

Public Service and Trust Commission
Jury Committee

Implementation Plan for Adopted Recommendations (October 1, 2009)

Key:

Completed: recommendation implemented

In Progress: steps to implement the recommendation have begun, but are not yet finalized.

Ongoing: The recommendation is a long-term goal of the Workgroup/Branch. Work on this recommendation will be ongoing for the foreseeable future.

Implementation: projected date for recommendations to be implemented.

This implementation plan is organized by reference to the Jury Committee Executive Summary of Recommendations (See Jury Committee Report, pp. 12-16), rather than reorganizing the recommendations by priority, this implementation plan provides a specific projected implementation timetable.

Recommendations of the Before Court Appearance Subcommittee

Recommendation: I. Permanent Master File - Maintain the practice of annually creating the Master File. Study ways to improve the quality of the data received from the source list provider agencies. Study whether technology could overcome the disadvantages of the permanent Master File.

- **Actions:** None to date
- **Tasks remaining for completion:** Prepare letters to heads of agencies that provide source list data - complete and mailed by December 31, 2009. Obtain report from staff on data provided to source agencies and improvements resulting from notification by March 31, 2010. Review available matching software and obtain analysis of effectiveness from Jury Technical Solutions by February 28, 2010.
- **Status:** In progress
- **Implementation:** Ongoing

Recommendation: II. Improve Juror Utilization - Implement techniques statewide to reduce the number of requested jurors to obtain a utilization rate of 60 percent based on practices of court locations with high utilization rates, low cancellation rates and monitor the impact of reducing daily numbers.

- **Actions:** Revised formula in Stamford Superior Court and use of new formula is ongoing. Meeting with jury clerks and staff on Sept. 21 to discuss new formula. Will pilot formula in Hartford and Meriden by the end of 2009.

- **Tasks remaining for completion:** Will present new summoning formula to Administrative Judges by April 30, 2010. Statistical analysis continuously updated.
- **Status:** In progress
- **Implementation:** By August 31, 2010.

Recommendation: III. Improve Information re. Employment Issues. Expand and update information about rights of employed and unemployed jurors. Hold focus groups of former jurors to determine what information would be helpful.

- **Actions:** Updated employee and employer brochure in July of 2009. Provided information regarding the rights of unemployed jurors to the courts.
- **Tasks remaining for completion:** While a focus group has not yet been scheduled, jury staff are instructed to track questions from jurors regarding unemployment. Jury clerks attending the 10/23/09 quarterly meeting will be asked to relay questions from jurors regarding employment issues. Data is also being solicited from community appearances. Develop survey to be administered through call center to seek feedback from jurors and request focus group participation.
- **Status:** In progress
- **Implementation:** By March 31, 2010.

Recommendation: IV. Jury Service. Substitute the term “jury service” for “jury duty” and ensure all forms of communication (summons, notices, publications, website, videos and oral) conform to the changed terminology.

- **Actions:** As publications have come up for renewal the term jury duty has been replaced – the most recent example is the employee/employer brochure. All outreach staff and call center employees have been instructed to use this terminology in communications.
- **Tasks remaining for completion:** The publications committee called for in recommendation V. will review the notices and other media for the use of the proper terminology in addition to their other tasks.
- **Status:** In progress
- **Implementation:** By July 31, 2010 for all publications and notices. (Target date based on publications and low stock notice schedules). Implementation on-going for other forms of communication, i.e., website, jury instructions, video.

Recommendation: V. Maintain and Update Forms, Publications, Website, Video and Orientation Materials. Create a formal mechanism (a committee, dedicated staff or a combination) to develop procedures and to review, maintain, update and recommend revisions, according to an established schedule, of forms, publications and (all other media) to provide timely and accurate information regarding jury service, to ensure accurate translations into languages other than English, to ensure

uniform and proper use of terminology throughout the cycle of jury service and to respond to jurors' questions.

- **Actions:** Jury Staff already identified to serve on the committee, initial discussions regarding responsibility of committee have taken place, material on judicial website revised, employer brochure updated in July 2009. Initial discussion with court operations staff regarding jury video update has taken place.
- **Tasks remaining for completion:** Finalize membership of Jury Communications Review Committee (JCRC) and schedule first meeting, plan for focus group, identify all publications and media for update, secure funding for jury video, develop publication revision schedules, develop procedures for on-going review of all forms of communication, develop mechanism to test accuracy of translated materials.
- **Status:** In progress
- **Implementation:** JCRC membership finalized by October 30, 2009. Committee work on-going.

Recommendation: VI. Refinement of Summoning procedures. Study the legality of changing the summons calculation formula based on population within a zip code and the stability of the population within a zip code. If studies prove favorable, pursue legislative changes to implement such a change in order to enhance the representativeness of the array.

- **Actions:** None to date
- **Tasks remaining for completion:** Draft letter seeking legal opinion from SCO Legal Services by October 31, 2009
- **Status:** In progress
- **Implementation:** If opinion is favorable, submit legislation for the 2011 session with a target effective date of July 1, 2011 or October 1, 2011.

Recommendation: VII. Addressing Specific Juror Concerns About Service. Create a uniform process for jurors with specific concerns about their ability to serve, such as economic hardship or past experiences, by which those concerns can be confidentially communicated to jury administration staff before appearing and to a judge on the day of appearance.

- **Actions:** Training developed in conjunction with victim services. The first training will be given to administrative staff the week of October 5. Court staff will be trained on October 23, 2009. Revise juror handbook.
- **Tasks remaining for completion:** Establish ongoing training. Draft handbook changes and submit to legal service.
- **Status:** In progress

- **Implementation:** October 23, 2009 for training, on-going as issues arise.

Recommendation: VIII. Excusing jurors who have served on exceptionally long trials.

- **Tasks remaining for completion:** Review optimal procedures for effectuating consistent practice. Review procedure with judges.
- **Status:** In progress
- **Implementation:** Ongoing

Recommendations of the Arrival Subcommittee

Recommendation: I. Juror Orientation. Create and provide a uniform outline of points to be covered in the orientation remarks made by judges to jurors who have arrived for jury service. See also BCA Recommendation V, VII.

- **Actions:** None to date
- **Tasks:** Judges Lager and D'Addabbo will create draft outline by November 30, 2009. Circulate draft outline to working group (Judges Bellis, Devlin, Gold, Pittman) and to members of Arrival Subcommittee for review/comment by December 31 2009. Circulate to JCRC after review/comment period ends. Finalize outline and circulate to all judges by February 1, 2010.
- **Status:** In progress
- **Implementation:** February 1, 2010. On-going for necessary revisions.

Recommendation II: Pre-Screening. Implement a pre-screening process to be used upon arrival or during the orientation process that identifies prospective jurors with bona fide reasons to be excused from service before they are selected for a voir dire panel. See also BCA Recommendation VII, Voir Dire Recommendation I and II.

- **Actions:** Mary O'Connor contacted re January 2010 for training.
- **Tasks:** Incorporate the bona fide reasons that would justify excusing a prospective juror from service into the judicial juror orientation remarks (see above). Develop procedures to protect juror privacy and confidentiality. Advise orienting judges that they will be responsible for determining the legitimacy of these excuses at the time of orientation. Provide training to judges and jury clerks in January 2010.
- **Status:** In progress
- **Implementation:** effective February 1, 2010.

Recommendation III. Facilities and Logistics. Ensure comfortable seating arrangements and quiet areas for waiting jurors. Explore providing wi-fi or internet access, with instructions as to proper use during jury service. Consider these needs in planning construction of courthouses in the future. See also Voir Dire Recommendation VI, Selected Jurors Recommendation XVI.

- **Status:** Ongoing
- **Implementation:** Ongoing

Recommendation IV. Orientation Video

Create a new updated video, approximately 20 minutes long, that includes relevant points culled from the existing videos. Mandate that the video be shown in all locations. See also BCA Recommendation V.

- **Actions:** Decision made to seek grant funds to cover external production costs.
- **Tasks:** Decide on funding source and apply for funding; create a dedicated working group once funding obtained and a timetable created; working group to prepare script for review and approval by JCRC, co-chairs and CCA; production and distribution.
- **Status:** In progress
- **Implementation:** September 2010 (start of 2010-2011 term)

Recommendations of the Voir Dire Subcommittee

Recommendation: I. Judicial Supervision of all Voir Dire. Require that a judge, either the assigned trial judge or a judge trial referee, preside over voir dire in civil cases in the same manner that judges presently preside over voir dire in criminal cases.

- **Actions:** Mary O'Connor contacted re January 2010 for training.
- **Tasks:** Jury Committee co-chairs to meet with CAJ Civil and Civil PJs to discuss transition by no later than Dec. 1, 2009; Training – in conjunction with Rec. II and Rec. III below to be offered in January 2010. (Need to coordinate with Education Committee).
- **Status:** In progress
- **Implementation:** by February 1, 2010.

Recommendation: II. Pre-screening. Require that all jurors be pre-screened by a judge prior to individual questioning by counsel in order to excuse jurors who have hardships, conflicts or special difficulties hearing the case of the type on trial or who otherwise satisfy the requirements for an excusal for cause. See also BCA Recommendation VII, Arrival Recommendation II, Voir Dire Recommendation I, III, V, VI.

- **Actions**: Mary O'Connor contacted re January 2010 for training.
- **Tasks** - Jury Committee co-chairs to meet with CAJ Civil and Civil PJs and with CAJ Criminal and Criminal PJs no later than Dec. 1, 2009. Training - in conjunction with Rec. I and Rec. III to be offered in January 2010. (Need to coordinate with Education Committee).
- **Status**: In progress
- **Implementation**: by February 1, 2010.

Recommendation: III. Voluntary Use of Panel Voir Dire . Allow and facilitate the use of panel voir dire on a purely voluntary basis in any case in which all the parties request it and pertinent statutory and constitutional rights are properly waived.

- **Actions**: Mary O'Connor contacted re January 2010 for training.
- **Tasks** - Jury Committee co-chairs to meet with CAJ Civil and Civil PJs and with CAJ Criminal and Criminal PJs no later than Dec. 1, 2009. Training - in conjunction with Rec. I and Rec. III to be offered in January 2010. (Need to coordinate with Education Committee).
- **Status**: In progress
- **Implementation**: by February 1, 2010.

Recommendation: IV. Retention and Destruction of the "Confidential Juror Questionnaire". Adopt a specific formal and uniform policy, as recommended by the subcommittee in IV.3, regarding the retention and destruction of the statutorily required "confidential juror questionnaire." Require judges to inform prospective jurors about the use and privacy of the questionnaires and the retention and destruction policy. See also Voir Dire Recommendation VI.4, Selected Jurors Recommendation XV.

- **Actions**: Chief Justice approved the recommendation for a uniform specific policy.
- **Tasks**: Draft the recommended retention/destruction policy (see p. 57 of report) in a form for adoption by the Office of the Chief Court Administrator to become effective immediately upon adoption. Memo to

be circulated to judges advising them to include information about the retention/ destruction policy in voir dire remarks.

- **Status:** In progress
- **Implementation:** by November 30, 2009.

Recommendation: V. Reusing Excused Jurors. Adopt a uniform policy that requires jurors who are excused, following either pre-screening or voir dire questioning, to return to the jury assembly room to be available for inclusion on a panel for another case, taking into account, among other things, the time of day and the basis for the excusal. See also Voir Dire Recommendations I, II, III. Re-use of jurors for another voir dire panel should enhance overall juror utilization. See BCA Recommendation II.

- **Actions:** None to date
- **Tasks:** Draft memorandum for CCA to issue memo to judges that all excused jurors must be returned to the jury assembly room. Jury clerks and TACs to be likewise instructed. Uniform Guidelines and training will be provided for jury clerks re their authority to send home once jurors sent back to assembly room. Co-chairs will discuss practice during meetings with Civil and Criminal CAJs and PJs and topic will be included in January 2010 judges' training program.
- **Status:** In progress
- **Implementation:** by February 1, 2010.

Recommendation: VI. Improving Juror's Comfort. Provide an adequate and suitable environment for jurors awaiting questioning. See also Arrival Recommendation III. Minimize waiting time by implementing methods to expedite the process such as photocopying the confidential juror questionnaire for counsel, using pre-screening techniques, and allowing venire members to report at specified times for questioning. See also Voir Dire Recommendation II, III, Selected Jurors Recommendation XII.

- **Actions:** None to date.
- **Tasks:** Develop exit survey for jurors; implement pre-screening procedures; instruct jury clerks regarding photocopying of questionnaires; train judges.
- **Status:** In progress
- **Implementation:** By February 1, 2010.

Recommendation: VII. Alternate Jurors. Study methods for selection and better use of alternate jurors that are more consistent with ABA Principles for Juries and Jury Trials, Principle 11.G.2 and G.3. Conform the practices used in civil and criminal cases and seek appropriate legislative changes to do so. See Selected Jurors Recommendation XIII.

- **Actions:** None to date
- **Tasks:** Create a study group or seek outside academic or consultant to study Connecticut's practice regarding substituting alternates and compare with practice in other states. Obtain information from the National Center for state courts regarding other states' practices. Decide whether to wait for recommendations before seeking legislative change. Seek to conform criminal and civil statutes (either both should allow re-use of alternates or both should not allow).
- **Status:** In progress.
- **Implementation:** On-going.

Recommendations of the Selected Jurors Subcommittee

Recommendation: I. Post-Selection Orientation. The trial judge should provide specific orientation materials to selected jurors that address important aspects of trial service including juror conduct requirements and other key information. See also Selected Jurors Recommendation XII, XVI

- **Action :** None to date
- **Tasks:** Judges Lager and D'Addabbo will prepare a draft of specific uniform written materials by November 30, 2009 (See pp. 66-67 of Jury Committee report and also should include specific instructions regarding use of electronic methods of communication) Circulate draft outline to working group (Judges Bellis, Devlin, Gold, Pittman) and to members of Selected Jurors Subcommittee for review/comment by December 31 2009. Circulate to JCRC after review/comment period ends. Finalize outline and circulate to all judges by February 1, 2010. Discuss and explain at training sessions in January 2010. Consider adding to website after finalized.
- **Status:** In progress
- **Implementation** - February 1, 2010.

Recommendation : II. Juror Note Taking. Permit jurors to take notes during the evidentiary stages of a trial with the trial judge providing appropriate instructions about the procedures to be used.

- **Action** : No action required, current practice remains. Chairs will include review of optimal procedures for note taking as set forth at pp. 69-70 of Committee Report in a memo to the judges to be circulated by October 30, 2009.

Recommendation: III. Clear Jury Instructions. Instruct jurors in plain and understandable language regarding the applicable law and the conduct of jury deliberations and make the formulation of such clear language instructions a priority for the civil and criminal jury instruction committees.

- **Action**: None to date.
- **Tasks**: Co-chairs will bring this recommendation to the attention of the civil and criminal standing committees on jury instructions by 10/15/09. Judge Lager will propose a future educational program re drafting plain language instructions.
- **Status**: In progress.
- **Implementation** : Ongoing

Recommendation: IV. Copies of Instructions. Provide jurors with a copy of the jury instructions for use while the jury is being instructed, or alternatively use technology to display the instructions, and also provide each juror with a written copy of the instructions to use during deliberations.

- **Action** : No action required, current practice remains. Chairs will include review of optimal procedures for note taking as set forth at p. 74 of Committee Report in a memo to the judges to be circulated by October 30, 2009.

Recommendation: V. Exhibit Index

Provide an appropriately redacted index of full exhibits for use during deliberations.

- **Action** : None to date
- **Tasks**: Chairs will bring this recommendation to the attention of civil and criminal trial judges in a memo to be circulated by October 30, 2009. Submit to Rules Committee a proposed revision to CPB §§ 16-15 and 42-23 that would explicitly permit submission of a redacted index of full exhibits, along with the exhibits received in evidence.

- **Status:** In progress
- **Implementation:** Ongoing.

Recommendation: VI. Responding to Juror Questions and Requests for “Readback” of Testimony. Continue to follow the current practice, as set forth in relevant practice book sections, with sensitivity to concerns of fairness, completeness and accuracy of responses.

- **Action :** Current practice, no action required. Chairs will bring this recommendation to the attention of civil and criminal trial judges in a memo to be circulated by October 30, 2009.

Recommendation: VII. Innovative Trial Practices – Recommended. With agreement of counsel and the court, use juror exhibit binders/notebooks and/or expanded preliminary instructions in appropriate cases.

- **Action :** None to date
- **Tasks:** Chairs will bring this recommendation to attention of civil and criminal trial judges in a memo to be circulated by October 30, 2009.
- **Status:** In progress.
- **Implementation:** Ongoing.

Recommendation: VIII. Innovative Trial Practices – Not Recommended -- Do not permit the use of the following innovative trial practices – discussion of evidence during the trial of civil cases, sequential expert testimony; specific suggestions regarding the selection of a foreperson and the conduct of deliberations.

- **Action :** No action required

Recommendation: IX. Juror Questions for Witnesses. Permit jurors in civil cases to submit questions to witnesses with agreement of counsel and the court, in a prescribed manner and as currently permitted by Connecticut law. Although Connecticut law also permits the practice in criminal cases, the subcommittee recommends against that practice.

- **Action :** No action required, current practice remains. Chairs will include review of optimal procedures as set forth at pp. 84, 86 of report in a memo to be circulated by October 30, 2009.

Recommendation: X. Counseling for Jurors in Stressful Cases. Provide free appropriate counseling to jurors who report mental health challenges as a result of their jury service.

- **Action :** None to date

- **Tasks:** Determine what, if any, resources are available to the Branch to provide free counseling to jurors. Submit inquiry to legal services regarding the liability of offering referrals or services and, if permissible, obtain authority for the branch to provide counseling or referrals. Develop a resource list to provide to jurors if legal opinion authorizes it.
- **Status:** In progress
- **Implementation:** On-going.

Recommendation: XI. Jurors' Certificates of Appreciation. Prepare a standard letter of appreciation to be sent to jurors at the conclusion of the case.

- **Action :** Judge D'Addabbo contacted Judge Sheldon who agreed to draft a letter.
- **Tasks:** Create draft by November 30, 2009. Circulate draft to co-chairs and members of the Selected Jury Subcommittee for review and comment by December 31, 2009. Circulate to JCRC after review/comment period ends. Finalize outline and circulate to all judges by February 1, 2010.
- **Status:** In progress
- **Implementation:** February 1, 2010.

Recommendation: XII. Efficient Use of Jurors' Time and Communications regarding Scheduling. Manage trials in a manner that avoids wasting jurors' time and keep jurors apprised of the trial schedule, any necessary changes to the schedule and the reasons for necessary delays.

See also Selected Jurors Recommendation I, Voir Dire Recommendation VI.

- **Implementation Complete:** On-going

Recommendation: XIII. Alternate Jurors. Conform the practices used in civil and criminal cases. See Voir Dire Subcommittee Recommendation VIII.

- **Actions:** None to date
- **Tasks:** Create a study group or seek outside academic or consultant to study Connecticut's practice regarding substituting alternates and compare with alternate use in other states. Obtain information from the National Center for state courts regarding other states' practices. Decide whether to wait for recommendations before seeking legislative change. Seek to conform criminal and civil statutes (either both should allow re-use of alternates or both should not allow).

- **Status:** In progress.
- **Implementation:** On-going.

Recommendation: XIV. Juror Privacy: Post-Verdict Instructions. Require judges to instruct jurors about post-service contacts from others and to explain their rights regarding speaking about their service. Consider establishing a secure juror service phone line for post-discharge complaints and issues. See also Selected Jurors Recommendation X, Voir Dire Recommendation IV.

- **Actions:** None to date
- **Tasks:** Chairs will include the minimal post-verdict instructions as set forth at p. 93 of Committee Report in a memo to the judges to be circulated by October 30, 2009. Study whether to Add post verdict instructions to web site. Obtain legal opinion as to operation of secure reporting line and, if approved, establish secure statewide juror service line for post-discharge complaints.
- **Status:** In progress
- **Implementation:** Ongoing

Recommendation : XV. Juror Privacy: Juror Questionnaire and Personal Information. Conduct a study to determine if juror privacy may be protected in ways consistent with the ABA's Principles. See also Voir Dire Recommendation IV for a more specific proposal regarding the confidential juror questionnaires.

- **Action :** None to date
- **Tasks:** Train judges, jury clerks, TACs regarding the ABA Principles. Implement destruction policy for confidential juror questions set forth in Voir Dire Recommendation IV.
- **Status:** In progress
- **Implementation:** On-going

Recommendation: XVI. Use of Smartphones (E-Mail, Voice Mail)

Prohibit use of smartphones and similar electronic devices in the courtroom and during trial for specific purposes (conducting research, gathering information, communicating with others about the case). Study whether the prohibition should be

extended to recesses and lunch breaks. Provide explicit guidance about the use of such devices and the reasons for any restrictions the court may impose. See Selected Jurors Recommendation I, Arrival Recommendation III.

- **Action** : None to date.
- **Tasks**: Create specific written instructions regarding prohibition on using electronic devices/electronic communication media and include in written orientation materials distributed to jurors per Selected Jurors Rec. I. Use the same timetable.
- **Status**: In progress.
- **Implementation**: February 1, 2010.