civil rights have been restored"), § 13-912(A) (restoring "automatically" first-time offenders' civil rights after completion of sentence).

13. See OR. CONST. art. I, § 45(1)(a)-(b) (restricting criminal and grand jury service to those not convicted of or serving sentences for a felony within the last fifteen years, or convicted of a "misdemeanor involving violence or dishonesty" within last five years); OR. REV. STAT. § 10.030(2)(d) (2001) (declaring ineligible for civil juries one who has had rights and privileges withdrawn pursuant to section 137.281(1)(a), (7), which provides for the loss of the right/privilege to serve on a jury until "discharge or parole from imprisonment," at which point the right/privilege is "restored automatically").

Appendix 6

HARDSHIP AND INCONVENIENCE WORKGROUP:

From: Greg Hurley, National Center for State Courts

Re: **Sharing the Financial Burden of Jury Service**

Date: September 24, 2017

Issues with Financial Hardship Excusals

One of the key responsibilities and goals of every court system is to provide litigants with jury pools that are a fair cross section of the community. This means that the racial and ethnic composition of jury pools should roughly approximate the ratios in the jury eligible population. To do this, court systems need to accurately identify as many members of the jury eligible population as possible to potentially summons as well as making it feasible for these people to fulfill their civic obligation to serve. One of the reasons that people are removed from service is due to hardship excusals based on their financial circumstances. In many communities, hardship excusals based on this reason are disproportionately raised by and granted to minorities. This can ultimately have a noticeable impact on the makeup of the jury pool. In a worst-case scenario, this deficiency can cause the jury pool to be constitutionally defective.

Shifting the Burden to Employers

One of the ways that a few states have tried to address this problem is by creating a statutory requirement that employers must pay jurors their normal wage while they perform jury service. This approach does remove one impediment to jury service for a segment of society. Proponents of this approach argue that requiring employers to absorb this expense is a “cost of doing business” within the state, and the societal benefits outweigh any inequities caused by the statute. However, it is also obvious that these statutes represent the shifting of a financial burden from a government entity, whether that be the state or a county, to other private and public entities when this arguably should be the responsibility of the government to directly compensate people at appropriate levels. To be fair about this view, in a “perfect world”, jurors would be sufficiently compensated so this would not be an issue. However, the reality is that difference between the daily fee a juror receives for jury service and the amount they would make if they were at work, is sufficient to create a bona fide hardship for some of the public.

Other States’ Solutions: Requiring Employers to Pay Employees

There are states that have statutes that require employers to pay employees while they perform jury service. Alabama Code § 12-16-8 states that “...any full-time employee shall be entitled to his or her usual compensation received from such employment.” This Alabama statute does not have any limitations in regard to the length of service that an employer may be responsible for payment, the size of the employer or type of the employer (public/private). It does require an employee to notify the employer on the next day they are working following the receipt of the summons. It also requires the court to reschedule or postpone the service of a summoned juror when another employee is serving and the employer has five or less employees.

Employers’ Limited Payments to Jurors

Other jurisdictions have taken a less expansive approach to requiring employers to pay employees and thereby reducing the burden on employers. For example, both Connecticut and Massachusetts Code limit the number of days that an employer must pay. Connecticut Code § 51-247 requires an employer to pay a juror their “regular wages” for the first 5 days of service while Massachusetts Code 234A § 48 requires the same for the first three days of service. The District of Columbia has taken a similar approach in that it

Appendix 6

HARDSHIP AND INCONVENIENCE WORKGROUP: (cont.)

State	Who is covered by statute requiring employer compensation of summoned employee-jurors?
ALABAMA Ala.Code 1975 § 12-16-8	Full-time employees
CALIFORNIA Cal.C.C.P. § 215	Federal, state, or local government employees
COLORADO C.R.S.A. § 13-71-126	Full-time employees for the first 3 days
CONNECTICUT C.G.S.A. § 51-24	Full-time employees for the first 5 days
DISTRICT OF COLUMBIA DC ST § 15-718	Full-time employees for the first 5 days, if employer is in DC and has 10 or more employees
HAWAII	State employee
LOUISIANA LA Rev Stat § 23:965	Full-time employees for the first day
MASSACHUSETTS M.G.L.A. 234A § 48	Jurors are paid by their employers for the first 3 days, if they would have been scheduled to work on those days (based on past work history).
NEBRASKA Neb.Rev.St. § 25-1640	Employer may deduct juror fee paid by the court from employee wages
NEW YORK § 519	Employers with more than 10 employees pay \$40 for the first three days
TENNESSEE § 22-4-106	Usual wage minus juror fee previously paid

requires employer payment for the first 5 days but it limits this requirement to employers with 10 or more employees, DC ST § 15-718. This statutory difference with the DC statute was obviously done to ensure that the burden of this requirement would not overly impact smaller employers. Other states have placed additional limitations on their statutory versions of this concept. Colorado § 13-71-126 limits the required payment to \$50 for the first 3 days of service and New York § 519 limits required payment to \$40 for the first 3 days but only for employers with 10 or more employees.

Although limiting the scope of a statute requiring an employer to pay their employee-jurors does limit the number of people that will benefit from it, it may be enough to make a significant difference. Most jury trials whether they are civil or criminal will be tried in a few days. Therefore, limiting employer payments to five

HARDSHIP AND INCONVENIENCE WORKGROUP: (cont.)

days or even three days will ensure that the vast majority of summoned jurors in a given state will be eligible to receive their regular employer pay while serving on a jury. It also eliminates the fear that employers may have of being required to compensate an employee-juror during a lengthy trial that could last a year. The arguments can be made for statutes that limit the dollar figure employers are required to pay. They will not be as effective to ensure that low income persons can serve but will certainly provide enough financial assistance to enable many to serve.

Allowing Employers to Claim a Tax Credit for Jurors

Many employers in states that do not have a statute requiring employers to pay jurors while they fulfill their jury obligations voluntarily pay employees anyway. One way to encourage employers to have a voluntary program would be to allow the employer to claim a tax credit for the salaries paid to employees while on jury service. Although there have been efforts in several states to accomplish this, none are known to have been successful. Additionally, employers may be encouraged to have a voluntary program in jurisdictions that use one day/one trial. Although this innovation is geared towards reducing the burden of jury service on the public, it may also encourage employers to create an internal policy to pay employees while on jury service because the employer recognizes that the employee's loss of work time will be substantially limited from what it would be in jurisdictions that don't have one day/one trial.

Lengthy Trial Fund

Another mechanism that could substantially help bridge the gap in states like Connecticut and Massachusetts that require employer payment to employees while serving for a limited number of days would be the creation of a "lengthy trial fund." The state of Arizona created a Lengthy Trial Fund for jurors that are in court for jury service for more than five court business days. If the employee can document a loss of income, the fund will reimburse the individual up to \$300 a day for lost wages. A lengthy trial fund could be used in conjunction with a statute requiring employers to pay for the first few days of jury service or could be a stand-alone initiative. Obviously, this type of program would require capital, an administrative system to operate it and the political will for its creation.

Conclusion

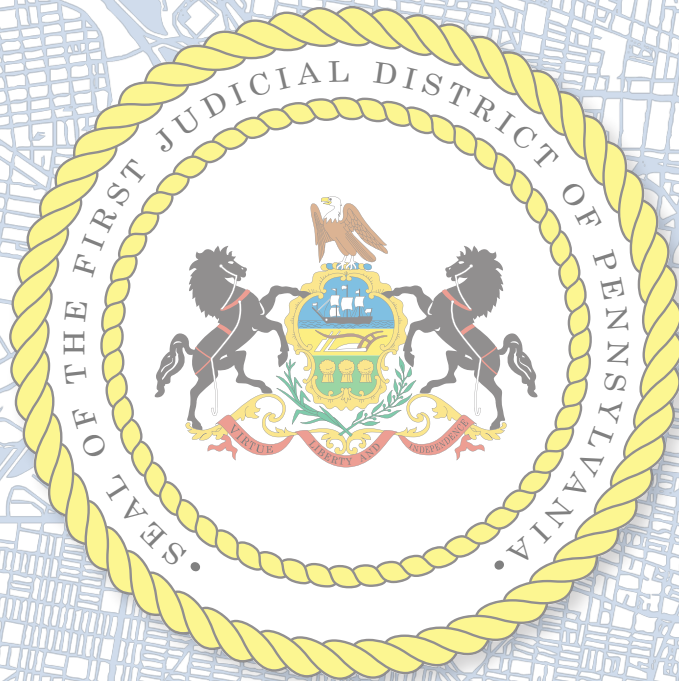
Requiring employers to compensate jurors while they perform jury service is controversial. It undoubtedly helps courts to fulfill their constitutional requirement to provide criminal defendants with a jury pool that is a fair cross section of the community. On the other hand, the governmental entity, whether it is the county or the state, has the ultimate responsibility of ensuring that a jury is a fair cross section of the community. Shifting some of that burden to employers makes pragmatic sense but it does bring into question whether it is a fundamentally fair approach.

In an ideal world, jurors would be compensated enough that requiring employers to compensate their employee-jurors would not be necessary. Or alternatively, there would be a "hardship fund" that low income jurors could access to provide the difference between their per diem juror pay and the earnings they would have obtained if they had not served.

It is not the author's intent to suggest that one system is better than another but to suggest that states need to consider their compensation system and ensure that low income summoned jurors are not slipping through the system due to hardship excusals or just failing to appear due to fear of lost earnings. If that is occurring regularly, adjustments need to be considered.



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