

# IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

## Standards Relating to Juror Use and Management

Adopted April 1, 1993

Amended May 6, 1999

### Part A. Standards Relating to Selection of Prospective Jurors

#### Standard 1: Opportunity for Jury Service

The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or any other factor that discriminates against a cognizable group in the jurisdiction.

#### Standard 2: Jury Source List

- (1) The names of potential jurors should be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the court jurisdiction.
- (2) The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- (3) The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction.
- (4) Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

#### Standard 3: Random Selection Procedures

- (1) Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection.
- (2) Random selection procedures should be employed in

- (1) selecting persons to be summoned for jury service;
  - (2) assigning prospective jurors to panels; and
  - (3) calling prospective jurors for voir dire.
- (3) Departures from the principle of random selection are appropriate
- (1) to exclude persons ineligible for service in accordance with standard 4;
  - (2) to excuse or defer prospective jurors in accordance with standard 6;
  - (3) to remove prospective jurors for cause or, if challenged peremptorily, in accordance with standards 8 and 9; and
  - (4) to provide all prospective jurors with an opportunity to be called for jury service and to be assigned a panel in accordance with standard 13.

#### Standard 4: Eligibility for Jury Service

All persons should be eligible for jury service except those who

- (1) are less than eighteen years of age, or
- (2) are not citizens of the United States, or
- (3) are not residents of the jurisdiction in which they have been summoned to serve,  
or
- (4) are not able to communicate in the English language, or
- (5) have been convicted of a felony and have not had their civil rights restored.

#### Standard 5: Term of and Availability for Jury Service

The time that persons are called upon to perform jury service and to be available

therefore, should be the shortest period consistent with the needs of justice.

- (1) Term of service of one day or the completion of one trial, whichever is longer, is recommended, when financially feasible.
- (2) Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in areas with few jury trials when it may be appropriate for persons to be available for service over a longer period of time.

#### Standard 6: Exemption, Excuse and Deferral

- (1) All automatic excuses or exemptions from jury service should be eliminated.
- (2) Eligible persons who are summoned may be excused from jury service only if:
  - (1) their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or
  - (2) they request to be excused because their service would be a continuing hardship to them or to members of the public, or they have been called for jury service during the two years preceding their summons, and they are excused by a judge or duly authorized court official.
- (3) Deferrals of jury service for reasonably short periods of time may be permitted by a judge or duly authorized court official.
- (4) Requests for excuses and deferrals and their disposition should be written or otherwise made of record. Specific uniform guidelines for determining such requests should be adopted by the court.

### **Part B. Standards Relating to Selection of a Particular Jury**

#### Standard 7: Voir Dire

Voir dire examination should be limited to matters relevant to determining whether to

remove a juror for cause and to exercising peremptory challenges.

- (1) To reduce the time required for voir dire, basic background information regarding panel members should be made available in writing to counsel for each party on the day on which jury selection is to begin.
- (2) The clerk or trial judge shall direct to the array standard voir dire questions, supplemented with questions submitted by counsel and approved by the court. The trial judge should conduct the initial follow-up voir dire examination of individual jurors. Counsel may be permitted to ask additional questions in the discretion of the court.
- (3) The judge should ensure that the privacy of prospective jurors is reasonably protected, and that the questioning is consistent with the purpose of the voir dire process.
- (4) The voir dire process should be held on the record.

#### Standard 8: Removal from the Jury Panel for Cause

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or on the judge's own initiative.

#### Standard 9: Peremptory Challenges

- (1) The number of and procedure for exercising peremptory challenges should be uniform throughout the state.
- (2) Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- (3) In civil cases, the number of peremptory challenges should not exceed three for each side.

- (4) In criminal cases, the number of peremptory challenges should not exceed
  - (1) Twelve for the State and twenty for the defendant when a death sentence may be imposed upon conviction;
  - (2) Six for each side in all other cases.
- (5) Where juries of fewer than twelve persons are used, a lesser number of peremptory challenges may be stipulated by the parties, subject to approval by the court.
- (6) One peremptory challenge should be allowed to each side in a civil or criminal proceeding for every two alternate jurors to be seated.
- (7) The trial judge should have the authority to allow additional peremptory challenges when justified.
- (8) Following completion of the voir dire examination, counsel should exercise their peremptory challenges by alternately striking names from the list of panel members until each side has exhausted or waived the permitted number of challenges.

## **Part C. Standards Relating to Efficient Jury Management**

### Standard 10: Administration of the Jury System

The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.

- (1) All procedures concerning jury selection and service should be governed by court rules and regulations.
- (2) A single unified jury system should be established in any area in which two or more State courts conduct jury trials. This applies whether they are of the same or differing subject matter or geographic jurisdiction.

- (3) Responsibility for administering the jury system should be vested in a single administrator acting under the supervision of a presiding judge of the court.

#### Standard 11: Notification and Summoning Procedures

- (1) The notice summoning a person to jury service and the questionnaire eliciting information regarding that person should be
  - (1) combined in a single document, when financially feasible;
  - (2) phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and,
  - (3) delivered by first class mail.
- (2) A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- (3) The questionnaire should be phrased and organized so as to facilitate quick and accurate screening, and should request only that information essential for
  - (1) determining whether a person meets the criteria for eligibility;
  - (2) providing basic background information ordinarily sought during voir dire examination; and
  - (3) efficiently managing the jury system.
- (4) Policies and procedures should be established for enforcing a summons to report for jury service and for monitoring failures to respond to a summons.

#### Standard 12: Monitoring the Jury System

Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to ensure

- (1) the representativeness and inclusiveness of the jury source list;
- (2) the effectiveness of qualification and summoning procedures;
- (3) the responsiveness of individual citizens to jury duty summonses;
- (4) the efficient use of jurors; and
- (5) the cost effectiveness of the jury system.

### Standard 13: Juror Use

- (1) Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- (2) Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.
- (3) Courts should ensure that each prospective juror who has reported to the courthouse is assigned to a courtroom for voir dire before any prospective juror is assigned a second time.
- (4) Courts should coordinate jury management and calendar management to make effective use of jurors.

### Standard 14: Jury Facilities

Courts should provide an adequate and suitable environment for jurors.

- (1) The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- (2) Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.

- (3) Jury deliberation rooms should include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.
- (4) To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

#### Standard 15: Juror Compensation

- (1) Persons called for jury service should receive a reasonable fee for each day they report.
- (2) Such amounts and fees should be paid promptly.
- (3) State law should prohibit employers from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

### **Part D. Standards Relating to Juror Performance and Deliberations**

#### Standard 16: Juror Orientation and Instruction

- (1) Courts should provide some form of orientation or instructions to persons called for jury service:
  - (1) upon initial contact prior to service;
  - (2) upon first appearance at the courthouse;
  - (3) upon reporting to a courtroom for voir dire;
  - (4) directly following empanelment;
  - (5) during the trial;
  - (6) prior to deliberations; and

- (7) after the verdict has been rendered or when a proceeding is terminated without a verdict.
- (2) Orientation programs should be
  - (1) designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors;
  - (2) presented in a uniform and efficient manner using a combination of written, oral and audiovisual materials.
- (3) The trial judge should
  - (1) give preliminary instructions directly following empanelment of the jury, when appropriate, that explain the jury's role, the trial procedures including note-taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles.
  - (2) prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. In capital cases or such other cases that the trial judge deems appropriate, such instructions should be recorded or reduced to writing and made available to the jurors during deliberations.
  - (3) prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system.
- (4) Before dismissing a jury at the conclusion of a case, the trial judge should
  - (1) release the jurors from their duty of confidentiality;
  - (2) explain their rights regarding inquiries from counsel or the press; and
  - (3) either advise them that they are discharged from service or specify where

they must report.

The judge should express appreciation to the jurors for their service, but the judge should not express approval or disapproval of the result of the deliberation.

- (5) All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal should be in writing or on the record in open court. Counsel for each party should be informed of such communication and given the opportunity to be heard.

#### Standard 17: Jury Size and Unanimity of Verdict

Juries in criminal and civil cases should consist of twelve persons and a unanimous decision should be required for a verdict in all cases heard by a jury unless the parties stipulate otherwise.

#### Standard 18: Jury Deliberations

Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.

- (1) The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with standard 16(c).
- (2) The deliberation room should conform to the recommendations set forth in standard 14(c).
- (3) The jury should not be sequestered except under the circumstances and procedures set forth in standard 19.
- (4) A jury should not be required to deliberate after normal working hours unless the trial judge, after consultation with counsel, determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interests of justice.
- (5) Training should be provided to personnel who escort and assist jurors during deliberation.

### Standard 19: Sequestration of Jurors

- (1) A jury should be sequestered only for the purpose of insulating its members from improper information or influences.
- (2) The trial judge should have the discretion to sequester a jury on the motion of counsel or on the judge's initiative, and the responsibility to oversee the conditions of sequestration.
- (3) Standard procedures should be promulgated to make certain that:
  - (1) the purpose of sequestration is achieved; and
  - (2) the inconvenience and discomfort of the sequestered jurors is minimized.
- (4) Training should be provided to personnel who escort and assist jurors during sequestration. Use of personnel actively engaged in law enforcement for escorting and assisting jurors during sequestration is discouraged.

### Standard 20: Juror Privacy

- (1) Juror questionnaires should differentiate between information collected for the purpose of juror qualification, jury administration, and voir dire and provide a means for jurors to respond privately to sensitive questions.
- (2) The method of conducting voir dire should be that best suited to protect the privacy of potential jurors given the nature of information sought and the rights involved.
- (3) After jury selection is complete, the court should make inaccessible to the public, the parties, and their attorneys any information collected in connection with, or revealed during voir dire about individuals called for jury duty but not selected for the jury. Record retention requirements should specify how this information will be made inaccessible. Information retained for sworn jurors

should only be that required for review of the case on appeal, and should be made inaccessible when the appeal is complete or the opportunity for appeal has passed.

- (4) Before dismissing jurors from jury duty, the court should inform jurors of their rights to discuss or to refrain from discussing the case.
- (1) Jurors should have the continuing protection of the court in the event that individuals persist in questioning jurors, over their objection, about their jury service.