

## **Appendix A. Jury Use and Management Plan**

### STANDARD 1 Opportunity for Service

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

B. Jury service is an obligation of all qualified citizens of Lorain County.

### STANDARD 2 Jury Source List

A. 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.

B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

D. 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

A. The jury source list from Board of Elections shall be printed out on address labels which shall be cut into individual names and addresses. 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. These methods should be documented .

B. 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.

C. Departures from the principle of random selections are appropriate only to comply with lawful exceptions.

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 to a panel in accordance with Standard 13.

#### STANDARD 4 Eligibility for Jury Service

All persons should be eligible for jury service except those who:

- A. Are less than eighteen years of age;
- B. Are not citizens of the United States;
- C. Are not residents of the jurisdiction in which they have been summoned to serve;
- D. Are not able to communicate in the English language; or
- E. Have been convicted of a felony and have not had their civil rights restored.

#### STANDARD 5 Term of and Availability for Jury Service

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- B. A term of service of three weeks.
- C. Persons should not be required to maintain a status of availability for jury service for longer than three weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

#### STANDARD 6 Exemption, Excuse, and Deferral

- A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.
- B. Eligible persons who are summoned may be excused from jury service 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 and they are excused by a judge or a specifically authorized court official.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.

D. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

#### STANDARD 7 Voir Dire

A. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.

C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purposes of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties. .

#### F. Rules on Voir Dire

1. The case may not be argued in any way while questioning the jurors.
2. Counsel may not engage in efforts to indoctrinate jurors.
3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
4. Jurors may not be asked what kind of verdict they might return under any circumstances.
5. Questions are to be asked collectively of the entire panel whenever possible.

#### 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 determination may be made on motion of counsel or by the judge.

#### STANDARD 9 Peremptory Challenges

A. Rules determining procedure for exercising peremptory challenges should be uniform

throughout the state.

B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between the parties on the same side, the court may allow each conflicting party up to three peremptory challenges.

D. In criminal cases, the number of peremptory challenges should not exceed:

1. Six for each side when a death sentence may be imposed upon conviction;
2. Four for each side when a sentence of imprisonment (state institution) may be imposed upon conviction; or
3. Three for each side in all other prosecutions. One additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.

E. In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate-juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

F. At all times rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil Rules and the Ohio Criminal Rules that are presently adopted or adopted in the future by The Supreme Court of Ohio and applicable statutory authority.

#### STANDARD 10 Administration of the Jury System

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

B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

#### STANDARD 11 Notification and Summoning Procedures

A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:

1. Combined in a single document;
2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
3. Delivered by ordinary mail.

B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.

C. 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.

D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

#### 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 evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors; and
- E. The cost-effectiveness of the jury management system.

#### STANDARD 13 Juror Use

A. Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

B. 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.

C. Courts should coordinate jury management and calendar management to make effective use of jurors.

#### STANDARD 14 Jury Facilities

- A. Courts should provide an adequate and suitable environment for jurors.
- B. The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D. 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.
- E. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

#### STANDARD 15 Juror Compensation

- A. Persons called for jury service should receive a reasonable fee for their service and expenses.
- B. Such fees should be paid promptly.
- C. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

#### STANDARD 16 Juror Orientation and Instruction

- A. Orientation programs should be:
  - 1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
  - 2. Presented in a uniform and efficient manner using a combination of written, oral and audiovisual materials as determined by the Court to which the juror is assigned.
- B. 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 court; and
  - 3. Upon reporting to a courtroom for voir dire.
- C. The trial judge should:
  - 1. Give preliminary instructions to all prospective jurors.

2. Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
3. 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. Such instructions should be made available to the jurors during deliberations;
4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
5. Recognize utilization of written instructions is preferable.
6. Before dismissing a jury at the conclusion of a case:
  - a. Release the jurors from their duty of confidentiality;
  - b. Explain their rights regarding inquiries from counsel or the press;
  - c. Either advise them that they are discharged from service or specify where they must report; and
  - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result' of the deliberation.

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

#### STANDARD 17 Jury Size and Unanimity of Verdict

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio laws and as may be amended in the future.

#### STANDARD 18 Jury Deliberations

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

B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16C.

C. The deliberation room should conform to the recommendations set forth in Standard

14C.

D. The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.

STANDARD 19 Sequestration of Jurors

A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.

B. During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.

C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

D. Standard procedures should be promulgated to:

1. Achieve the purpose of sequestration; and
2. Minimize the inconvenience and discomfort of the sequestered jurors.

E. Training shall be provided to personnel who escort and assist jurors during sequestration.