

BEHIND THE SCENES OF JURY SERVICE

BY LORA GUNTER

The State Bar of Texas Jury Service Committee's mission is to address issues regarding jury service. Last year's committee work focused on gathering information on clerk and court practices across the state. County and district clerks were surveyed on a variety of topics relating to jury practices. The findings are not only informative for the committee in addressing areas where help or uniformity is needed, but the information is valuable to practicing attorneys who probably do not give much thought to the jury service process that occurs behind the scenes and outside of the courtroom.

As anyone who has had a case in a small Texas county knows, some courts have as few as one trial per year. Actually, some courts may not even have a single civil jury trial in any given year. Obviously, that is a stark contrast to large counties such as Harris County, which reports having 365 criminal district court trials and 600 civil district court trials per year. With that many trials, the clerk must summon an astonishing number of people down to the courthouse as potential jurors to arrive on the final 12 that will actually sit in the jury box. Harris County summons more than 560,000 individuals a year to deal with its courts' jury demands.

REPORTING FOR JURY DUTY

The survey found that most jury pools in the State of Texas are established through both voter registration and driver's license records, with certain exceptions. Bexar County, for example, reported using driver's license and identification card lists to make up its jury pools. One clerk commented that the Department of Public Safety (DPS) records are only updated once every seven years, so many juror no-shows can be attributed to deceased individuals. Several clerks expressed hope that the Secretary of State and DPS record systems would be improved to eliminate inaccurate records. There is some variation on how names are pulled from the pool. The majority of respondents (more than 85 percent) indicate that names are selected by electronic means or a mechanical selection method, while 10 percent still use a jury wheel. Only a few counties reported using a different method to select jurors' names.

The clerks constantly deal with summoned jurors not appearing on their scheduled date. The estimated percentage of individuals that do not respond is 25 percent to 50 percent. This is a prevalent problem for all size courts, but district courts seem to have a higher percentage of no-shows. All three court levels (justice, county, and district courts) report more no-shows in criminal courts than civil courts.

About half of the respondents have a mechanism for summoned individuals to call or email to reset a jury summons date. The overall deferment rate is about 10 percent, regardless of court type. Interestingly, only about 10 percent of counties

surveyed predetermine juror eligibility or pre-certify the jury pool before the appearance date. Those counties include Burnet, Comal, Cooke, Eastland, McLennan, Morris, Runnels, and Tom Green. Of the respondents, only three counties reported that they provide the ability to allow the jurors to sign up online.

With the concern over personal information in this day and age, jurors rightfully have a concern that their information sheets could be used in an inappropriate manner. There seems to be a variety of practices in what happens to the juror information sheets. Many counties have a retention policy ranging from one to three years. However, some keep the sheets as long as five years, or as little as 30 days (unless an appeal is filed). Most indicate that they shred the sheets after the retention period. Some counties reported shredding the information immediately, while others keep information only on the jurors that actually serve, as opposed to the entire pool.

Of the respondents, most counties (approximately 75 percent) have jurors report for duty to a specific court. About 20 percent have the individuals report to a central jury room, which is more common in larger counties with multiple courts. The rest of the counties have another designated location for initial reporting.

The clerk survey explored emergency procedures in place in case of fire, flood, or other disaster. Very few counties reported having an actual emergency plan. Some depend on fire alarm systems or posted escape routes. Others defer to the judge for directions or to the court bailiffs. Quite a few said there was no plan in place. One clerk said she was "clueless" about what plan was in place, and another had a seemingly obvious plan — "Run!"

Although more potential jurors are products of the electronic age, only about 20 percent of respondents have a website for jurors. Of those that do, more than 75 percent have a page for frequently asked questions. Some websites also include a link to the judges' preferences. Around 10 percent of counties surveyed use a recorded orientation for jurors. Of those that do, about a third use a DVD, whereas the remaining counties are split between using a VCR and a computer to project the

orientation video. By the way, the Texas Young Lawyers Association has a video available for courts to use called *American Juror — The Decision is Yours*. (Visit americanjuror.org or contact TYLA at (800) 204-2222, ext. 1529 to obtain the video if you would like to suggest that it be used in your county.) Bexar County prefers to have “real people” talk to the jurors face-to-face.

Only about one-third of the responding counties report having rules for use on electronic media *before* being empaneled on a jury. Of those rules, the typical rule is to turn off cell phones or turn them to silent. However, a couple of counties report that phones are not even allowed on the person of a potential juror. Now that people generate constant feeds on their every

- Cannot hear well;
- Too cold in the courtroom;
- Parking;
- Parties settle, so no trial needed; and
- Process takes too long.

Respondents reported that potential jurors spend an average of 3.8 hours at the courthouse to end up not being placed on an actual jury panel. Even though it is vital to the judicial system that these people participate, many actually feel that half of their day has been “wasted.” Jurors who must first report to a central jury room are more likely to have a longer jury duty day, with waiting times between six and eight hours.

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move via Facebook and Twitter, the courts should set parameters about the use of social media before jurors learn anything about the case.

About half of the respondents report rules on electronic media *after* the final jurors are selected. Again, most rules are pretty broad, such as instructing jurors to turn off phones in court or prohibiting phone use in court. One county did report that its judge orders jurors not to tweet or post on Facebook during the case. Another reported that the jurors are prohibited from using media to seek information related to the case.

All respondents report the ability for a juror to donate his or her pay. Most counties list three to six options of where the funds may go. The most popular options include organizations related to crime victims, child welfare, and domestic violence. Even though jury duty pay is meager, these dollars can add up to make a great benefit to various causes. Cameron County reports that, in recent years, a pattern has developed of more than \$40,000 a year in jury donations. The most popular recipient in that county is the Children’s Advocacy Center, which consistently receives more than \$10,000 a year in jury pay donations.

JUROR COMPLAINTS

Survey participants were asked to list the top three complaints from potential jurors. The most prevalent responses follow:

- Work issues: pressure from employers to get excused/self-employed/will lose money from missing work/financial hardship;
- Having to frequently go to the restroom;
- Cannot sit still for a long period of time/uncomfortable;
- Transportation issues;

Even though a majority of the respondents provide free or reserved juror parking, jurors still complain about having transportation issues. Bexar County tries to help its citizens by including bus coupons in every jury summons for a free round trip.

To provide some positive reinforcement to jurors, approximately half of the respondents report sending a follow-up or thank you letter to those who served on a jury. Some counties rely on the district attorney or other trial-participating lawyer to send thank you notes. Cameron County issues certificates at the end of jury service for a more formal recognition.

IMPROVING JUROR SATISFACTION

Counties were asked to report initiatives implemented to improve juror satisfaction. Several pay the jurors cash for same-day service. Some initiatives relate to pre-reporting measures, including Internet jury qualification, providing a deferment calendar on its website, and using local media, a call-in line, and a website to post cancellations. Some offer free coffee, snacks, and even meals. A few have slightly increased the first day’s pay to \$10, instead of the requisite \$6. Others have tried to make the service period more comfortable by adding new chairs, having satellite television, installing Wi-Fi, and providing video entertainment while waiting. Also, a couple of counties have added new sound systems or microphones in the courtroom to assist the jurors in hearing.

Of the initiatives implemented, counties reported several as having been the most successful, including:

- Websites/recorded messages;
- Cash payments/immediate pay;
- Better restrooms;

- Qualifying online/being able to postpone service;
- Judge visits jurors afterward for comments and questions;
- Padded chair seats;
- Several waiting areas, including outdoor patio; and
- Fining no-shows.

The county that reports fining those who fail to appear for jury duty has seen a significant impact on juror participation. Before the initiative was implemented, only 25 percent of summoned jurors appeared, whereas now there are about 50 percent that report.

Scheduling changes were also suggested, however, clerks do not necessarily have much control on what goes on in the courtroom. One respondent suggested that courts hear pretrial motions the day before the trial in order to speed the process and eliminate the time the jurors are left waiting while the courts hear the motions. But many courts already set pretrial hearings a week before the trial or the Friday before a jury week. Moreover, scheduling orders usually facilitate the jury process if motions to strike testimony and other pretrial measures are taken care of in advance of the scheduled trial date. Even if most pretrial issues have been resolved ahead of the trial date, last-minute issues that need to be discussed outside the presence of the jury still arise.

Jury duty has a negative connotation in many people's minds. The justice system should continually strive to take steps to make serving as convenient and comfortable as possible so that people will no longer dread the jury summons or try to think of ways to get out of serving. With the help of technology, perhaps we will soon see more counties implementing systems that allow jury duty date re-sets via the Internet. Allowing the panel participants to have access to their phones and tablets during breaks will enable them to be productive in the down periods, which could in turn alleviate some of their personal stress during the service period. Having access to healthy food and snacks may soften feelings of frustration when someone is hungry and tired. Jurors should be made to feel that jury service is an honor and a privilege, because it is!



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